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Thursday
June 11, 1981

Highlights

30797 **Extension of waiver authority for trade for Romania, Hungary, and China** Presidential determination.

30895 **Social Security** HHS/SSA announces availability of FY 1981 income maintenance demonstration grant funds for Community Work Experience Projects.

30990 **Budget** OMB reports 33 proposals to rescind $114.1 million in budget authority previously provided by Congress. (Part IV of this issue)

Motor Carriers

30974 DOT/FHWA establishes and provides for enforcement of minimum levels of financial responsibility for certain for-hire motor carriers and for motor carriers transporting hazardous material in intrastate, foreign and interstate commerce. (Part III of this issue)

30905 ICC solicits comments for development of report to Congress on loading and unloading practices in the property motor carrier industry.

30808 **Airports-Federal Assistance** DOT/FAA implements OMB Circular A-95 by establishing procedures for the Airport Development Aid Program and the Airport Planning Grant Program.

CONTINUED INSIDE

Highlights

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

30811 **Nondiscrimination** TVA provides standards and enforcement procedures to prohibit age discriminatory practices in programs receiving Federal financial assistance.

30816 **Procurement** DOT amends rules on contract options and consulting services.

30897 **Outer Continental Shelf** Interior/GS implements DOE regulation for accounting and determination of net profit share lease payments for oil and gas leases.

30968 **Aircraft Pilots** DOT/FAA reduces requirements for pilots to hold instrument ratings and to demonstrate instrument approach procedures. (Part II of this issue)

30843 **Minority Businesses** Commerce/MBDA solicits financial assistance applications for Native American Portfolio Consultant Services Program in Dallas region.

30956 **Sunshine Act Meetings**

Separate Parts of This Issue

30968 **Part II, DOT/FAA**
30974 **Part III, DOT/FHWA**
30990 **Part IV, OMB**

Contents

Federal Register
Vol. 46, No. 112
Thursday, June 11, 1981

The President
ADMINISTRATIVE ORDERS
30797 Romania, Hungary, and China; extension of waiver authority for trade (Presidential Determination No. 81-8 of June 2, 1981)

Executive Agencies

Agricultural Marketing Service
RULES
30799 Oranges (Navel) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Federal Grain Inspection Service.

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
30839 Handicapped persons; accessible design standards for Federal agencies; minimum guidelines and requirements; meeting

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
30840 Nebraska
30841 Texas

Coast Guard
PROPOSED RULES
Drawbridge operations:
30834 Maine
Ports and waterways safety:
30835 Vessel operation and cargo transfers; conditions

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
30844 New York Futures Exchange; corporate bonds
30847 New York Futures Exchange; equity indexes

Consumer Product Safety Commission
NOTICES
Consent agreements:
30848 Century Products, Inc.

Defense Department
See Engineers Corps.

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
30921 Schedules I and II, 1981 aggregate

Economic Regulatory Administration
NOTICES
Consent orders:
30851 Adams Resources & Energy, Inc.
30851 Gas Engine & Compressor Service
30852 Independent Oil & Tire Co., Inc.
30852 James B. Kite Operating Co., Ltd., et al.

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
30850 West Little Pine Creek, Allegheny County, Pa.; local flood protection
Pipeline right-of-way applications:
30851 Nebraska

Environmental Protection Agency
NOTICES
Toxic and hazardous substances control:
30884 Premanufacture notices receipts
30886 Premanufacture notices review period extensions

Federal Aviation Administration
RULES
Air carriers certification and operations:
30968 Pilot-in-command qualifications and instrument proficiency check requirements
30808 Airport planning grant and development aid programs (OMB Circular A-95); implementation
Airworthiness directives:
30799 Dowty Rotol
30800 Hamilton Standard
30801, 30802 Control zones and transition areas (2 documents)
30806 Reporting points; final rule and request for comments
30806 Restricted areas; correction
30807 Standard instrument approach procedures
30805 Transition areas
30804-30806 VOR Federal airways (4 documents)
PROPOSED RULES
30833 Restricted areas; withdrawn
NOTICES
30952 Exemption petitions; summary and disposition
Meetings:
30951 Informal airspace; Massachusetts

Federal Communications Commission
RULES
Common carrier services:
30818 AT&T; interstate and foreign telecommunications services; modification of prescribed rate of return
NOTICES
Hearings, etc.:
30887 ITT World Communications, Inc., et al.; investigation; extension of time

Federal Deposit Insurance Corporation
NOTICES
30956 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
30956 Meetings; Sunshine Act

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act of 1978; ceiling prices for high cost natural gas produced from tight formations; various States:
30833 Utah
NOTICES
Hearings, etc.:
30853 Baily, Mrs. Charles L., et al.
30856 Blountstown, Fla.
30854 Central Power & Light Co.
30859 Columbia Gulf Transmission Co.
30857 Denver, Colo.
30860 Duquesne Light Co.
30861 East Tennessee Natural Gas Co.
30863 Florida Gas Transmission Co.
30863 Garkane Power Association, Inc.
30882 Harrison, Pa.
30864 Houston Pipe Line Co.
30858 Joliet, Ill.
30864 Kentucky Utilities Co.
30868-30871 Long Lake Energy Corp. (5 documents)
30872 Middle Fork Irrigation District
30873 Middlebury College
30873 Milliken & Co.
30874 New Mexico Renewable Resources, Inc., et al.
30874 Pennsylvania Power & Light Co.
30858 Richmond, Va.
30880 Sierra Pacific Industries
30877 Southwestern Power Administration
30880 Tennessee Gas Pipeline Co.
30881 Texas Eastern Transmission Corp.
30881 Texas Gas Transmission Corp.
30882 Transcontinental Gas Pipe Line Corp.
30883 Valero Interstate Transmission Co.
30883 Valero Transmission Co.
30859 Winnetka, Ill.
30883 York Haven Power Co.

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
30840 Illinois

Federal Highway Administration
RULES
Motor carrier safety regulations:
30974 Interstate or foreign transportation; minimum levels of financial responsibility

Federal Home Loan Bank Board
NOTICES
30956, 30957 Meetings; Sunshine Act (2 documents)

Federal Maritime Commission
NOTICES
Complaints filed:
30888 Melamine Chemicals, Inc.
Energy and environmental statements; availability, etc.:
30888 Toledo-Lucas County Port Authority and Toledo World Operators, Inc.; lease agreement
30957 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
30891 Bokchito Bancshares, Inc.
30891 Boone Bancorporation, Inc.
30891 Carbondale Investment Corp.
30891 Centennial Bancshares, Inc.
30891 Central Bancorporation, Inc.
30892 Chemical Bank International-North America
30892 Commerce Southwest, Inc.
30892 Conway Bancshares, Inc.
30892 Copperas Cove Bancshares, Inc.
30892 Gunnison Bank Holding Corp.
30893 Industrial Overseas Investments, Ltd.
30893 Jefferson County Bancorp., Inc.
30893 K. B. J. Enterprises, Inc.; correction
30893 Mathes Bancshares, Inc.
30893 Moultrie Bancorp, Inc.
30894 Orbanco Financial Services Corp.
30894 Rio Grande City Bancshares
30894 Union Holding Co.
30894 United Bank Corp.
Bank holding companies; proposed de novo nonbank activities:
30890 Barclays Bank Ltd. et al.
30888 Old Stone Corp. et al.

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
30897 Net profit share lease (NPSL) payments accounting; implementation
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
30898 Kerr-McGee Corp.
30898 Tenneco Oil Exploration & Production

Health and Human Services Department
See also Health Care Financing Administration; Social Security Administration.
NOTICES
Organization, functions, and authority delegations:
30894 Human Development Services Office
30897 Social Security Administration

Health Care Financing Administration
NOTICES
Drugs, limitations on payment or reimbursement; maximum allowable cost:
30894 Acetaminophen, etc.; hearing cancelled

Interior Department
See Geological Survey; Land Management Bureau.

International Communication Agency
NOTICES
Meetings:
30904 Public Diplomacy, U.S. Advisory Commission

International Trade Administration
NOTICES
Antidumping:
30841 Ceramic wall tile from United Kingdom
30841 Pig iron from Canada
30842 Potassium chloride or muriate of potash from Canada

International Trade Commission
NOTICES
30957 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Practice and procedure:
30832 Motor carrier applications and restriction removal applications; submission of pleadings and other documents
PROPOSED RULES
Accounts, uniform system, and reports:
30839 Railroads, Class II; elimination of requirements; extension of time
NOTICES
Motor carriers:
30906-30917 Permanent authority applications (4 documents)
30910 Permanent authority applications; restriction removals
30905 Property motor carrier industry; loading and unloading study; inquiry
30921 Temporary authority applications; correction
Rail carriers:
30904 Staggers Rail Act of 1980; rate complaints filed

Justice Department
See Drug Enforcement Administration.

Land Management Bureau
RULES
Public land orders:
30817 Alaska
NOTICES
Alaska native claims selections; applications, etc.:
30898 Bristol Bay Native Corp.
Classification of lands:
30899 California
Coal leases, exploration licenses, etc.:
30900 Montana
Committees; establishment, renewals, terminations, etc.:
30903 District Advisory Councils; call for nominations
Environmental statements; availability, etc.:
30901 Eastside Salem Timber Management Plan, Oreg.; scoping meetings
30902 Wycoalgas project cooperating agencies; coal gasification plant, etc., Wyo.
Meetings:
30902 Las Cruces District Advisory Council
30902 Las Cruces District Grazing Advisory Board
30900 Phoenix District Advisory Council
30900 Worland District Advisory Board; agenda addition
Motor vehicles, off-road, etc.; area closures and openings:
30901 Utah
Wilderness areas; characteristics, inventories, etc.:
30901 Utah
Withdrawal and reservation of lands, proposed, etc.:
30901 Utah

Management and Budget Office
NOTICES
30926 Agency forms under review
30990 Budget rescissions and deferrals

Metric Board
NOTICES
30957 Meetings; Sunshine Act

Minority Business Development Agency
NOTICES
30843 Financial assistance application announcements

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
30844 Sea Grant Review Panel

National Science Foundation
NOTICES
30957 Meetings; Sunshine Act

National Transportation Safety Board
NOTICES
30922 Accident reports, safety recommendations and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
30924 Duke Power Co. et al. (2 documents)
30924 Kerr-McGee Nuclear Corp.
30925 Northern States Power Co.
30926 Toledo Edison Co. et al.
Environmental statements; availability, etc.:
30923 Mississippi Power & Light Co, Grand Gulf Nuclear Station, Units 1 and 2, Miss.
Meetings:
30923 Reactor Safeguards Advisory Committee
30925 Safety evaluations; power reactor licensees; qualification requirements for safety-related electrical equipment
30958 Meetings; Sunshine Act (2 documents)

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
30953, 30954 Applications; exemptions, renewals, etc. (2 documents)

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
30838 Tariff of tolls; revision under consideration

Secret Service
NOTICES
Senior Executive Service:
30955 Performance Review Board; membership

Securities and Exchange Commission
NOTICES
Hearings, etc.:
30936 Cedar Coal Co. et al.
30937 New England Electric System et al.
30938 Southern Co.
30938 Texaco Inc.
30940 WPL Holdings, Inc.
Self-regulatory organizations; proposed rule changes:
30941, 30947 American Stock Exchange, Inc.
30942 Municipal Securities Rulemaking Board (2 documents)
30948 Pacific Stock Exchange, Inc.
30949, 30950 Philadelphia Stock Exchange, Inc. (2 documents)
Self-regulatory organizations; unlisted trading privileges:
30935, 30936 Boston Stock Exchange, Inc. (2 documents)
30937 Midwest Stock Exchange, Inc.
30938 Philadelphia Stock Exchange, Inc.

Social Security Administration
NOTICES
Grants; availability, etc.:
30895 Income maintenance research and demonstrations; community work experience projects

Tennessee Valley Authority
RULES
30811 Age Discrimination Act of 1975; implementation

Trade Representative, Office of United States
NOTICES
Meetings:
30951 Trade Negotiations Advisory Committee (2 documents)

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration, Transportation Departments; St. Lawrence Seaway Development Corporation.
RULES
Procurement:
30816 Options and consulting services; coverage

Treasury Department
See Secret Service.

MEETINGS ANNOUNCED IN THIS ISSUE

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
30839 ATBCB minimum guidelines and requirements for accessible design, Washington, D.C., (open) 6–23–81

COMMERCE DEPARTMENT
National, Oceanic and Atmospheric Administration—
30844 Sea Grant Review Panel, Washington, D.C. (open), 7–21 and 7–22–81

CIVIL RIGHTS COMMISSION
30840 Nebraska Advisory Committee, Omaha, Nebr. (open), 6–30–81
30841 Texas Advisory Committee, San Antonio, Tex. (open), 6–26–81

INTERIOR DEPARTMENT
Land Management Bureau—
30901 Clackamas-Molalla and Santiam Sustained Yield Units, proposed timber management plan, Salem, Oreg. (open), 7–14–81
30902 Grazing Advisory Board, Las Cruces, N. Mex. (open), 7–21–81
30902 Las Cruces District Advisory Council, Las Cruces, N. Mex. (open), 7–22–81
30900 Phoenix District Advisory Council, Phoenix, Ariz. (open), 7–17–81

INTERNATIONAL COMMUNICATION AGENCY
30904 Public Diplomacy, United States Advisory Commission on, Washington, D.C., 6–16–81

NUCLEAR REGULATORY COMMISSION
30925 Safety-related electrical equipment, qualification, requirements, Bethesda, Md. (open), 7–7 through 7–10–81

TRADE REPRESENTATIVE, OFFICE OF THE UNITED STATES
30951 Trade Negotiations Advisory Committee, Washington, D.C. (closed), 7–8–81

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
30951 Informal Airspace, Fitchburg, Mass. (open), 6–18–81

AMENDED MEETING

INTERIOR DEPARTMENT
Land Management Bureau—
30900 Worland District Advisory Council, Worland, Wyoming, (open), 8–12–81; addition to agenda

CANCELLED HEARING

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration—
30894 Pharmaceutical Reimbursement Board, Baltimore, Md. 6–11–81

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Presidential Determinations:

No. 81-8 of June 2, 1981 30797

7 CFR

907 30799

14 CFR

39 (2 documents) 30799, 30800

71 (9 documents) 30801-30806

73 30806

97 30807

135 30968

152 30808

Proposed Rules:

71 30833

73 30833

18 CFR

1309 30811

Proposed Rules:

271 30833

33 CFR

Proposed Rules:

117 30834

160 30835

402 30838

36 CFR

Proposed Rules:

1190 30839

41 CFR

Ch. 12 30816

43 CFR

Public Land Orders:

5953 30817

47 CFR

1 30818

61 30818

49 CFR

387 30974

1100 30832

1137 30832

Proposed Rules:

1201 30839

1241 30839

1248 30839

Federal Register
Vol. 46, No. 112
Thursday, June 11, 1981

Presidential Documents

Title 3—

The President

Presidential Determination No. 81-8 of June 2, 1981

Determination under Subsection 402 (d)(5) and (d)(5)(C) of the Trade Act of 1974—Continuation of Waiver Authority

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978) (hereinafter "the Act"), I determine, pursuant to Subsections 402(d)(5)(C) of the Act, that the further extension of the waiver authority granted by Subsection 402(c) of the Act will substantially promote the objectives of Section 402 of the Act. I further determine the continuation of the waivers applicable to the Socialist Republic of Romania, the Hungarian People's Republic and the People's Republic of China will substantially promote the objectives of Section 402 of the Act.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, June 2, 1981.

[FR Doc. 81-17518
Filed 6-9-81; 4:23 pm]
Billing code 3195-01-M

Editorial Note: The President's message to the Congress of June 2, 1981, transmitting the recommendations for an extension of waiver authority, is printed in the Weekly Compilation of Presidential Documents (vol. 17, p. 584).

Rules and Regulations

Federal Register
Vol. 46, No.112
Thursday, June 11, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 526]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period June 12, 1981–June 18, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 12, 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 is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 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 June 9, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

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

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. Section 907.826 is added as follows:

§ 907.826 Navel Orange Regulation 526.

The quantities of navel oranges grown in Arizona and California which may be handled during the period June 12, 1981, through June 18, 1981, are established as follows:

(1) District 1: 1,000,000 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: June 10, 1981.

D. S. Kuryloski

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

[FR Doc. 81-17589 Filed 6-10-81; 11:52 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-GL-13-AD; Amdt. 39-4132]

Airworthiness Directives; Dowty Rotol (c)R.289/3 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new Airworthiness Directive (AD), which was previously made effective by airmail letter dated February 26, 1981, applicable to Dowty Rotol (c)R.289/3-110–F/1 and (c)R.289/3–110–F/11 propellers installed on the WSK-Pezetel Model PZL–3S engine used on Gulfstream American (formerly Grumman) Model G–164A, B, C airplanes modified by Supplemental Type Certificate (STC) SA2731SW, and Ayres (formerly Rockwell) Model S2R–R3S, and Model S2R airplanes Modified by STC SA3897WE. This amendment supersedes Amendment 39-3879 (45 FR 54014), AD 80–15–09. Additional stress survey work accomplished by the propeller manufacturer since the issuance of AD 80–15–09 indicates that the initially imposed engine speed restricted operating range should be expanded to preclude operation in an area of high propeller blade stresses which could lead to catastrophic blade failures. This amendment is needed to require an expansion of the restricted range imposed by AD 80–15–09 thereby lessening the probability of blade failures.

DATES: Effective—June 15, 1981.

Comments related to this amendment must be received on or before June 30, 1981. Depending on the comments received, the requirements of this amendment may be modified.

Compliance required within 10 operating hours after the effective date of the AD, unless already accomplished.

ADDRESSES: None. No service document is required for compliance with this AD.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7130.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3879 (45 FR 54014), AD 80-15-09, which currently requires installation of a placard in the cockpit which reads, "AVOID MP ABOVE 26 IN. HG. BELOW 1950 RPM." After issuing Amendment 39-3879, the FAA has determined, based on a new stress survey, that the restricted range must be increased to 2000 RPM. Therefore, the FAA is superseding Amendment 39-3879 by increasing the restricted operating range on Dowty Rotol (c)R.289/3 propellers.

Since a situation exists that requires the immediate adoption of this regulation to expand the restricted operational range thereby avoiding possible damaging high stress levels, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective immediately. Failure to expand this restricted range would allow the engine/propeller to be operated in a region of damaging high stress levels which could lead to catastrophic blade failures and possible loss of life or property.

Although this action is in the form of a final rule, which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by superseding Amendment 39-3879 (45 FR 54014), AD 80-15-09, as follows:

Dowty Rotol. Applies to Dowty Rotol (c)R.289/3-110-F/1 and (c)R.289/3-110-F/11 propellers installed on the WSK-Pezetel Model PZL-3S engine used on Gulfstream American (formerly Grumman) Model G-164 A, B, C airplanes modified by STC SA2731SW, and Ayres (formerly Rockwell) Model S2R-R3S, and Model S2R airplanes modified by STC SA3897WE. Compliance is required as indicated unless previously accomplished. To preclude the possibility of blade tip failures, accomplish the following:

Within the next 10 hours time in service after the effective date of this AD, install in the cockpit as near the engine tachometer as possible and in clear view of the pilot a placard which reads, "AVOID MP ABOVE 26 IN. HG. BELOW 2000 RPM." The placard may be fabricated locally, using 3/32 inch high lettering on a contrasting background.

Upon request of the operator, an equivalent means of compliance with the requirement of this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective June 15, 1981 as to all persons except those to whom it was made immediately effective by the priority mail letter dated February 26, 1981, which contained this amendment.

(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 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 in Des Plaines, Illinois on June 1, 1981.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 81-16939 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-GL-1 AD; Amdt. 39-4131]

Airworthiness Directives; Hamilton Standard 24PF Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires an inspection of the Hamilton Standard 24PF propeller for spalling in the bearing raceways. The AD is prompted by service experience and inspections which have shown that 24PF propeller barrels and blade split races on DeHavilland DHC-7 aircraft are spalling during service use.

DATES: Effective—June 15, 1981. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096.

The applicable service bulletin is contained in the Rules Docket, Office of the Regional Counsel, Great Lakes Region, Room 415, 2300 E. Devon Ave., Des Plaines, IL 60018.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7130.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspections of Hamilton Standard 24PF propellers was published in the **Federal Register** at 45 FR 47157, July 14, 1980. The proposal was prompted by examinations of numerous 24PF propeller barrels at Hamilton Standard which revealed fatigue damage in the form of spall marks in the bearing raceways of 15 barrels which had operating times since new in the range of 1,500 to 4,500 hours. Barrel spalling may lead to hub failure and resultant blade loss.

Interested persons have been afforded the opportunity to participate in the making of the amendment and comments have been received.The

DeHavilland DHC–7 Operators Committee suggested the wording of the AD be changed to require that the results of all inspections carried out in accordance with the AD, both positive and negative, be reported to the FAA.

Hamilton Standard suggested the wording of paragraph c of the proposed inspection schedule be changed to allow replacement of the spalled split races and return of the propeller to service in accordance with Revision 1 to Hamilton Standard Service Bulletin 24PF–17, dated August 29, 1980.

Furthermore, Hamilton Standard commented that it revised Service Bulletin 24PF–17 by Revision 2 dated April 10, 1981, to exempt propellers with vacuum-melt barrels and to discontinue the repetitive 1500 hour inspections on propellers with air-melt barrels after successfully completing two consecutive 1500 hour inspections without seeing any evidence of barrel or bearing race spalling.

The FAA concurred with these comments and with the exemption of propellers with vacuum-melt barrels.These propellers should be exempt because evidence shows that spalling is not a problem with vacuum-melt barrels. These changes are relieving in nature and are incorporated in this AD.

Adoption of the Amendment

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

Hamilton Standard. Applies to all Hamilton Standard 24PF propellers with air-melt barrels, Part Number 772531–1, installed on DeHavilland DHC–7 aircraft. (Note: This AD does not apply to propellers with vacuum-melts barrels, Part Number 772531–2.)

Compliance is required as indicated. To determine the presence of spalling in the bearing raceway surfaces of the barrel and blade split races, visually inspect in accordance with the procedure contained in the accomplishment instruction section of Hamilton Standard Service Bulletin HS Code 24PF No. 17, Revision 2 dated April 10, 1981, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

Inspect in accordance with the following schedule:

a. For propellers with 2,900 hours or more time in service since new, compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 1,400 hours time in service, and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection required by this AD.

b. For propellers with less than 2,900 hours time in service since new, compliance is required prior to the accumulation of 3,000 hours time in service, unless already accomplished within the last 1,400 hours time in service, and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection required by this AD.

c. Propellers with spalled barrels must be removed from service prior to further flight and replaced with airworthy propellers. Propellers with spalled split race(s) must have the race(s) replaced prior to further flight in accordance with Service Bulletin 24PF–17, Revision 2 dated April 10, 1981, or later FAA approved revision.

d. Results of all propeller inspections required by this AD, including serial numbers and times in service, are to be forwarded to Federal Aviation Administration, Engineering and Manufacturing Branch, AGL–210, 2300 East Devon Avenue, Des Plaines, Illinois 60018. (Reporting approved by the Office of Management and Budget under OMB Number 04–R0174).

e. After successfully completing two consecutive 1500 hour inspections without seeing any evidence of barrel or bearing race spalling, the repetitive 1500 hour inspections required by this AD may be discontinued.

f. Upon request of an operator, the Chief, Engineering and Manufacturing Branch, AGL–210, Federal Aviation Administration, Great Lakes Region, may adjust the compliance time specified in this AD provided such requests are made through an FAA Maintenance Inspector, and the request contains substantiating data to justify the request for that operator.

g. For purpose of this AD, an FAA-approved equivalent must be approved by the Chief, Engineering and Manufacturing Branch, AGL–210, Federal Aviation Administration, Great Lakes Region.

This amendment becomes effective June 15, 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 document involves a final 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. A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing Engineering and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018. It has also been determined under the criteria of the Regulatory Flexibility Act that this rule, at promulgation, will not have a significant economic impact on a substantial number of small entities. The aforesaid determinations under the Regulatory Flexibility Act and Executive Order 12291 are based upon the small number of aircraft and entities which will be affected by this AD, and upon the minimal cost which these entities will incur in complying with this AD.

The manufacturer's specifications and procedures identified in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer may obtain copies upon request to Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096. These documents may also be examined at the Great Lakes Regional Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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 Des Plaines, Illinois on June 1, 1981.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81–16940 Filed 6–10–81; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–SO–32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area, Huntsville, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Huntsville, Alabama, Control Zone and Transition Area by revoking a portion of the control zone, correcting airport geographic positions in descriptions, and correcting the airport name in the control zone description.

EFFECTIVE DATE: 0901 GMT, August 6, 1981.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION: In the Huntsville, Alabama, Control Zone described in § 71.171 (46 FR 455), an extension was designated on the Whitesburg RBN 352° bearing to provide controlled airspace for aircraft executing instrument approaches to Redstone AAF. Since the Whitesburg RBN has been decommissioned, it is necessary to revoke the extension. Since the airport name has been changed from

Huntsville-Madison County Jetport-Carl T. Jones, to Huntsville-Madison County Airport-Carl T. Jones Field, and since the geographic position of this airport and the Redstone Army Air Field (AAF) have changed, it is necessary to make these minor corrections.

This amendment reduces controlled airspace and the constraints imposed on the public. Therefore, notice and public procedure hereon are not necessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Huntsville, Alabama, Control Zone by revoking an extension. This amendment also corrects the airport name in the control zone description and corrects the geographic position of the Huntsville-Madison County Jetport-Carl T. Jones and the Redstone Army Air Field.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171, Subpart F (46 FR 455), and § 71.181, Subpart G (46 FR 540), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are further amended, effective 0901 GMT, August 6, 1981, as follows:

Huntsville, Alabama (Control Zone)

The present description is deleted and ". . . Within a 5-mile radius of Huntsville-Madison County Airport-Carl T. Jones Field (latitude 34°38'34"N., longitude 86°46'32"W.); within 2 miles each side of the Huntsville ILS localizer north course, extending from the 5-mile radius zone to 2.5 miles south of Capshaw RBN; within a 5-mile radius of Redstone AAF (latitude 34°40'42"N., longitude 86°41'02"W.); within 2 miles each side of the 356°m bearing from Redstone RBN, extending from the 5-mile radius zone to 2 miles north of the RBN; within 2.5 miles each side of Runway 35 extended centerline, extending from the threshold to 5.5 miles south; within 2.5 miles each side of Runway 17 extended centerline, extending from the threshold to 6 miles north . . ." is substituted therefor.

Huntsville, Alabama (Transition Area)

". . . (latitude 34°40'29"N., longitude 86°40'54"W.) . . ." is deleted and ". . . (latitude 34°40'42"N., longitude 86°41'02"W.) . . ." 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 May 29, 1981.

William J. McGill,

Acting Director, Southern Region.

[FR Doc. 81-16941 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-5]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area, Tuscaloosa, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the description of the Tuscaloosa, Alabama, Control Zone and Transition Area by changing the name of the Van De Graaff Airport to the Tuscaloosa Municipal Airport and corrects the coordinate location of the airport geographic position.

EFFECTIVE DATE: 0901 GMT, August 6, 1981.

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

SUPPLEMENTARY INFORMATION: In the Tuscaloosa, Alabama, Control Zone described in § 71.171 (46 FR 455) and Transition Area described in §71.181 (46 FR 540), the name of the airport is listed as "Van De Graaff Airport." The name has been changed to "Tuscaloosa Municipal Airport." Therefore, it is necessary to alter the descriptions to reflect the change. Also, the airport geographic position has changed which requires a minor correction. Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of the Tuscaloosa, Alabama, Control Zone and Transition Area by changing the name of the Van De Graaff Airport to the Tuscaloosa Municipal Airport and corrects the coordinate location of the airport geographic position.

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) and § 71.181, Subpart G, of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) are further amended, effective 0901 GMT, August 6, 1981, as follows:

Tuscaloosa, Alabama

". . . Van De Graaff Airport (lat. 33°13'16"N., long. 87°36'39"W) . . ." is deleted and ". . . Tuscaloosa Municipal Airport (lat. 33°13'14"N., long. 87°36'41"W.) . . ." 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 May 29, 1981.

William J. McGill,

Acting Director, Southern Region.

[FR Doc. 81-16942 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWE-16]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of VOR Federal Airways V–186 by reducing the width of the airway to 3 nautical miles on the south side of the airway centerline between Elmoo, Calif., Intersection and Paradise, Calif. This action provides the necessary nonradar separation for approaches to Runway 24 left and 24 right at Los Angeles International Airport.

DATES: Effective date: August 6, 1981. Comments must be received on or before July 13, 1981.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 81–AWE–16, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket and comments 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. 20591.

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 (ATT–230), Airspace and Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves a routine reduction in the width of an airway, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the facutal basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to reduce the width of V–186 between Elmoo, Calif., Intersection and Paradise, Calif., from 4 to 3 miles on the south side of the centerline § 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 409). This amendment merely changes the description of a small segment of V–186 by reducing the airway width from 4 to 3 nautical miles on the south side of the centerline, and there is no change to the current aeronautical charts. This action provides necessary nonradar separation required for instrument landing system (ILS) procedures to Runway 24 left and 24 right at Los Angeles International Airport.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to reduce the airway width of V–186 on the south side of the centerline from 4 to 3 nautical miles between Elmoo, Calif., and Paradise, Calif. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impractical and contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 GMT, August 6, 1981, by deleting from V–186 the words "Van Nuys, Calif.; to Paradise, Calif." and substituting for them the words "Van Nuys, Calif.; 26 miles standard width, 29 miles (3 miles S and 4 miles N of centerline), to Paradise, Calif."

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

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) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81–17249 Filed 6–10–81; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 80-ANW-21]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of V–182 Low Altitude Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action extends V-182 Low Altitude Federal Airway from its terminal at Baker, Oreg., to Lewiston, Idaho. The action will designate an established route with a lower minimum en route altitude (MEA) to handle the increased traffic flow in this area. This will provide more efficient air traffic service and savings in time and fuel for the airspace users.

EFFECTIVE DATE: August 6, 1981.

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.

History

On April 6, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend Federal Airway V–182 from its terminal at Baker, Oreg., to Lewiston, Idaho (46 FR 20562). This action will designate an established route with a lower minimum en route altitude to handle increased traffic flow in this area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will extend V–182 from Baker, Oreg., to Lewiston, Idaho, via the INT of

the Baker 345° and the Lewiston 220° radials. Designation of this extended route will provide charted course radials and a lower MEA for the increased traffic flow in this area. Also, savings in time and fuel will be achieved by establishment of this airway segment.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 GNT, August 6, 1981, by amending VOR Airway V-182 to read as follows:

V-182 From Portland, Oreg.; The Dalles, Oreg.; Baker,Oreg.; INT of Baker 345° and Lewiston, Idaho, 220° radials; Lewiston, Idaho.

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

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) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17258 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-1]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of V-350 Low Altitude Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action extends V-350 Low Altitude Federal Airway from its terminal at Wichita, Kans., to Liberal, Kans. This action designates and establishes a route to handle the increased traffic flow in this area into the inbound arrival gate for Wichita, Kans. This will provide more efficient air traffic service and savings in time and fuel for the airspace user.

EFFECTIVE DATE: August 6, 1981.

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.

History

On April 6, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend Federal Airway V-350 from its terminal at Wichita, Kans., to Liberal, Kans. (46 FR 20562). This action will designate and establish a route to handle the increased traffic flow in this area into the inbound arrival gate for Wichita, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends Federal Airway V-350 from Wichita, Kans., to Liberal, Kans., via the INT of the Liberal 075° and the Wichita 257° radials. Designation of this extended route will provide charted course radials for the increased traffic flow into the Wichita inbound arrival gate area. Also, savings in time and fuel will be achieved by establishment of this airway segment.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 GMT, August 6, 1981, by amending VOR Airway V-350 to read as follows:

V-350 From Liberal, Kans.; via INT Liberal 075° and Wichita, Kans., 257° radials; Wichita; to Chanute, Kans. The airspace at and above 6,000 feet MSL from 8 nautical miles to 54 nautical miles west of Chanute VOR is excluded during the time that the Eureka High MOA is activated.

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

The FAA has determined that this regulation only involves an established body of techical 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 Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17230 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-14]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Modification of Definition of Federal Airways V-44 and V-268

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: A review of the legal description defining Federal Airways V-44 and V-268 between Baltimore and Swann Intersection revealed that a one degree error existed. This action corrects that error and makes these airways coincide with other airways and radials which overlie the Swann Intersection. This action will decrease pilot confusion in reading IFR charts.

DATES: Effective date: August 6, 1981. Comments must be received on or before July 13, 1981.

ADDRESS: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 81-AEA-14, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket and comments 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. 20591.

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:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves minor editorial changes and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to modify the definitions of Airways V-44 and V-268 by one degree between Baltimore, Md., and Swann Intersection. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 409).

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to correct these editorial deficiencies. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impractical and contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 GMT, August 6, 1981, by deleting under Airways V-44 and V-268 the words "Baltimore 094°" and substituting for them the words "Baltimore 093°"

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

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) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17248 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ANW-1]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revision to Crescent City, Calif., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Crescent City, Calif., transition area to provide additional controlled airspace to accommodate radar arrival and departure procedures. This will provide more efficient air traffic service to the airspace users, along with fuel savings by radar vectoring procedures in this area.

EFFECTIVE DATE: August 6, 1981.

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.

History

On April 6, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Crescent City, Calif., transition area (46 FR 20561). This action provides additional controlled airspace to accommodate radar arrival and departure procedures. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 was republished on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends § 71.181, altering the Crescent City, Calif., transition area to provide additional controlled airspace to accommodate radar arrival and departure procedures for Crescent City Airport. This action will lower the existing transition area floor in an area extending upward from 1,200 feet above the surface within 10 miles east and 25 miles west of the Crescent City VORTAC 180° and 360° radials, extending from 33 miles north and 25 miles south of Crescent City VORTAC.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901 GMT, August 6, 1981, by amending the description of the Crescent City, Calif., transition area by deleting line 5 and subsequent description, and substituting the following:

"VORTAC, and that airspace extending upward from 1,200 feet above the surface within 10 miles east and 25 miles west of the Crescent City VORTAC 180° and 360° radials, extending from 33 miles north and 25 miles south of the Crescent City VORTAC."

(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 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) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17259 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-20]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation of Compulsory Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revokes compulsory reporting point Sault Ste. Marie, Mich. The Canadian Government has requested this amendment and the FAA is in agreement. Since Sault Ste. Marie is in radar coverage, a radio transmission is not necessary, therefore, this amendment reduces the workload on both the pilot and the controller.

DATES: Effective date: August 6, 1981. Comments must be received on or before July 13, 1981.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 81-AGL-20, 2300 East Devon, Des Plaines, Ill. 60018.

The official docket and comments 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. 20591.

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:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the routine revocation of a compulsory reporting point and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.203 and 71.207 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the Sault Ste. Marie, Mich., compulsory reporting point. § 71.203 and 71.207 of Part 71 of the Federal Aviation Regulations were republished in the **Federal Register** on January 2, 1981 (46 FR 747 and 754). Canada and the United States have mutually agreed to revoke Sault Ste. Marie, Mich., as a compulsory reporting point. Sault Ste. Marie is in an area of radar coverage; therefore, an aircraft position report is unnecessary and redundant.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to revoke the Sault Ste. Marie, Mich., compulsory reporting point. There is no change to the current controlled airspace. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impractical and contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.203 and 71.207 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 747 and 754) are amended, effective 0901 GMT, August 6, 1981, as follows:

§ 71.203 [Amended]

By deleting "Sault Ste. Marie, Mich."

§ 71.207 [Amended]

By deleting "Sault Ste. Marie, Mich."

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

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) 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 June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17251 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 81-AAL-10]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points and Special Use Airspace; Amendment to Restricted Area R-2202A and B, Big Delta, Alaska; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects a rule that further subdivides R-2202A and B, Big Delta, Alaska, as published in **Federal Register** Document 81-15138 appearing at page 27632 in the **Federal Register** of May 21, 1981. This correction is required because the published airspace docket number was incorrect.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, 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.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document No. 81-15138 appearing at page 27632 in the **Federal Register** of Thursday, May 21, 1981, is corrected as follows:

1. On page 27632, in the heading, by changing "[Airspace Docket No. 81-AAL-6]" to read "[Airspace Docket No. 81-AAL-10]"

2. On page 27632, under "ADDRESSES" in the fourth line, change "81-AAL-6" to read "81-AAL-10"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec.

6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on June 3, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 17256 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 21811; Amdt. No. 1192]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

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 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective August 6, 1981:*

Marshalltown, IA—Marshalltown Muni, VOR Rwy 12, Amdt. 3

Marshalltown, IA—Marshalltown Muni, VOR Rwy 30, Amdt. 4

Muskegon, MI—Muskegon County, VOR/DME Rwy 6, Amdt. 7

Butte, MT—Bert Mooney, VOR Rwy 11, Amdt. 1, cancelled

Butte, MT—Bert Mooney, VOR-A, Amdt. 1

Butte, MT—Bert Mooney, VOR-B, Original

Glens Falls, NY—Warren County, VOR Rwy 1, Amdt. 8

Glens Falls, NY—Warren County, VOR/DME Rwy 1, Admt. 3

Glens Falls, NY—Warren County, VOR/DME Rwy 19, Amdt. 6

** * * Effective July 23, 1981:*

Effingham, IL—Effingham County Memorial, VOR Rwy 1, Amdt. 4

Lacon, IL—Marshall County, VOR-A, Amdt. 3

Griffith, IN—Griffith, VOR Rwy 8, Amdt. 3
Pascagoula, MS—Jackson County, VOR Rwy 18, Admt. 8
Zuni Pueblo, NM—Black Rock, VOR/DME Rwy 7, Original
Tiffin, OH—Seneca County, VOR Rwy 6, Amdt. 5
Mitchell, SD—Mitchell Muni, VOR Rwy 12, Amdt. 3

** * * Effective June 3, 1981:*

New Orleans, LA—Lakefront, VOR Rwy 18R, Amdt. 1
New Orleans, LA—Lakefront, VOR/DME Rwy 36L, Amdt. 3

** * * Effective June 2, 1981:*

San Diego, CA—Brown Field Muni, VOR-A, Amdt. 1

** * * Effective May 29, 1981:*

Bridgeport, CT—Igor I. Sikorsky Memorial, VOR Rwy 6, Amdt. 16
Bridgeport, CT—Igor I. Sikorsky Memorial, VOR Rwy 24, Amdt. 9
Madison, CT—Griswold, VOR-A, Amdt. 2
New Haven, CT—Tweed-New Haven, VOR Rwy 2, Amdt. 18
New Haven, CT—Tweed-New Haven, VOR Rwy 20, Amdt. 3

** * * Effective May 22, 1981:*

Melfa, VA—Accomack County, VOR/DME Rwy 3, Amdt. 5

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective August 6, 1981:*

Muskegon, MI—Muskegon County, LOC Rwy 24, Amdt. 4
Oneida, TN—Scott Muni, NDB Rwy 23, Original

** * * Effective July 23, 1981:*

Fort Worth, TX—Meacham Field, LOC BC Rwy 34R, Amdt. 6

** * * Effective July 9, 1981:*

Provincetown, MA—Provincetown Muni, SDF Rwy 7, Amdt. 1, cancelled

Note.—The FAA published an amendment in Docket No. 21684, Amdt. No. 1189 to Part 97 of the Federal Aviation Regulations (Vol 46 FR No. 85 page 24939; dated May 4, 1981) under section 97.25 effective June 11, 1981, which is hereby amended as follows: Pensacola, FL-Pensacola Regional, LOC BC Rwy 34, Amdt 7 cancelled is amended as follows: LOC BE Rwy 34, Amdt 7 remains in effect.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective August 6, 1981:*

Marshalltown, IA—Marshalltown Muni, NDB Rwy 12, Amdt. 2
Antlers, OK—Antlers Muni, NDB Rwy 35, Original
Oneida, TN—Scott Muni, NDB Rwy 23, Original
Port Lavaca, TX—Calhoun County, NDB Rwy 14, Original

** * * Effective July 23, 1981:*

Globe, AZ—Globe-San Carlos Regional Air Facility, NDB-A, Amdt. 1
Cairo, IL—Cairo, NDB Rwy 20, Amdt. 5
Sparta, IL—Sparta Community-Hunter Field, NDB Rwy 18, Admt. 4
Minneapolis, MN—Flying Cloud, NDB Rwy 9R, Original
Pascagoula, MS—Jackson County, NDB Rwy 22, Amdt. 3, cancelled
Pascagoula, MS—Jackson County, NDB-A, Original
Reno, NV—Cannon Intl, NDB Rwy 16, Original
Athens (Albany), OH—Ohio University, NDB Rwy 24, Amdt. 4
Cambridge, OH—Cambridge Muni, NDB Rwy 4, Amdt. 3
Tiffin, OH—Seneca County, NDB Rwy 24, Amdt. 3
Fort Worth, TX—Meacham Field, NDB Rwy 16L, Amdt. 3
Fort Worth, TX—Meacham Field, NDB Rwy 34R, Amdt. 5

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective August 6, 1981:*

Glens Falls, NY—Warren County, ILS Rwy 1, Amdt. 2

** * * Effective July 23, 1981:*

Denver, CO—Stapleton Intl, ILS Rwy 35R, Amdt 5
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 17L, Amdt. 7
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 17R, Amdt. 8
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 35L, Amdt. 7
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS Rwy 35R, Amdt. 7
Fort Worth, TX—Meacham Field, ILS Rwy 16L, Amdt. 5
Newport News, VA—Patrick Henry Intl, ILS Rwy 7, Amdt. 24

** * * Effective July 9, 1981.*

Provincetown, MA—Provincetown Muni, ILS Rwy 7, Original

** * * Effective June 3, 1981:*

New Orleans, LA—Lakefront, ILS Rwy 18R, Amdt. 6

* * * Effective May 29, 1981:

Bridgeport, CT—Igor I. Sikorsky Memorial, ILS Rwy 6, Amdt. 3
New Haven, CT—Tweed-New Haven, ILS Rwy 2, Amdt. 10

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective August 6, 1981:

Muskegon, MI—Muskegon County, RADAR-1, Amdt. 8

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective August 6, 1981:

Muskegon, MI—Muskegon County, RNAV Rwy 6, Amdt. 1
Glens Falls, NY—Warren County, RNAV Rwy 1, Amdt. 1

* * * Effective July 23, 1981:

Pascagoula, MS—Jackson County, RNAV Rwy 13, Amdt. 2
6Pascagoula, MS—Jackson County, RNAV Rwy 22, Amdt. 2, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 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 June 5, 1981.

John S. Kern,

Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

[FR Doc. 81-17257 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 152

[Docket No. 17337; Amdt. 152-13]

Airport Aid Program; Procedures Implementing OMB Circular A-95

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule and Revocation of Special Federal Aviation Regulation No. 35.

SUMMARY: These regulations set forth procedures designed to promote maximum coordination of the Airport Planning Grant Program and the Airport Development Aid Program with each other and with state, areawide, and local plans and programs. The Office of Management and Budget (OMB) requires Federal agencies to develop these procedures.

EFFECTIVE DATE: July 8, 1981.

FOR FURTHER INFORMATION CONTACT: Howard Murphy, Plans Requirements Branch, APO-120, Planning Analysis Division, Office of Aviation Policy and

Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-3220.

SUPPLEMENTARY INFORMATION: This amendment adopts final regulations implementing OMB Circular A-95, Revised, entitled "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects" (A-95), which was published in the **Federal Register** on January 13, 1976, 41 FR 2052.

The Airport Development Aid Program and the Planning Grant Program (Catalogue of Federal Domestic Assistance program numbers 20.102 and 20.103) are the only Federally assisted programs administered by the FAA to which A-95 applies. For this reason, the agency's final regulations implementing A-95 are being published as a new Appendix E to Part 152, Airport Aid Program.

FAA interim procedures implementing A-95 were published, in a notice of FAA policy, in the **Federal Register** on November 17, 1977 (42 FR 59477). On the same date, the FAA published Special Federal Aviation Regulation No. 35 (42 FR 59476) which required each applicant for Federal assistance under the Airport Development Aid Program and the Planning Grant Program to comply with the applicable procedures in the notice of policy. Since this requirement is being added to Part 152 by this amendment, Special Federal Aviation Regulation No. 35 is being revoked.

New Appendix E contains only those parts of the FAA's procedures that impose requirements on an applicant for airport aid. Procedures that apply only to actions on the part of the FAA are not set out in Appendix E. Instead they have been embodied in FAA Orders 5100.36, *Airport Development Aid Program Handbook*, 5100.20A, *Program Control and Reporting Procedures Airport Grant in Aid Program*, and 5900.1B, *Planning Grant Program*. FAA Order 1200.21A, *Evaluation, Review, and Coordination of FAA Direct Development Programs and Projects*, is being prepared to cover the notification procedures that will be followed by the FAA for programs and projects involving direct Federal development.

Part II of the new Appendix E contains a list of exceptions to the notification and review procedures prescribed in Part I. The basic substance of these exceptions is the same as those issued with the FAA's interim procedures. However, they have been consolidated and rearranged so that they conform to the exceptions listed in Paragraph 23, Appendix 6, FAA Order 1050.1C, *Policies and Procedures for Considering Environmental Impacts*, and Appendix 1, FAA Order 1200.21A, *Evaluation, Review, and Coordination of FAA Direct Development Programs and Projects*.

Material that is strictly informational or advisory has not been placed in Appendix E. This includes material in sections 10, 11, and 12 of the interim procedures which deal with clearinghouse functions, the consultation and review process, and the subject matter of comments and recommendations.

Section 2(a)(4) of the interim procedures, which recommends that sponsors use the notification forms and instructions developed by many clearinghouses, is not mandatory, and, therefore, has not been included in the requirements of Appendix E. However, sponsors and planning agencies are urged to use these forms, when they are available, in order to expedite clearinghouse review.

In response to an invitation in the Notice of Policy, the FAA received five public comments on the interim procedures. Where appropriate, those comments have been considered in the development of the final procedures.

Adoption of the Amendment

Accordingly, Special Federal Aviation Regulations No. 35 (42 FR 59477; November 17, 1979) appearing in 14 CFR Part 152 is revoked and removed, effective July 8, 1981, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152) is amended, effective July 8, 1981, as follows:

§ 152.111 [Amended]

1. By amending § 152.111(c)(4) by removing the words "Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A-95" and substituting therefor the words "Appendix E, Procedures Implementing Office of Management and Budget Circular A-95, to this part."

§ 152.113 [Amended]

2. By amending § 152.113(b)(1) by removing the words "Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A-95" and substituting therefor the words "Appendix E, Procedures Implementing Office of Management and Budget Circular A-95, to this part".

3. By adding a new Appendix E to read as follows:

Appendix E—Procedures Implementing Office of Management and Budget Circular A-95

Part I—Procedures

Section 1. Applicability. Part I of this appendix sets forth procedures designed to promote maximum coordination of the Airport Development Aid Program and the Airport Planning Grant Program with each other and with State, areawide, and local plans and programs. Part II of this appendix specifies airport actions that do not require compliance with the notification and review procedures of Part I of this appendix.

Section 2. Notification procedures. Applicants for Federal assistance under the Airport Development Aid Program and the Planning Grant Program must comply with the following procedures:

(a) Except as provided in Part II of this appendix, each sponsor or planning agency which intends to apply for an airport development or airport planning grant under Part 152 must give notice, as provided in paragraph (b) of this section, to the appropriate clearinghouse of each state, region, and metropolitan area in which the project is to be located. In the case of applications for projects involving land use, water use, development, or construction in the National Capital Region (as defined in section 1(b) of the National Capital Planning Act of 1952, as amended; 40 U.S.C. 71), a copy of the notification must also be sent to the National Capital Planning Commission. In the case of airport planning or development that is statewide, and does not affect, or have specific applicability to, areawide or local planning and programs, the notification may be sent to the appropriate state clearinghouse only. The notice must comply with the following:

(1) The notice must be given as soon as feasible after project plans have been developed in sufficient detail to inform the clearinghouse of the proposed airport development project. To avoid delay in processing the grant, this must be at least 60 days before the sponsor files a Preapplication for Federal Assistance or, if a preapplication is not required, an Application for Federal Assistance, under Part 152.

(2) The notice must include a summary and description of the proposed project or planning containing, as appropriate and available, the following information:

(i) Identity of the sponsor or planning agency.

(ii) The location of the proposed airport development or the boundaries of the planning area.

(iii) A brief description of the proposed project or planning, including type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouse to identify agencies of state or local governments having plans, programs, or projects that might be affected by the proposed project or planning. A sponsor may submit an approved airport layout plan (if available) to provide part of this information. A planning agency may submit a copy of its Application for Federal

Assistance in lieu of the material required by this paragraph (a)(2)(iii).

(iv) A statement as to whether the sponsor has been advised by the FAA that it will be required to submit environmental impact information in connection with the proposed project.

(v) The estimated date the sponsor or planning agency expects to formally file a preapplication or application.

(b) The notice required by paragraph (a) of this section shall be given as follows:

(1) *Metropolitan Area.* For a project or planning in a metropolitan area, notification shall be given to both the state clearinghouse and the areawide clearinghouse. A current list of designated areawide planning agencies is maintained in the FAA Regional and Airport District Offices.

(2) *Nonmetropolitan Area.* For a project or planning in a nonmetropolitan area for which the governor of a state has designated a regional comprehensive planning agency, notification must be given to that agency, as the areawide clearinghouse, and to the state clearinghouse.

(3) *Other Locations.* For a project or planning located in an area other than an area described in paragraphs (b) (1) or (2) of this section, notification must be given both to the state clearinghouse and to each public agency planning the development of the area in which the project is located.

(c) If clearinghouse review has been completed before an application under Part 152 is completed, an information copy of the application must be submitted to each clearinghouse that requests one, when the application is submitted to the FAA.

(d) Each preapplication or, if a preapplication is not required, each application for an airport development or planning grant to which this appendix applies must be accompanied by the following:

(1) Except as provided in paragraph (d)(2) of this section, all comments and recommendations made by or through clearinghouses, including (as attachments to the comments of areawide clearinghouses) all comments at variance with the clearinghouse comments by other jurisdictions, agencies, or parties, with a statement that the comments have been considered before submission of the application.

(2) If no comments have been received from, or made by, a clearinghouse, a statement specifying that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

(3) All comments from public agencies, charged with either developing and enforcing environmental standards, or enforcing or furthering the objectives of state and local civil rights laws, with a statement that the comments have been considered before submission of the application.

(4) When the proposed project involves the development of a metropolitan or regional airport system plan and the grant applicant is other than the planning agency designated as the areawide clearinghouse, a memorandum of agreement between the grant applicant and the areawide clearinghouse, covering the means by which their planning activities will be coordinated, including—

(i) The relationship between the sponsor's proposed planning and that of the areawide agency;

(ii) Each organizational and procedural arrangement for coordinating activities; and

(iii) Each arrangement for sharing planning resources and data.

(e) when an application for renewal or continuation of a grant under Part 152 is not submitted to, or acted upon by, the FAA within one year after completion of clearinghouse review, the applicant must follow the procedures in this appendix for re-review, if requested to do so by a clearinghouse.

Part II—Exceptions

Compliance with the notification and review procedures prescribed in Part I of this appendix is not required when application is made for an airport development or airport planning grant involving any of the following:

1. Runway, taxiway, apron, or loading ramp construction or repair work including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets, and jet blast facilities, except where such action will create environmental impacts off airport property. In this context, environmental impacts shall include (a) an increase of more than 10 percent in airport capacity or (b) the enabling a larger class of aircraft to use the airport. For purposes of this exception, the following classes of aircraft apply:

a. Heavy—Aircraft capable of takeoff weights of 300,000 pounds or more whether or not they are operating at this weight during a particular phase of flight.

b. Large—Aircraft of more than 12,500 pounds, maximum certificated takeoff weight, up to 300,000 pounds.

c. Small—Aircraft of 12,500 pounds or less, maximum certificated takeoff weight.

2. Installation or upgrading of on-airfield lighting systems, including beacons and electrical distribution systems.

3. Installation of miscellaneous on-airfield items including fences, segmented circles, wind measuring devices, or landing direction indicators.

4. Installation of visual guidance and weather equipment on airports, such as cloud height indicators, runway visual range equipment, centerfield wind indicators, hygrothermometers, visual approach slope indicators, and runway end identification lights.

5. Construction or expansion of passenger handling or parking facilities including pedestrian walkway facilities.

6. Construction or repair of entrance and service roadways within airport property and relocation of these types of roads, except where they connect to a public highway or street.

7. Grading or removal of obstructions on airport property and erosion control actions with no off-airport impacts.

8. Landscaping, generally, and landscaping or construction of physical barriers to diminish impact or airport blast and noise.

9. Acquisition of: (a) Noise suppression or measuring equipment, (b) security equipment required by rule or regulation for the safety or security of persons and property on the airport (14 CFR Part 107), (c) safety equipment required by rule or regulation for certification of an airport (14 CFR Part 139), or (d) snow removal equipment.

10. Issuance of supplemental airport planning grants.

11. Airport related emergency actions.

12. Facility, structure, and grounds maintenance, including the upkeep and general maintenance of buildings, such as replacement of electrical wiring, painting, roofing, grounds maintenance, and road and parking lot resurfacing.

13. Electronic display equipment which is installed in existing facilities to update the operational capabilities of such systems as radar bright display equipment, plan view displays, direct access radar channels, and any future equipment of this type.

14. Installation of equipment within air traffic control towers and terminal approval control facilities.

15. Facility modernization to the degree that the program or project adds to the existing functional capability but does not change the use, scale, or intensity of use of the structure or facility, including new or additional equipment, or reallocation of existing space to house that equipment.

16. Construction of facilities or installation of equipment to be located on or within facilities confined within the perimeter of the airport or on federally owned or leased land (except those which require obstruction clearance off the airport or facilities site, or zoning to prevent electromagnetic interference). The construction and installation must be of small scale or size with negligible off-airport impact.

17. Installation, rehabilitation, modernization, relocation, or consolidation of utilities on airports to serve airport navigation, communication, and air traffic control facilities, where land use has previously been determined and which cause no off-airport impact.

18. Supplements to existing systems to provide additional communications and navigational capabilities, such as beacon supplements to air traffic control radar systems, tactical air navigation systems added to a very high frequency omnidirectional range, or additions of distance measuring equipment.

19. Purchase of existing facility land sites currently held by lease agreement.

20. Leases of buildings at the FAA Aeronautical Center and the FAA Technical Center.

21. Leases of space and installation of navigational facilities on airport property.

22. Disposal of real property consisting of not more than two acres, with improvements and associated restrictive easements surrounding the site.

23. Terminal development within the confines of existing structures.

24. Retirement of the principal of bonds or other indebtedness for terminal development.

25. Modifications to airport facilities to make them more accessible to the handicapped.

(Secs. 303, 307, 308, 312, and 313, Federal Aviation Act of 1958 (49 U.S.C. 1344, 1348, 1349, 1353, and 1354); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.); sec. 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(1)); OMB Circular A-95, Revised (41 FR 2052; January 13, 1976))

Note.—The final procedures implemented by this amendment are substantially the same as the interim procedures already being complied with by grant applicants and will not impose any major cost increase or any adverse economic effect. For this reason the FAA has determined that this document involves a regulation which is not a major rule under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it 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 as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). 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 Washington, D.C., on April 30, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-16894 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1309

Nondiscrimination With Respect to Age

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rulemaking.

SUMMARY: This document adds a new Part 1309 to TVA's regulations (as redesignated by 44 FR 30682). The new part implements the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (1976). This part sets forth enforcement procedures, and standards and rules on what practices are discriminatory on the basis of age in programs receiving financial assistance from TVA.

DATE: This part is effective June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Justin M. Schwamm, Sr., Assistant General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B25, Knoxville, Tennessee 37902, (615) 632-2361.

SUPPLEMENTARY INFORMATION: On February 22, 1980, TVA published in the Federal Register for public comment a proposed rulemaking to implement the Age Discrimination Act of 1975, as amended, 29 U.S.C. 6101, *et seq.* (FR Doc. 80-5528, 45 FR 11835). No comments were received. The only difference between the proposed and final rule is that § 1309.11(b) of the proposed rule has been eliminated as unnecessarily burdensome for recipients. No objection to this change has been received from the Department of Health and Human Services.

Since TVA financial assistance contractors are already bound to comply with the Age Discrimination Act of 1975 and this part by agreement, and this part will aid in the better implementation of that act, the TVA Board has determined for good cause shown that a delayed effective date is not in the public interest and that this part shall be effective on publication.

In consideration of the foregoing, under the authority of 16 U.S.C. 831-831dd and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*, TVA Board of Directors has adopted and added Part 1309 to chapter XIII of Title 18 of the Code of Federal Regulations, reading as set forth below.

Dated: June 4, 1981.

By order of the Board of Directors.

W. F. Willis,

General Manager.

PART 1309—NONDISCRIMINATION WITH RESPECT TO AGE

Sec.

1309.1 What are the defined terms in this part and what do they mean?
1309.2 What is the purpose of the Act?
1309.3 What is the purpose of this part?
1309.4 What programs and activities are covered by the Act and this part?
1309.5 What are the rules against age discrimination?
1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?
1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?
1309.8 Who has the burden of proving that an action is excepted?
1309.9 How does TVA provide financial assistance in conformity with the Act?
1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?
1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?
1309.12 What are a recipient's responsibilities on compliance reviews and access to information?
1309.13 What are the prohibitions against intimidation or retaliation?
1309.14 How will complaints against recipients be processed?
1309.15 How will TVA enforce compliance with the Act and this part?
1309.16 What is the alternate funds disbursal procedure?
1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?
1309.18 Under what circumstances must recipients take remedial or affirmative action?
1309.19 When may a complainant file a civil action?

Authority: TVA Act of 1933, 48 Stat. 58 (1933), as amended, 18 U.S.C. 831-831dd (1976), and sec. 304 of the Age Discrimination Act of 1975, 89 Stat 729 (1975), as amended, 42 U.S.C. 6103 (1976).

§ 1309.1 What are the defined terms in this part and what do they mean?

As used in this part the following terms have the stated meanings:

(a) "Act" means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq. (Title III of Pub. L. 94-135).

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) "Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age-related term" means a term which necessarily implies a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) "Financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement, by which TVA provides or otherwise makes available to a recipient assistance in any of the following forms:

(1) Funds;

(2) Services of TVA personnel;

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the share of its fair market value provided by TVA is not returned to TVA.

(g) For purposes of §§ 1309.6 and 1309.7, "normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet it objectives.

(h) For purposes of §§ 1309.6 and 1309.7, "statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or

ordinance adopted by an elected, general purpose legislative body.

(i) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any State-created or recognized public or private agency, institution, organization, or other entity, or any person to which TVA extends financial assistance directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(j) "Secretary" means the Secretary of the Department of Health, Education, and Welfare, and its successors.

(k) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

(l) "TVA" means the Tennessee Valley Authority.

§ 1309.2 What is the purpose of the Act?

The Act is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this part.

§ 1309.3 What is the purpose of this part?

The purpose of this part is to effectuate the Act in all programs or activities of recipients which receive financial assistance from TVA, and to inform the public and the recipients of financial assistance from TVA of the Act's requirements and how it will be enforced.

§ 1309.4 What programs and activities are covered by the Act and this part?

(a) The Act and this part apply to any program or activity receiving financial assistance from TVA.

(b) The Act and this part do not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

§ 1309.5 What are the rules against age discrimination?

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving financial assistance from TVA.

(b) *Specific rules.* In any program or activity receiving financial assistance from TVA, a recipient may not directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving financial assistance from TVA, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving financial assistance from TVA.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) The rules stated in this section are limited by the exceptions contained in §§ 1309.6 and 1309.7.

§ 1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?

A recipient is permitted to take an action, otherwise prohibited by § 1309.5, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) It is impractical to measure the other characteristic(s) directly on an individual basis.

§ 1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?

A recipient is permitted to take an action otherwise prohibited by § 1309.5 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 1309.8 Who has the burden of proving that an action is excepted?

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 1309.6 and 1309.7 is on the recipient of financial assistance from TVA.

§ 1309.9 How does TVA provide financial assistance in conformity with the Act?

(a) TVA contributes financial assistance only under agreements which contain a provision which specifically requires compliance with the Act and this part. If the financial assistance involves the furnishing of real property, the agreement shall obligate the recipient, or the transferee in the case of a subsequent transfer, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where the financial assistance involves the furnishing of personal property, the agreement shall obligate the recipient during the period for which ownership or possession of the property is retained. In all other cases the agreement shall obligate the recipient for the period during which financial asssistance is extended pursuant to the agreement. TVA shall specify the form of the foregoing agreement, and the extent to which an agreement shall be applicable to subcontractors, transferees, successors in interest, and other participants in the program.

(b) In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of TVA financial assistance, or in the case where TVA financial assistance was provided in the form of a transfer by TVA of real property or an interest therein, the instrument effecting or recording the transfer of title shall contain a covenant running with the land assuring compliance with this part

and the guidelines contained herein for the period during which the real property is used for a purpose for which the TVA financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of TVA financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the nature of (1) the program under which the real property is obtained, (2) the recipient, and (3) the instrument effecting or recording the transfer of title. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?

(a) A recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and afford TVA access to its records to the extent required by TVA to determine whether the recipient is in compliance with the Act.

(b) TVA has responsibility to attempt to secure a recipient's compliance with the Act by voluntary means, to the fullest extent practicable, and to provide assistance and guidance to recipients to help them comply voluntarily. TVA may use the services of appropriate Federal, State, local, or private organizations for this purpose. TVA also has the responsibility to enforce the Act when a recipient fails to eliminate violations of the Act.

§ 1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?

(a) *Written notice, technical assistance, and educational materials.* TVA shall:

(1) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where the recipient initially receiving funds makes the funds available to a subrecipient, the recipient must notify the subrecipient of its obligations under the Act. The notice may be made a part of the contract under which financial assistance is provided by TVA.

(2) Provide technical assistance to recipients, where necessary, to aid them in complying with the Act.

(3) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

§ 1309.12 What are a recipient's responsibilities on compliance reports and access to information?

(a) *Compliance reports.* Each recipient shall keep such records and submit to TVA timely, complete and accurate compliance reports at such times and in such form and containing such information, as TVA may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient passes through financial assistance from TVA to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(b) *Access to sources of information.* Each recipient shall permit access by TVA during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person, and such agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(c) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives financial assistance, and make such information available to them in such manner as TVA finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 1309.13 What are the prohibitions against intimidation or retaliation?

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by the Act or this part, or because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, mediation, hearing, or other proceeding under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, mediation, hearing, or judicial proceeding arising under the Act or this part.

§ 1309.14 How will complaints against recipients be processed?

(a) *Receipt of complaints.* Any individual who claims (individually or on behalf of any specific class of individuals) that he or she has been subjected to discrimination prohibited by this part (including § 1309.13) may file a written complaint with TVA. The written complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by TVA for good cause shown. A complaint shall be signed by the complainant, give the name and mailing address of the complainant and the recipient, identify the TVA financial assistance program involved, and state the facts and occurrences (including dates) which led the complainant to believe that an act of prohibited discrimination has occurred. Anonymous complaints will not be accepted or filed under this section, but may be the basis for a compliance review. TVA will reject any complaint which does not fall within the coverage of the Act and this part, and may reject or require supplementation or clarification of any complaint which does not contain sufficient information for further processing as set forth in this paragraph. A complaint shall not be deemed filed until all such information has been provided to TVA.

(b) *Prompt resolution of complaints.* The complaint shall be resolved promptly. To this end, TVA shall proceed with the complaint without undue delay so that the complaint is resolved within 180 calendar days after it is filed with TVA. The recipient and

complainant involved in each complaint are required to cooperate in this effort. Failure to cooperate on the part of the complainant may result in cancellation of the complaint, while such failure on the part of the recipient may result in enforcement action as described in § 1309.15.

(c) *Mediation of complaints.* All complaints which fall within the coverage of the Act and this part will be referred to a mediation agency designated by the Secretary.

(1) The participation of the recipient and the complainant in the mediation process is required, although both parties need not meet with the mediator at the same time.

(2) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing. The mediator shall send a copy of the settlement to TVA. No further action shall be taken based on that complaint uless it appears that the complainant or the recipient is failing to comply with the agreement.

(3) Not more than 60 days after the complaint is filed, the mediator shall return a still unresolved complaint to TVA for initial investigation. The mediator may return a complaint at any time before the end of the 60-day period if it appears that the complaint cannot be resolved through mediation.

(4) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(d) *Investigation.* (1) TVA will make a prompt investigation whenever a complaint is unresolved within 60 days after it is filed with TVA or is reopened because of a violation of the mediation agreement. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with the Act and this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with the Act and this part.

(2) As part of the initial investigation, TVA shall use informal fact finding methods including joint or individual discussions with the complainant and recipient to establish the facts, and, if possible, to resolve the complaint to the mutual satisfaction of the parties. TVA may seek the assistance of any involved State program agency.

(3) If TVA cannot resolve the matter within 10 calendar days after the mediator returns the complaint, it shall complete the investigation, attempt to achieve voluntary compliance satisfactory to TVA, if the investigation indicates a violation, and arrange for enforcement as described in § 1309.15, if necessary.

§ 1309.15 How will TVA enforce compliance with the Act and this part?

(a) If a compliance report, self-evaluation, or preaward review indicates a violation or threatened violation of the Act or this part, TVA shall attempt to secure the recipient's voluntary compliance with the Act and this part. If the violation or threatened violation cannot be corrected by informal means, compliance with the Act and this part may be effected by the following means:

(1) Termination of a recipient's financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an appropriate hearing officer.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this part.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency which will have the effect of correcting a violation of the Act or this part.

(iii) Commencement by TVA of proceedings to enforce any rights of TVA or obligations of the recipient created by the contract, the Act, or this part.

(b) Any termination under paragraph (a)(1) of this section shall be limited to the particular recipient and the particular programr or activity (or portion thereof) receiving financial assistance from TVA which is found to be in violation of the Act or this part. No termination shall be based in whole or in part on a finding with respect to any program or activity which does not receive financial assistance from TVA.

(c) No assistance will be terminated under paragraph (a)(1) of this section until:

(1) TVA has advised the recipient of its failure to comply with the Act or this part and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after TVA has sent a written report of the circumstances and grounds of the termination of assistance to the committees of the Congress having legislative jurisdiction over the TVA program or activity involved. A report shall be filed in each case in which TVA has determined that assistance will be terminated under paragraph (a)(1) of this section.

(d) TVA may defer granting new financial assistance to a recipient when termination proceedings under paragraph (a)(1) of this section are initiated.

(1) New financial assistance includes all assistance administrated by or through TVA for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period. New financial assistance does not include assistance approved prior to the beginning of termination proceedings.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under paragraph (a)(1) of this section. A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and TVA. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 1309.16 What is the alternate funds disbursal procedure?

When TVA withholds funds from a recipient under this part, TVA may contract to disburse the withheld funds directly to any public or nonprofit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to comply with this part and to achieve the goals of the program or activity involved.

§ 1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1309.15(a)(1), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient. This notice shall advise the recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within

which the recipient may request of TVA that the matter be scheduled for hearing or (2) advise the recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. A recipient may waive a hearing and submit written information and argument for the record. The failure of a recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and § 1309.15(a)(1) and a consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the time and place fixed by TVA unless it determines that the convenience of the recipient requires that another place be selected. Hearings shall be held before a hearing officer who shall be designated by TVA's General Manager, and who shall not be a TVA employee.

(c) *Right to counsel.* In all proceedings under this section, the recipient and TVA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof by TVA's Board of Directors shall be conducted in conformity with this part and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters, as prescribed by the hearing officer. Both TVA and the recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repititious evidence. All documents and other evidence offered or received for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under the Act, the TVA Board may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of the rules of procedure applicable to such hearings by such other departments or agencies. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with paragraph (f) of this section.

(f) *Decisions.* (1) After the hearing, or after the hearing is waived under paragraph (a) of this section, the hearing officer shall make an initial decision. The recipient may file exceptions to the decision with the TVA Board within 10 days of receipt of the decision. If exceptions are not filed within the specified time, the hearing officer's initial decision becomes the final TVA decision.

(2) Based on the hearing record, investigation, and any written submission to the hearing officer or the TVA Board, the Board shall render its decision accepting the initial decision, or rejecting it, in whole or part.

(3) The final decision may provide for suspension or termination of, or refusal to grant or continue financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no financial assistance will thereafter be extended under such program to the recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompliance and satisfies TVA that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) A recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive financial assistance from TVA if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request TVA to restore fully its eligibility to receive financial assistance from TVA. Any such request shall be supported by information showing that the recipient has met the requirements of subparagraph (1) of this paragraph. If TVA determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If TVA denies any such request, the recipient may submit a written request for a hearing, specifying why it believes TVA to have been in error. The recipient shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by TVA. The recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f)(3) of this section shall remain in effect.

§ 1309.18 Under what circumstances must recipients take remedial or affirmative action?

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which TVA may require to overcome the effects of the discrimination, if another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children, in addition to persons of other ages, provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

§ 1309.19 When may a complainant file a civil action?

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and TVA has made no finding with regard to the complaint; or

(2) TVA issues any finding in favor of the recipient.

(b) If either of the conditions set forth in paragraph (a) of this section is satisfied, TVA shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right, under Section 305(e) of the Act, to bring a civil action for injunctive relief that will effect the purposes of the Act; and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint;

(iii) That before commencing the action the complainant shall give 30 days' notice by registered mail to the Secretary, the Attorney General of the United States, TVA, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

[FR Doc. 81-17294 Filed 6-10-81; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

41 CFR Ch. 12

[OST Docket No. 19; Amdt. 5]

Procurement Regulations; Options and Consulting Services

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: DOT amends its Procurement Regulations to eliminate the coverage of options in favor of new Federal Procurement Regulations coverage, and modifies the coverage of consulting service contracts to conform with Office of Management and Budget Circular A-120. Although this is a final rule, comments will be accepted and considered.

DATES: These changes take effect June 15, 1981; however, comments will be accepted until July 31, 1981.

ADDRESS: Send written comments to Docket Clerk, OST Docket No. 19, Office of the General Counsel, C-50, Department of Transportation, Washington, DC 20590. Comments will be available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Building, 400 Seventh Street, SW, Washington, DC, from 9:00 AM to 5:30 PM eastern time, Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger Martino, Office of Installations and Logistics, (202) 426-4237.

SUPPLEMENTARY INFORMATION:

Options

Amendment 213 to the Federal Procurement Regulations (FPRs) (46 FR 7966; January 26, 1981) provides policies and procedures regarding the use of option rights in contracts. Until this time, coverage of options had not been included in the FPRs. The basis for Amendment 213 is the increased use of option provisions in contracts by civilian agencies. The effect will be to provide uniform instructions for the use of options in Government contracts. In the interest of this uniformity, and since the new FPR coverage varies only slightly from the present coverage in the DOT Procurement Regulations (DOTPRs), the DOT coverage in Subpart 12-1.50, Options, and Section 12-7.151-17, Options, is revoked.

Consulting Services

Office of Management and Budget (OMB) Circular A-120 (April 14, 1980), Guidelines for the Use of Consulting Services, establishes policy and guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of consulting services obtained from individuals and organizations. It supersedes OMB Bulletin No. 78-11, dated May 5, 1979, on the same subject. To conform the DOTPRs to the changes made by Circular A-120, Subpart 12-50.3, Procurement of Expert and Consulting Services, is revised.

Although this is a final rule, comments will be accepted until the deadline date shown above. This rule may be changed in light of any comments that are received; any changes will be announced by another rulemaking document published in the **Federal Register.**

Since this amendment relates to Government contracts, notice and public procedure on it are unnecessary and it may be made effective fewer than thirty days after publication in the **Federal Register.**

It has been determined under the criteria of the Regulatory Flexibility Act that this rule will not have a significant effect on a substantial number of small entities, because it makes such a small change in the substance of the regulations. Further, it is not a major rule under Executive Order 12291, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason. The anticipated economic impact is so minimal that it does not warrant preparation of regulatory evaluation. Finally, DOT has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and therefore that an environmental impact statement is not required. Comments are invited on all of these issues, however.

In consideration of the foregoing, Chapter 12 of Title 41, Code of Federal Regulations, is amended as follows:

§§ 12-1.5000—12-1.5005 (Subpart 12-1.50) [Removed]

1. Subpart 12-1.50 is removed.

Subpart 12-7.1—Clauses for Fixed-Price Suppy Contracts

§ 12-7.151-17 [Removed]

2. In Subpart 12-7.1, § 12-7.151-17 is removed and the table of contents for Subpart 12-7.1 is amended accordingly.

3. Subpart 12-50.3 is revised as appears below:

Subpart 12-50.3—Procurement of Expert or Consultant Service

Sec.

12-50.300 Scope of subpart.
12-50.301 Negotiation authority.
12-50.302 Contracts with individual experts or consultants.
12-50.302-1 Method and amount of payment.
12-50.302-2 Benefits.
12-50.302-3 Taxes.
12-50.302-4 Conflict of interest.
12-50.302-5 Administrative treatment.
12-50.303 Contracts with Firms for expert or consultant services.
12-50.304 Contracts for stenographic reporting services.
12-50.305 Modification of contracts.

Authority: Section 205(c), 63 Stat. 389, 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12-50.3—Procurement of Expert or Consultant Services

§ 12-50.300 Scope of subpart.

This subpart sets forth policy and procedures for the procurement by contract, pursuant to 5 U.S.C. 3109, of expert or consultant services from individuals and from firms. This subpart does not govern employment of individual experts or consultants by excepted appointment; the requirement for such employment are set forth in personnel regulations of the Office of Personnel Management and of the Department. This subpart implements DOT Order 4200.15, "Criteria and Guidelines for the Use of Consulting Services".

§ 12-50.301 Negotiation authority.

Contracts with individuals or firms for expert and consultant services are usually negotiated, normally under the authority of 41 U.S.C. 252(c)(4), or 10 U.S.C. 2304(a)(4), as applicable.

§ 12-50.302 Contracts with individual experts or consultants.

§ 12-50.302-1 Method and amount of payment.

The contract may provide for compensation at rate for time actually worked (e.g., amount per day, per week, per month, etc.), or it may provide for performance of a specific task at a fixed price, or it may provide for nominal compensation. The amount of rate of payment will be determined on a case-by-case basis, taking into account (among other relevant factors) the relative importance of the duties to be performed, the stature of the individual in his or her specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, or rates previously paid other experts or consultants for similar work. Compensation at a per diem rate will be no more than that permitted by statutory authority. In addition, the contract may provide for such expenses as would be authorized for a Government employee, including actual transportation and per diem in lieu of subsistence while the expert or consultant is traveling between home or place of business and official duty station. However, no more than one round trip to the official duty station shall be provided unless the services are rendered on an intermittent basis.

§ 12-50.302-2 Benefits.

No benefits shall be accorded the contractor which are not specifically provided for in the written contract.

§ 12-50.302-3 Taxes.

Where the individual is to render services, the compensation generally is subject to FICA (Social Security), FUTA (Unemployment Compensation), and Federal income withholding taxes. It may also be necessary to report or withhold State income tax under 5 U.S.C. 5517. The contracting officer shall take appropriate steps in coordination with the cognizant personnel office to have deductions and reports made where required by law.

§ 12-50.302-4 Conflict of interest.

The contracting officer shall assure that individual experts or consultants who are to render services under contract have complied with appropriate conflict of interest regulations.

§ 12-50.302-5 Administrative treatment.

Individual experts or consultants who are to render personal services under contract are charged against personnel ceilings in the same way as experts and consultants employed by excepted appointments. Also, the cognizant personnel office must maintain certain records on individual experts and consultants who render personal services. Therefore, the contracting officer shall effect necessary coordination with the cognizant personnel office before award of a contract for expert or consultant services, and may also designate the appropriate personnel officer as his representative for the purpose of obtaining necessary data from the contractor for tax withholding purposes, for suitability investigation under Executive Order 10450, and for administering applicable conflict of interest provisions.

§ 12-50.303 Contracts with firms for expert or consultant services.

Contracts with firms for expert or consultant services ordinarily need deal only with rights and obligations as between the Government and the firm, and need not deal with the question of compensation by the firm of the individuals it assigns to the work or with any other rights or obligations as between the firm and these individuals.

§ 12-50.304 Contracts for stenographic reporting services.

Stenographic reporting services normally are provided by Federal Government employees appointed under the usual civil service procedures. However, these services may be procured by contract from individuals or firms pursuant to 5 U.S.C. 3109, or other statutory authority where there are variable requirements or insufficient qualified personnel, and necessity or economy to the Goverment demands procurement by contract. Such contracts normally shall be written on an end-product basis and payment made according to delivered items (e.g., number of copies of transcript, words per page, etc.), and the contractor ordinarily shall be required to furnish the necessary material (typewriter, paper, bindings, etc.). These contracts are subject to all provisions of this subpart.

§ 12-50.305 Modification of contracts.

When supplemental agreements or change orders are required which substantially change the basis upon which the justification was made, such as to revise substantially the scope of work or time limitations, or to apply additional funds, authorization shall be requested in the same way and is subject to the same limitations as authorization to procure the total services by contract would have required in the first place.

Issued in Washington, DC on June 3, 1981.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 81-17207 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5953

Alaska; Modification of Public Land Order No. 5176, as Amended; Classification and Opening of Lands to the Operation of the Coal Exploration Licensing and Leasing Provisions of the Mineral Leasing Act of 1920

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The purpose of this public land order is to modify and amend two public land orders and to classify and open lands to the coal exploration licensing and leasing provisions of the Mineral Leasing Act of 1920.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT:

Beaumont C. McClure, Washington, D.C. (202) 343-6511, or

Robert E. Sorenson, Alaska State Office (907) 271-5060

Pursuant to the authority vested in the Secretary by Section 204(a) of the Act of October 21, 1976, 43 U.S.C. 1701, 1714(a), and by section 17(d)(1) of the Alaska

Native Claims Settlement Act, 43 U.S.C. 1601, 1616(d)(1), it is ordered as follows:

1. Subject to valid existing rights, the following listed public land orders, which withdrew land for selection under the Alaska Native Claims Settlement Act pursuant to the authority vested in the Secretary by section 11(a)(3)(A) of the Alaska Native Claims Settlement Act and the authority vested in the President and delegated to the Secretary in Executive Order No. 10355, are hereby modified and amended to the extent necessary to permit operation of the coal exploration licensing and leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181, 201, on the lands described in this paragraph.

Affected Public Land Orders

Public Land Order No. 5176, dated March 9, 1972, 37 FR 5577–5578; as amended by Public Land Order No. 5393, dated September 14, 1973, 38 FR 26373–26374.

Affected Lands

Copper River Meridian

T. 16 S., R. 9 E.,
T. 17 S., R. 9 E.,

Containing an aggregate of approximately 45,837 acres.

2. Pursuant to the authority vested in the Secretary by section 17(d)(1) of the Alaska Native Claims Settlement Act, the lands described in paragraph 1 of this order are hereby classified and opened to the operation of the coal exploration licensing and leasing provisions of the Mineral Leasing Act of February 25, 1920. Even though the prior withdrawal is modified and amended as provided above, under the discretion vested in the Department by the Mineral Leasing Act of 1920, no coal leases will actually be issued until there is an affirmative administrative action to consider whether coal leasing can or should occur on the lands described in paragraph 1.

3. This public land order is not intended to modify, amend, or revoke any withdrawal, reservation, or appropriation of the lands described in paragraph 1, whether by Executive Order, Proclamation, Public Land Order, or otherwise, unless such order of withdrawal is expressly listed in paragraph 1. Any lands listed in the public land orders listed in paragraph 1, but not described in paragraph 1, are not open to the operation of the coal exploration licensing and leasing provisions of the Mineral Leasing Act of 1920 by this order. The orders of withdrawal listed in paragraph 1 are modified and amended only to the extent necessary to open to the operation of the coal exploration licensing and leasing provisions of the Mineral Leasing Act of 1920 those lands described in paragraph 1 which lie outside the Chugach National Forest. This public land order does not affect the validity of any prior appropriation of the lands or any selections made pursuant to the Alaska Native Claims Settlement Act.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 5, 1981.

[FR Doc. 81-17293 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No. 79-63; FCC 81-215]

American Telephone and Telegraph Company; Modification of Prescribed Rate of Return

AGENCY: Federal Communications Commission.

ACTION: Ratemaking; final decision.

SUMMARY: On September 26, 1979, the Federal Communications Commission instituted an investigation into and a hearing upon the prescribed rate of return for A.T.&T. and its affiliated companies for the provision of interstate and foreign telecommunications services. *A.T.&T. Co.*, 73 F.C.C. 2d 689, 44 FR 60158 (October 18, 1979). On May 7, 1981, the Commission released the decision which follows which prescribed a new rate of return of 12.75%. Specific findings were made upon: the cost of embedded debt, the cost of non-convertible preferred stock, the cost of convertible preferred stock, the cost of common stock equity, the most appropriate treatment of A.T.&T.'s equity investment in the Western Electric Company for interstate and foreign services cost of capital weighting purposes, and the appropriate measurements of A.T.&T.'s financial structure for determining the weights which are to be applied to the calculation of A.T.&T.'s prescribed rate of return. In accordance with §§ 1.103(a), 1.4(b)(2), and 1.427(b) of the Federal Communications Commission Rules and Regulations, 47 C.F.R. 1.103(a), 1.4(b)(2), and 1.427(b), the Commission concluded that as a consequence of the volatility of current economic and financial conditions, the substantial increases which had occurred in the cost of A.T.&T.'s common stock, and the increases in A.T.&T.'s cost of embedded debt, that A.T.&T. should be permitted to realize the 12.75% rate of return as soon as possible.

EFFECTIVE DATE: May 8, 1981.

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

FOR FURTHER INFORMATION CONTACT: Kent R. Nilsson, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

Adopted: May 5, 1981.

Released: May 7, 1981.

In the matter of an American Telephone and Telegraph Company, petition for modification of prescribed rate of return; Docket No. CC 79-63; [44 FR 60158]; Decision.

I. Introduction

1. This case comes before the Commission on exceptions to the *Initial Decision* of Administrative Law Judge Edward Luton released February 5, 1981 (F.C.C. 81D-3). We designated this matter for hearing and investigation by order released September 26, 1979, following the filing of the above captioned petition by the American Telephone and Telegraph Company ("A.T.&T."). *A.T.&T. Co.*, 73 F.C.C. 2d 689 (1979). On behalf of itself and its affiliated operating companies, A.T.&T. asked the Commission to determine a reasonable rate of return for its interstate and foreign services. The petition sought an interim rate of return of 10.38 percent pending a final decision and a final rate of return in the range of at lease 11 to 12 percent. A.T.&T. subsequently increased its proposal for a final rate of return to 13 percent.

2. In our order designating this matter for hearing and investigation, we identified six issues for consideration and determination:

(1) the cost of embedded debt;
(2) the cost of preferred stock;
(3) the cost of common stock;
(4) the cost of other sources of financing;
(5) the weight to be accorded to each source of financing; and
(6) the overall authorized rate of return for A.T.&T.'s interstate and foreign services.

The investigation, however, was not limited to those issues. *Id.* at 695. We also directed the Separated Trial Staff to investigate four areas of particular concern: treatment of current liabilities for estimating cost of capital; treatment of Western Electric ("WECO") debt; the treatment of minority ownership of others in consolidated subsidiaries of A.T.&T.; and the bases of A.T.&T.'s existing and proposed financial structures. *Id.* at 691–693, 693 n. 10. A.T.&T., the Separated Trial Staff of the Common Carrier Bureau, the Executive

Agencies of the United States, a consortium of several consumer groups, the Maryland Peoples' Counsel, and the United States Independent Telephone Association (U.S.I.T.A.) presented the testimony of sixteen witnesses (as well as one verified statement which was presented for the record) during twenty days of hearings.

3. After hearing and full opportunity for parties to propose findings of fact and submit briefs in support thereof, Judge Luton issued his *Initial Decision ("I.D.")*, which concluded that the authorized rate of return should be 10.87 percent. A.T.&T., U.S.I.T.A., the Maryland Peoples' Counsel, the Federal Executive Agencies, and the Separated Trial Staff filed exceptions and briefs to the *I.D.* Replies to exceptions were filed by the Separated Trial Staff of the Common Carrier Bureau, the Federal Executive Agencies, the Maryland Peoples' Counsel, and A.T.&T. A.T.&T. also filed a petition for expedited decision which included a request for oral argument before the Commission. We granted A.T.&T.'s requests by order released March 13, 1981 (F.C.C. 81–114), and oral arguments were heard by the Commission *en banc* on April 6, 1981.

4. During the course of hearings, the Bell System filed tariff revisions which would have resulted in an 11.9 percent increase for essentially all interstate tariffed services. We found that this increase would result in earnings above the rate of return prescribed in Docket No. 20376 and applicable pending resolution of this proceeding. *American Telephone and Telegraph Company and Bell System Operating Telephone Companies*, 78 F.C.C. 2d 661, 665 (1980); *Errata* (Released July 8, 1980). While we rejected the tariff revisions proposed by Bell, we did treat the filing as a request for an interim prescription of a rate of return. *Id.* at 667–72. After considering the evidence of record at that point in this proceeding, the Commission determined that revision of the prescribed rate of return was appropriate *pendente lite*. Without prejudging specific arguments with regard to A.T.&T.'s financial stucture or its specific elements, we prescribed an interim rate of return of 10.5 percent, effective June 1, 1980. *Id.* at 672.

II. Background

A. Legal Basis for Prescription

5. The Communications Act of 1934, as amended, does not expressly provide for the prescription of a rate of return for common carriers, but the Commission's power to set a return is clearly established. *Nader v. FCC*, 520 F. 2d 182, 204 (D.C. Cir. 1975) [hereafter cited as *Nader*]. We have previously observed that rate of return, the percentage expression of financing expenses, is just as real an expense to A.T.&T. as are wages and materials expenses. *American Telephone & Telegraph Co.* (Docket No. 16258), 9 F.C.C. 2d 30, 51 (1967); *American Telephone and Telegraph Co.* (Docket No. 19129) 38 F.C.C. 2d 213, 226 (1972). A carrier must earn enough to cover all costs of operation and provide a return to investors. *Id.* Case law provides guidance in determining the interstate rate of return, including factors for consideration and appropriate levels of return. *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602–05 (1944) [hereafter cited as *Hope*].

6. Fixing the appropriate rate of return is a matter of legislative determination by the Commission. *Nader*, 520 F.2d 182, 203. Although this agency is not bound by a particular formula in determining a rate of return, it must, nevertheless, pay heed to both investor and consumer interests. *Hope*, 320 U.S. 591, 603. *Hope* requires that the return permitted investors "be commensurate with returns on investments in other enterprises having corresponding risks," and "be sufficient to assure confidence in the financial integrity of the enterprise, as to maintain its credit and to attract capital." *Hope*, 320 U.S. at 603. On the other hand, the countervailing interests of ratepayers require "the lowest possible return consistent with overall responsibility to provide modern, efficient service at reasonable rates * * *." *A.T.&T.* (Docket No. 19129), 38 F.C.C. 2d 213, 226 (1972).

7. The Supreme Court has returned several times to its *Hope* decision since first handing it down. The Court has stressed the interest that all groups, including consumers, have in an adequate rate of return which maintains the financial health of utilities. *Permian Basin Area Rate Cases*, 390 U.S. 747, 791–92 (1968); *United Gas Pipe Line Co. v. Memphis Light, Gas & Water Division*, 358 U.S. 103, 113–14 (1958).[1]

B. Past Prescriptions

8. This proceeding is the Commission's fourth determination of A.T.&T.'s cost of capital. In each of the three previous cases, we have always employed the weighted cost of capital approach in our decision making process.[2] Central issues in each determination have been the cost to A.T.&T. of debt and equity, and the appropriate financial structure.

9. *Debt.* We have used A.T.&T.'s statement of its actual, as distinguished from its projected, embedded cost of debt in determining the weighted cost of capital in our previous decisions. *Docket No. 16258*, 9 F.C.C. 2d 30, 53 (1967); *Docket No. 19129*, 38 F.C.C. 2d 213, 229 (1972); *Docket No. 20376*, 57 F.C.C. 2d 960, 962–63 (1976).

10. *Equity.* In determining the cost of equity, the Commission has never adopted a particular method or formula for assigning a cost to A.T.&T.'s equity. *Docket No. 20376*, 57 F.C.C. 2d 960, 969, 972 (1976). Instead, we have stressed that our determinations have been based on judgment and our review of the entire record. *Id.* Paramount among the factors which we have considered is risk. We have recognized risk as a critical factor in the decision making of investors, and because of risk we have recognized that equity may command a greater return than long term debt which has been issued by the same company at the same point in time. *Id.* at 969; *Docket No. 16258*, 9 F.C.C. 2d 30, 75 (1967). Equity takes two basic forms, common and preferred, each with different legal and financial characteristics. In prior A.T.&T. determinations, we have not expressly made separate findings as to the respective costs of common stock equity and preferred stock, although we have found that a proper mixture of both types of equity could simultaneously increase the earnings on common while lowering the total cost of equity. *Docket No. 19129*, 38 F.C.C. 2d 213, 240 (1972).

11. *Financial Structure.* We have previously found that financial structure affects the overall rate of return with respect to the proportions of debt and equity. The mix of debt and equity may affect the risk and consequently, the cost or return of each of those components. *Docket No. 16258*, 9 F.C.C. 2d 30, 52 (1967). In one instance, we have looked to A.T.&T. for changes in its debt-equity ratio as a means of reducing its cost of capital. *Id.* at 84–5. Subsequent decisions, however, have always reflected the actual, as distinguished from a projected, financial structure. *Docket No. 19129*, 38 F.C.C. 2d 213, 238–39 (1972); *Docket No. 20376*, 57

[1] Although dealing with the question of state confiscation of property contrary to the Fourteenth Amendment of the U.S. Constitution, *Bluefield Water Works & Improvement Co. v. Public Service Commission*, 262 U.S. 679, 690–93 (1923) and following cases develop virtually the same test for proper rate-of-return determination. The *Bluefield* line of cases are frequently cited with *Hope* and following cases.

[2] *A.T.&T.* (Docket Nos. 16258, 15011), 9 F.C.C. 2d 30 (1967); *A.T.&T.* (Phase I of Docket No. 19129), 38 F.C.C. 2d 213 (1972); *A.T.&T.* (Docket No. 20376), 57 F.C.C. 2d 960 (1976).

F.C.C. 2d 960, 963–64 (1976). While we have reviewed considerable evidence concerning hypothetical financial structures we have not found any arguments so persuasive as to merit the use of such structures for A.T.&T.

C. Overview of A.T.&T.'s Sources of Financing for Interstate Services

12. We note at the outset that there has been little fluctuation in the proportion of total debt which has been used to finance assets since our last prescription of a fair rate of return in 1976. The *I.D.* states that the present embedded debt ratio is about 47% (based upon June 30, 1980 data), while the record shows 46% in 1979 (A.T.&T. Proposed Findings, p. 170), and the designation order showed 46%, 47%, and 48% for the years 1978, 1977, and 1976, respectively. Total liabilities as a percentage of total liabilities plus equity were constant for the years 1975 through 1978. *A.T.&T. Co.*, 73 F.C.C. 2d 689, 693 (1979).

13. A.T.&T.'s funding of new investment (the construction budget) has required the infusion of external capital as well as reliance upon internally generated funds. (T.S. Ex. 4; Tr. 3447.)[3] A comparison of selected elements of A.T.&T.'s sources of funds supporting its construction program on a consolidated basis highlights the major sources of external financing which have been employed by A.T.&T. (See Appendix 1.)

14. Appendix 1 shows that: (1) A.T.&T.'s internal sources of funds have enabled A.T.&T. to finance approximately two-thirds of its financing requirements; (2) most new external funds have come from the operating companies in the form of debt; and (3) new equity financing has been largely attributable to the parent. Total new outside financing for the period from 1975 to 1979 amounted to $22.314 billions for A.T.&T. on a consolidated basis.[4]

15. The major continuing sources of new common equity funds include the Share Owner Dividend Reinvestment and Stock Purchase Plan (DRISP), Bell System Saving Plan for Salaried Employees (BSSP), Bell System Saving and Security Plan (SSP), and the Bell System Employee Stock Ownership Plan (ESOP). Appendix 2 summarizes the number of shares (in millions) sold through each of these plans as well as the large public offerings.

16. Through these stock purchase plans, A.T.&T. has raised substantial amounts of new common equity[5] and, without a public stock issue since 1977, A.T.&T. has been able to meet its financial requirements.[6] First introduced in 1974, these plans have contributed new funds amounting to $900 million in 1977, $1.2 billion in 1978, and $1.7 billion in 1979.[7] DRISP, the largest, allows registered owners of stock to reinvest dividends in additional common shares at 95% of the prevailing market price.[8] There are no brokerage fees and the purchaser is not required to be a Bell System employee. BSSP, ESOP, and SSP are plans which allow employees to invest in newly issued A.T.&T. common stock.[9] With the exception of reinvested dividends, shares are purchased at the prevailing market price.[10]

III. Cost of Capital Weighting Issues

A. Introduction

17. In the order which instituted the hearing in this docket, we stressed the need for an expedited proceeding as a consequence of "general changes and trends in the national economy." *A.T.&T. Co.*, 73 F.C.C. 2d 689, 691 (1979). At that time, A.T.&T.'s petition of March 8, 1979, had been pending before the Commission for approximately six months. In the light of our concern as to changes which were then occurring in the economy and the need for expedition, we concluded that the scope of this proceeding must be limited to a determination of A.T.&T.'s interstate rate of return and should not include separate determinations of the appropriateness of rate base measurement principles which were then in effect. *Id.* at 695. As a consequence, the parties and the Administrative Law Judge, in considering the sources of funding which are employed by A.T.&T., were bound by the rate base principles which we had heretofore set out. See generally *Phase II Decision in Docket No. 19129*, 64 F.C.C. 2d 1 (1977), and references cited therein.

18. In prior A.T.&T. rate of return cases, we have restricted our analysis of the components of the weighted cost of capital to "investor supplied" sources of financing for A.T.&T. as a whole. In the past, such an approach was not inappropriate considering the interrelated nature of the activities of A.T.&T. in providing regulated telecommunications services. However, as competitors of A.T.&T. continue to enter market segments which were supplied solely by the Bell System and as A.T.&T. enters market segments which are not rate base regulated, it becomes obvious that the continuation of such an approach is inappropriate. The *Initial Decision* has addressed an aspect of this problem in its treatment of the Western Electric Company (hereinafter, "Western Electric" or "WECO") an A.T.&T. entity which has not been subject to rate of return or rate base regulation at either the Federal or State levels. A.T.&T. has treated its net investment in Western Electric on A.T.&T.'s consolidated balance sheet as an asset. Accordingly, that asset has been financed by funds which are represented on the credit ("right hand") side of A.T.&T.'s consolidated balance sheet. The Administrative Law Judge correctly perceived that it would be inappropriate for the interstate rate payers to be burdened by providing for an interstate rate of return which is calculated with weights which include sources of funds which finance Western Electric, and corrected our prior cost of capital weighting practice by deducting from A.T.&T.'s common stock equity an amount which was equal to A.T.&T.'s equity investment in Western Electric. *I.D.*, p. 14, para. 27. This modification of the weights which are applied in calculating A.T.&T.'s interstate rate of return is clearly appropriate, and the uncontested finding of the Administrative Law Judge on this point is expressly affirmed.

19. The problem of attempting to attribute specific sources of funds to rate bases in particular jurisdictions for cost of capital weighting purposes is made more difficult by the fact that A.T.&T.'s interstate rate base is less than the sum of A.T.&T.'s common stock equity accounts, and is also less than the sum of A.T.&T.'s intermediate and long term debt. In similar fashion, the total assets of any Bell System Operating Company are less than either A.T.&T.'s common stock equity or its intermediate and long term debt.[11] Thus,

[3] In citations to the record in this proceeding, the following abbreviations will be used: "Ex." (exhibit); "Tr." (transcript); "Exc." (exception); "P.F." (proposed finding); "R.F." (reply to proposed finding); "R.E." (reply to exception(s)); "T.S." (Separated Trial Staff of the Common Carrier Bureau); "M.P.C." (Maryland Peoples' Counsel); "U.S.I.T.A." (United States Independent Telephone Association); "F.E.A." (Federal Executive Agencies).

[4] None of these comparisons show the effects of debt financing by WECO or other non-consolidated companies which would increase the amount of debt used to support other A.T.&T. assets.

[5] T.S. Ex. No. 47, Schedule 22.

[6] T.S. Ex. No. 47, pp. 82–83.

[7] T.S. Ex. No. 47, schedule 22.

[8] T.S. Ex. No. 47, page 84.

[9] A.T.&T. Ex. No. 7, Appendix 3, page 1.

[10] These shares are sold to A.T.&T. employees at market with no discount. *A.T.&T. 1979 Annual Report* p. 36 (Tr. Ex. 82(c)).

[11] Form S.N. 153 (3–77), Monthly Report No. 2, filed for December, 1979 by: New England Telephone and Telegraph Company, New York Telephone Company, New Jersey Bell Telephone Company, The Bell Telephone Company of

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in any particular regulatory jurisdiction, it would be possible to assign for cost of capital weighting purposes, weights which ranged from 100% for common stock equity to almost 100% for intermediate and long term debt under the theory that only intermediate and long term investor supplied sources of financing were to be considered. As a practical matter, however, short term sources of funds may also serve effectively as permanent sources of capital to the firm, as Trial Staff Exhibit 4 indicates. Collectively, then, the alternative sources and uses of funds which are employed by A.T.&T., whether short term, long term, intermediate term, investor supplied, or non-investor supplied, should be considered for cost of capital weighting purposes.

20. We begin our analysis by noting that the difficulties which are inherent in measuring A.T.&T's financial structure for interstate cost of capital weighting purposes are based upon the fact that A.T.&T., in providing regulated interstate and foreign telecommunications services, regulated intrastate telecommunications services, and unregulated products and services, uses interchangeably funds which are derived from its interstate, intrastate, and unregulated activities. (Tr. 164, T.S. Ex. 4, T.S. Ex. 82 (c), p. 32.) Attempting to match particular sources of financing with particular rate base assets would be a time consuming and ultimately futile exercise. As Mr. Brown, Assistant Comptroller of A.T.&T., stated:

"Obviously funds are fungible and to track them specifically to working capital or specifically to plant construction would be an impossibility." (Tr. 165.)

21. Fundamental concepts of equity, however, require that we adopt a principle which was most clearly expressed by Drs. Gordon and Gould:

"* * * if a source of capital is deducted from the rate base, it must not be included in the calculation of the (weighted average cost of capital), and, conversely, if a source of capital is not deducted from the rate base, it must be included in the (weighted average cost of capital calculation)." T.S. Ex. 47, pp. 14–15.

It would be clearly incorrect, for example, to fully deduct from the measurement of A.T.&T.'s interstate rate base an amount which, for interstate cost of capital weighting purposes, was fully included in A.T.&T.'s interstate weighted cost of capital at "zero" cost. Such "double counting" would not only be inequitable to A.T.&T., but could also harm A.T.&T.'s interstate and foreign services customers in the long run by not providing a sufficient return to potential providers of capital to A.T.&T. In applying this principle to the record before us, however, we are constrained by the fact that the parties have not completely separated, in numerical terms, the interstate portion of each source of funds which has been fully deducted from the interstate rate base through cash working capital studies.[12]

22. As noted earlier, the need for an expedited rate of return proceeding precluded the initiation of an investigation into A.T.&T.'s rate base and the methodologies which were being employed in the calculation of that rate base. In paragraph 4 of the designation order, 73 F.C.C. 2d 689, 691–94 (1979), we identified several areas of preliminary concern, and directed that the investigation consider, "as appropriate," the cost of "other sources" of financing to A.T.&T. and the weights to be accorded to those sources of financing. *Id.* at 695. More specifically, we identified within the current liability section: accounts payable, advance billings accrued taxes, dividends payable, accrued interest, and drafts outstanding as sources of funds which were available to A.T.&T. in financing its assets. *Id.* at 691. With the exception of accrued taxes, which are addressed in the *Initial Decision*, we will consider those short term sources of financing seriatim, after having briefly outlined the major contentions of the parties on the cost of capital weighting issues.

B. Positions of the Parties

23. The Maryland People's Counsel (hereinafter, "MPC") took exception to the weights which were employed in the *I.D.* in arriving at A.T.&T.'s weighted interstate cost of capital. The MPC contends that A.T.&T.'s financial structure contains an excessive amount of common stock equity and that a higher debt ratio should be imputed to A.T.&T. for cost of capital weighting purposes. A.T.&T., on the other hand, also objected to the Administrative Law Judge's use of its actual financial structure for cost of capital weighting purposes, but would have this Commission impute a higher portion of common stock equity to A.T.&T.'s financial structure than presently exists. A.T.&T. further excepted, in part, to the *I.D.'s* use of "No Cost Funds" in the calculation of A.T.&T.'s "weighted average rate of return."

24. In addition, the Trial staff and A.T.&T. suggested modifications to the weights employed in the *I.D.* to reflect updating of A.T.&T.'s financial structure from June 30, 1980, to December 31, 1980, and alternative modifications to account for slight timing differences in the methods for calculating unmatured dividends.

C. Accounts Payable, Advance Billings, Drafts Outstanding

25. According to the testimony of Mr. Brown, accounts payable and drafts outstanding are included in the calculation of the amount of cash working capital which is allowable for interstate rate base purposes. (Tr. 160–162, 187). No party contended that either accounts payable, advance billings, or drafts outstanding should be included for interstate cost of capital weighting purposes, even though Mr. Brown testified that those sources of funds were without cost to A.T.&T. (Tr. 172–173, 175–180, 187.) The separated Trial Staff, basing its position on the testimony of Drs. Gordon and Gould (T.S. Ex. 47, pp. 30–31), apparently concluded that since advance billings ("customers deposits") and taxes are fully deducted from the interstate rate base ("The interstate rate base . . . is net of customer deposits and deferred taxes." (T.S. Ex. 47, p. 30; T.S.P.F. p. 36)), that it would be inappropriate to include those sources of funds for interstate cost of capital weighting purposes. (T.S.P.F. pp. 35–37) Given the record before us, and the fact that no party has filed an exception to the exclusion of these sources of funds for interstate cost of capital weighting purposes in the *I.D.*, we will not include for the purpose of

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Pennsylvania, the Diamond State Telephone Company, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, Southern Bell Telephone and Telegraph Company, South Central Bell Telephone Company, The Chesapeake and Potomac Telephone Company of West Virginia, The Ohio Bell Telephone Company, Michigan Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Wisconsin Telephone Company, Illinois Bell Telephone Company, Northwestern Bell Telephone Company, Southwestern Bell, The Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company, The Pacific Telephone and Telegraph Company and Subsidiary, the Pacific Telephone and Telegraph Company, Bell Telephone Company of Nevada, The Southern New England Telephone Company, Cincinnati Bell, Incorporated. Also see *American Telephone and Telegraph Company, 1979 Annual Report*, p. 31. (Tr. Ex. 82(c))

[12] For a discussion of "cash working capital" and "lead-lag" studies, see the *Phase II Decision in Docket No. 19128*, 64 F.C.C. 2d 1, 76–77 (1977), and the *Initial Decision in Phase II of Docket No. 19128*, 64 F.C.C. 131, 404–05, 406–10 (1976). It is important to stress that the principles which guide the determination of A.T.&T.'s rate base (e.g., whether the included assets are "used and useful," 64 F.C.C. 2d 1, 46–50 (in particular, paragraph 118)), are separate and distinct from the principles which determine the *rate* which is applied to assets which are included in the rate base.

this proceeding any portion of these sources of funds in the weights which we will apply in computing A.T.&T.'s interstate cost of capital. To do otherwise, on the basis of the record, which is before us, could result in the "double counting" which we sought to avoid in paragraph 21, *supra*.[13] However, in so doing, we are not abandoning the underlying principle that all sources of financing, which are contained on the "right hand side" of A.T.&T.'s balance sheet, are to be fully included for interstate cost of capital weighting purposes except where it can be shown clearly that the interstate rate base has had subtracted from it a sum certain which is a direct offset from a "right hand side" balance sheet account.[14]

D. Dividends Payable and Accrued Interest

26. In the *Initial Decision*, the Administrative Law Judge included for interstate cost of capital weighting purposes dividends payable [15] and accrued interest [16] and imputed a zero cost of capital to each of those sources of funds. *I.D.*, paras. 15–18. A.T.&T. has filed an exception to the Administrative Law Judge's determination in this regard, and has chosen to characterize the Administrative Law Judge's decision as follows:

> An even more egregious error in the Initial Decision is its inclusion of items labeled "No Cost Funds" (unmatured dividends and accrued interest) in the capital structure for purposes of determining the allowed rate of return (ID, pp. 9–12). Again, this approach has no precedent in prior Commission decisions, and it is without basis in the record of this proceeding. Most importantly, the inclusion of these items resulted in a mismatch between the interstate rate base and the capital structure, thus depriving investors of a reasonable return on the funds that they have committed to the firm (see PF 297–309; RF 68–75). [*Brief and Exceptions of Respondent American Telephone and Telegraph Company* in CC Docket No. 79–63, pp. 36–37.]

27. In considering A.T.&T.'s contentions, we will first observe that unmatured dividends and accrued interest were considered at length in *Phase II of Docket No. 19129*, 64 F.C.C. 2d 131, 407–09 (paras. 899–904), 76 (paras. 194–95), and we affirmed at that time the conclusion of the presiding Administrative Law Judge that the dividends payable account did not represent an asset of the corporation, and therefore, should not be included in A.T.&T.'s rate base. *Id.* at 408 (para. 900), 76 (paras. 194–95). As the presiding Judge stated:

> Under the traditional methods of rate base determination "Unmatured Dividends" is not considered as a separate item since the rate base is derived from an examination of asset accounts (unmatured dividends is not an asset account). The assets representing "Unmatured Dividends" may be in various forms, including, but not limited to, cash and cash items. *Id.* at 408.

As we have previously noted in our decision in *Phase II of Docket No. 19129*, 64 F.C.C. 2d 1, 46–50 (1977), A.T.&T.'s interstate rate base is predicated upon an assessment of the extent to which assets of the corporation are "used and useful" in the provision of interstate and foreign telecommunications services. If A.T.&T. has available to it sources of funds which are without cost, which are, in fact, used in the financing of "used and useful" interstate assets, and have not been offset against those assets, there is no logical reason why those sources of funds should not be included in the measurement of A.T.&T.'s interstate cost of capital. To do otherwise would result in an excessive return to A.T.&T.'s shareholders at the expense of interstate rate payers. A.T.&T.'s arguments on this point confuse the distinction between this Commission's determinations of the principles to be employed in the measurement of A.T.&T.'s interstate rate base ("used and useful") and the separate and distinctly different question of the interstate rate of return which A.T.&T. is authorized to earn on those assets. Because it is abundantly clear on the record before us that amounts which have been represented by unmatured dividends and accrued interest have not been deducted from the "used and useful" assets which constitute A.T.&T.'s interstate rate base, and have been used in conjunction with other sources of funds to finance all of A.T.&T.'s assets (*I.D.*, p. 10, para 16), we will deny A.T.&T.'s exceptions to the inclusion of unmatured dividends and accrued interest for interstate cost of capital weighting purposes.

28. We turn next to the related question of the cost which should be attributed to unmatured dividends and accrued interest. As A.T.&T. points out, "(a)ccrued (or unmatured) interest is the amount recognized month by month that will become payable in the future at the semi-annual interest payment date of A.T.&T.'s long-term, intermediate-term and short-term debt." A.T.&T. Exc., p. 36; Tr. 183. Thus, "accrued interest" measures, at a particular point in time, the amount of the interest obligation in the current accounting period which would be due and payable to holders of A.T.&T. debt instruments if that interest had to be paid at that moment in time.

29. The recognition of that obligation for accrual accounting purposes, however, does not carry with it the requirement that A.T.&T. pay additional interest to its creditors on the amount of accrued interest. Or, to phrase it somewhat differently, A.T.&T. is under no obligation to compute interest on its accrued interest (e.g. to compute compound interest on the accrued interest) for the benefit of its creditors. Thus, in that sense, "accrued interest" as a source of funds is without cost to A.T.&T. and we shall accordingly treat it as such.

30. A.T.&T. apparently contends in its exceptions that unmatured dividends should not be treated as "zero cost" funds. A.T.&T. Exc., p. 36. We disagree for the following reasons. At the moment that A.T.&T.'s Board of Directors declares a dividend payable, and a corporate liability is created thereby, the corporation continues to retain the use of those funds until the checks representing those dividends have actually been deducted by A.T.&T.'s banks from its checking accounts. During that time interval, A.T.&T. is not required to pay additional interest or additional dividends on the amount of dividends payable which has been declared, and therefore has the interest free use of those funds until A.T.&T.'s banks reduce A.T.&T.'s checking accounts by the amount of the dividends payable. Accordingly, we will affirm those portions of the presiding Judge's decision which included all dividends payable and all accrued interest as zero cost sources of funds for interstate cost of capital weighting purposes.

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[13] The record does not disclose the portion of total accounts payable, advanced billings, or current tax liabilities which have been directly deducted from the interstate rate base.

[14] We specifically except from the operation of this general principle U.S. deferred income tax liabilities which would be disallowed by the Internal Revenue Service as a consequence of their inclusion as zero cost sources of funds in the calculation of A.T.&T.'s weighted interstate cost of capital.

[15] Dividends payable were disaggregated into "unmatured dividends" and "matured dividends." "Unmatured dividends" were described as "the amounts of dividends which A.T.&T.'s Board of Directors has declared payable to stockholders on a specific future date. (Tr. 178–9)." *I.D.*, p. 9, fn. 3. "Matured dividends" were described to be "those held by the Company on and after the payment date, subject to collection at any time by the stockholders' presenting for payment the drafts sent to them by the Company (Tr. 179)." *I.D.* p. 10, fn. 3.

[16] "Accrued interest is the amount recognized month by month that will become payable at the semi-annual interest payment date of A.T.&T.'s long term, intermediate-term, and short-term debt (Tr. 183). Matured interest is interest that has become due and payable and for which interest coupons or drafts have not yet been presented for payment (Tr. 184)." *I.D.*, p. 10, fn. 3.

E. Calculation of Weights

31. There remains, for interstate cost of capital weighting purposes, a determination of the specific measurements of the sources of financing which we should use in this decision. A.T.&T. and the Trial Staff filed updated capital structures which reflected A.T.&T.'s financial posture as of December 31, 1980 (T.S. Exc., Appendix II, pp. 1–3; A.T.&T. Exc., p. 33). The Trial Staff and A.T.&T. are in agreement that the updating of the weights in the *I.D.'s* weighted average cost of capital calculation would result in the following modifications:

	Amounts in I.D.[1]	Updated amounts[2]
Convertible preferred equity	408	[17] 385
Debt	44,902	46,008
Deferred Credit	21	19
Unmatured interest	844	936

[1] As of June 30, 1980.
[2] As of December 31, 1980.

32. A.T.&T. and the Trial Staff are not, however, in agreement on the issue of how unmatured dividends should be measured. The Trial Staff's calculation of unmatured dividends was based upon a simple average of end-of-month amounts whereas A.T.&T. maintains that the computation should be based on a daily weighted average in accordance with the number of days between the declaration and payable dates. It is clear that an averaging method is required to reflect variations in the unmatured dividends account during a given time period. We find that the Trial Staff's averaging method is sufficient for this purpose and has the additional advantage of being more easily verifiable. Accordingly, we shall use the following financial structure for interstate cost of capital (WARR) weighting purposes.

	Millions of dollars	Weights
Common stock equity [18]	$45,487	.475522
Convertible preferred stock equity	385	.004025
Non-convertible preferred stock equity [19]	2,146	.022434
Debt	46,008	.480967
Deferred Credit Consisting of capital stock subscribed and related premium and capitalized stock installments [20]	19	.000199
Unmatured interest	936	.009785
Unmatured dividends	648	.006774
Matured interest and dividends	28	.000293
Total financial structure for interstate cost of capital weighting purposes	95,657	1.000000

[17] The Trial Staff in Appendix II, p. 1, of its Exceptions combined the convertible and non-convertible preferred stock accounts into one figure with a stated value of $2,531 millions. A.T.&T. stated that non-convertible preferred was $2,146 millions, and that convertible preferred amounted to $385 millions. This resulted in a combined total for both types of preferred stock of $2,531 millions. A.T.&T. Exc., p. 33.

[18] Includes the common stock equity of A.T.&T. and the minority common stock equity of investors in fully consolidated A.T.&T. subsidiaries.

[19] Includes the non-convertible preferred stock equity of A.T.&T. and the non-convertible preferred stock equity of minority owners.

[20] A.T.&T. Form Cr. 51, No. 1, Sheet 2, note "0" to line 23.

[21] A.T.&T. Exs. 34, 34A, Attachment, p. 3. (The attachment to this exhibit is cited hereinafter, as "Carleton"). The number which was used by witness Carleton has been updated from the *Economic Report of the President*, ("Economic Report") transmitted to the United States Congress during January, 1981, p. 235.

[22] Carleton, *supra*, and *Economic Report*, p. 237.

[23] *Carleton, supra*, and *Economic Report*, p. 293.

[24] T.S. Exc., p. 36

[25] *Carleton, supra*, p. 4.

[26] *Id.*

IV. Cost of Common Stock Equity

A. Current State of the Economy

33. At the time of the rate-of-return prescription in February, 1976, we characterized the national economy as one which had "suffered from the deepest recession since World War II coupled with continued high inflation and increase(s) in interest rates." A.T.&T., 57 F.C.C. 2d 960, 962 (1976). As we discuss below, economic conditions since that time have become decidedly more volatile. The most dramatic change has occurred in the level of inflation and interest rates which reached new heights during the course of this proceeding. The recovery and expansion following the 1974–1975 recession ended in 1980. There were clear signs in 1979's economic performance to foreshadow this. Real GNP growth continued in 1979 but at a lower rate of 3.2 percent compared to an approximate 5 percent average annual rate of growth from 1976 to 1978.[21] During this period the inflation rate also continued to increase. As a result, the Gross National Product ("GNP") implicit price deflator increased 8.5 percent in 1979, thus rapidly approaching its 1975 historic peak of 9.3 percent.[22] The Consumer Price Index (for all urban consumers) increased over 11 percent, surpassing its 1974 peak.[23] Given this rise in the Consumer Price Index ("CPI"), it is not surprising that interest rates continued to climb throughout 1979. The prime rate rose steadily from 11 percent to 15 percent.[24] The three-month Treasury bill yield rose steadily from 9.4 percent in the beginning of the year to 11.8 percent in the fourth quarter, averaging 10.1 percent and attaining a new peak.[25] The previous peak was 10.8 percent, set in 1974.[26] The long-term U.S. Government bond yield increased from 8.4 percent to 9.6 percent, averaging 8.7 percent, thus also reaching a new high in 1979.[27] Moody's bond yield for "AAA" rated public utility bonds increased from 9.7 percent to 11.4 percent in 1979, averaging 10.2 percent.[28] These increases in interest rates reflected the adoption of a tighter monetary policy by the Federal Reserve System, as well as the high and persistent rate of inflation.

34. The economy continued its downward slide in 1980. Real growth in the economy declined 0.3 percent in 1980, the first annual decline since 1975.[29] The inflation rate continued to climb during 1980. The GNP implicit price deflator set a new record by increasing 9 percent,[30] as did the Consumer Price Index by increasing over 13 percent in 1980.[31] Money markets responded with unprecedented volatility to these developments. The prime rate averaged 15 percent for the year, almost double its 1970 level.[32] During 1980 the prime rate rose to 20 percent, fell to 11 percent, and then rose again by year end to 21 percent.[33] The three-month Treasury bill yield (discount rate) fluctuated throughout the year, starting at 14.5 percent, falling to about 8.0 percent and then climbing again to 14.4 percent by year-end.[34] The long-term government bond rate (10 years) fluctuated during the year, averaging 11.5 percent but ending the year at a 13 percent high.[35] Moody's bond yield for "AAA" rated public utility bonds ranged from 10.5 percent to 14.5 percent over the year.[36]

B. Summary of Positions of the Parties

1. Bell System

35. A.T.&T. presented the direct testimony of two major witnesses in support of its claimed cost of common equity: Dr. Irwin Friend, a consultant, and Miss Virginia Dwyer, the Treasurer and a Vice President of A.T.&T. In addition, Dr. Friend and Miss Dwyer also provided rebuttal testimony for A.T.&T. as did several others.

36. Dr. Friend performed a discounted cash flow (DCF) study to determine A.T.&T.'s cost of common equity.[37] In

[27] *Id.*

[28] M.P.C. Ex. 1–3, Appendix, p. 2.

[29] U.S. Department of Commerce, "Commerce News" release, BEA 81–14, March 18, 1981; *Economic Report, supra*, p. 235.

[30] U.S. Department of Commerce, "Commerce News" release, BEA 81–14, March 18, 1981.

[31] "NEWS" releases, U.S. Department of Labor, Bureau of Labor Statistics, Nos. 80–109 (February 22, 1980) and 81–55 (January 23, 1981)

[32] *Economic Report, supra*, p. 308.

[33] T.S. Exc., p. 36.

[34] *Id.*

[35] *Economic Report, supra*, pp. 308, 309.

[36] "Moody's Public Utility News Reports," Vol. 52, No. 50 (January 6, 1981), p. 2157.

[37] The DCF approach which was employed in this proceeding simply equates the cost of common

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order to obtain estimates of the two independent variables in the equation. Dr. Friend surveyed 50 large institutional investors (Bell Ex. 5, p. 6), and concluded that 33 of the respondents had provided usable information. From the subjective data which was thus obtained Dr. Friend derived a growth rate of 5.71 percent which represented the simple average of the responses. In similar fashion, an average dividend yield of 9.35 percent was calculated which was then adjusted upward to 9.62 percent. At the time of the survey (October, 1979), A.T.&T.'s annual dividend was $5.00. Adding the two derived figures, i.e. 5.71 percent and 9.62 percent, Dr. Friend arrived at an estimate of 15.33 percent as A.T.&T.'s market cost of common equity.

37. Dr. Friend undertook to check his estimate by conducting two further analyses. First, he computed estimates of the cost of equity for companies he assumed to have risk comparable to that of A.T.&T., which were the 22 electrics included in Standard Poor's 40 Utilities. He calculated their cost of equity to be 15.2 percent. Second, Dr. Friend analyzed two groups of industrial stocks and computed the required market rates of return of each. The first group consisted of 23 industrials which were alleged to have comparable risk to that of A.T.&T. and the second group consisted of 16 additional industrials. For the two groups the figures of 15.4 percent and 16.2 percent, respectively, were derived as the market rates of return. Based on these results A.T.&T. claimed that the reasonableness of Dr. Friend's initial estimate of a 15.33 percent market return had been established.

38. Dr. Friend next made an adjustment for underpricing to reflect the effects of market pressure, the costs of flotation, and underwriting expenses. The adjustment was based on Dr. Friend's analysis of the three A.T.&T. common stock offerings which had been made to the public since 1964. He computed an adjustment of 93.5 percent which he then divided into the previously calculated dividend yield of 9.62 percent to derive an adjusted dividend yield of 10.29 percent. The addition of this final adjusted dividend yield to the 5.71 percent growth resulted in a cost of book equity of 16.00.

39. Miss Dwyer, A.T.&T.'s other principle witness with regard to the cost of common equity, conducted a risk premium analysis that indicated A.T.&T.'s market return on book equity was in the range of 15.5 to 16.5 percent at the time of the study. The risk premium analysis was premised upon the theory that the cost of equity is greater than the cost of debt because of the higher risk associated with the former relative to the latter. The risk premium reflects this implied difference and Miss Dwyer attempted to measure the risk premium as it pertains to A.T.&T.'s common stock.

40. Miss Dwyer's analysis consisted of determining the expected market returns for each year from 1960 to 1979 for the S&P 400 Industrials and a group of stocks widely held by institutional investors. In order to develop the expected market returns for the industrials Miss Dwyer used a DCF analysis. The risk premium of the industrials was computed by subtracting from the average expected market returns each year for each group, the yields of newly issued corporate bonds in that year.[38] Averaging the computed risk premiums over the entire 20 year period resulted in a figure of 5.6 to 5.7 percent. Averaging over a more recent five year period indicated a risk premium in the 6.5 to 6.6 percent range. Based on her results, Miss Dwyer added the derived risk premium, assumed to be 6.0 percent, to the 9.5 to 10.5 percent yield for newly-issued corporate bonds at that time, which resulted in a range for A.T.&T.'s market return on equity of 15.5 to 16.5 percent. Miss Dwyer then made an underpricing adjustment to reflect flotation costs, market pressure, and market break experience which resulted in a 16.4 to 17.6 percent cost of common equity.

41. Miss Dwyer also undertook a DCF analysis to develop a market return on equity. A dividend yield range of 9.0 to 9.5 percent was used in that analysis. It was contended that those yields occurred during the recent past. The growth rate used in the analysis, 5.0 to 5.3 percent, was derived from forecasts by ten market analysts and was represented as reflecting long-run growth rates for A.T.&T.'s earnings and dividends. Miss Dwyer's study indicated a market return on equity of from 14.5 to 15.3 percent which, when adjusted via a "translator" formula to reflect underpricing, resulted in a book return on equity of 15.3 to 16.5 percent.

42. A.T.&T. indicated that the cost of equity estimates provided by these two witnesses should be increased to reflect updated financial conditions. Dr. Friend stated in his rebuttal testimony (July, 1980) that Bell System bonds had increased to 11.4 percent, as compared with the less than 10 percent used in his analysis, and that his estimate of A.T.&T.'s cost of equity should be adjusted accordingly. A.T.&T. has stated that since July, 1980, recent Bell System bonds have increased to over 14 percent, thereby suggesting an even higher return on book equity. Miss Dwyer, in testimony dated February 19, 1980, updated her DCF based book return to a range of 16.4 to 17.6 percent to reflect current conditions at that time. In its exeptions to the *I.D.*, A.T.&T. contends that the high level of Government bond yields now prevailing (11.6 to 12.8 percent) require an even higher return and that the simple addition of the 5.6 to 6.6 percent risk premium to the yields on U.S. Government bonds would provide a market return of 17.2 to 19.4 percent. (A.T.&T. Exc., p. 29.)

43. Based on the analyses presented by its witnesses and updates to reflect current financial conditions, along with A.T.&T.'s adjustments to the data presented by non-Bell witnesses, A.T.&T. proposes a book return on common stock equity of at least 17 percent.

2. Trial Staff

44. The Trial Staff's principal witnesses, Drs. Gordon and Gould, advocated a DCF approach for determining the cost of equity. They computed a return of 14.5 percent, as of May, 1980, which included both the market and book return factors. To estimate the growth rate ("g") in the DCF formula Drs. Gordon and Gould postulated a mathematical relationship in which g would equal the product of "b" times "r," where "b" is the proportion of earnings retained, and "r" is the *expected* annual rate of return on book equity. The r variable was estimated to be 13 percent based on an analysis of 1975 to 1979 data. An analysis of historical data resulted in an estimate of the value of b of 39 percent. The growth rate was then estimated to be 5.07 percent (.13x.39). The addition of the growth rate to the current dividend yield resulted in an estimated cost of common equity of 14.5 percent.

45. In its proposed findings, however, the Trial Staff only utilized the growth rate which was developed by Drs.

stock equity to the sum of the anticipated dividend yield and the growth rate of future dividends. Under this approach, dividends, price, and earnings are expected to grow simultaneously at the same rate. Footnote 7 to paragraph 29 of the *I.D.* provides a more extensive description of the DCF method.

[38] There are a number of methodological difficulties which are associated with such an approach. Among other things, the terms to maturity, risk characteristics, provisions relating to collateral and the enforcement of the contractual provisions among issuers and investors, vary among the debt issues which are utilized in calculating the yields of newly issued corporate bonds and thereby alter the observed yields on *new* debt issues. For these reasons, attempted measurements of risk premiums must be viewed circumspectly.

Gordon and Gould and substituted a more current value for the dividend yield. Since the annual dividend had not changed from the time of the Gordon-Gould analysis, the only new factor involved was the market price of A.T.&T.'s common stock. The high and low prices during the week of September 12, 1980, were $55.50 and $53.25 which produced yields of 9.01 percent and 9.39 percent, respectively. Adding the average of those two figures to the growth rate of 5.07 percent resulted in a Trial Staff recommendation for the return on book equity of 14.25 percent.

46. In its exceptions, the Trial Staff revised its recommended return on book equity to 15.3 percent to reflect current conditions. To reflect those changes, the Trial Staff made several modifications to its earlier analysis. First, the Trial Staff's revised dividend yield reflected A.T.&T.'s recently announced increase in its quarterly dividend (February 18, 1981) from $5.00 to $5.40 on an annual basis. Second, the restated dividend yield reflected common stock prices for the business week ended February 27, 1981: a high of $52.63 to a low of $51.25. Third, the growth rate was reduced from 5.07 percent to 4.94 percent as a consequence of the Trial Staff's contention that market conditions during its chosen week of observation more closely resembled those of March 29, 1980, under which Drs. Gordon and Gould reduced their estimated growth rate from 5.07 percent to 4.94 percent. Fourth, the above cited figures were used to arrive at a market return of 15.20 to 15.48 percent. Of those two figures, the Trial Staff recommends that the lower of the two figures, 15.20 percent, be used because of the circumstances which surround A.T.&T.'s anti-trust suits. Last, the Trial Staff proposes a 0.1 percent adjustment to reflect flotation costs resulting in a cost of common equity of 15.3 percent.

3. Federal Executive Agencies

47. Mark Langsam, who appeared as an expert witness for the Federal Executive Agencies, testified that a comparable earnings approach rather than a market value approach should be used to determine A.T.&T.'s cost of equity. He said that a market value approach would overstate the cost of equity because of unstable financial markets and unpredictable economic conditions.

48. Inasmuch as no company is directly comparable to A.T.&T., Mr. Langsam concluded that A.T.&T.'s cost of equity can be determined by deducting a perceived risk differential from the cost of equity for a group of stocks that have traditionally earned a higher equity return. He observed that A.T.&T. has the least risk of the industrials and utilities and that the overall investment risk of A.T.&T. has not changed since 1971. He accordingly concluded that A.T.&T.'s cost of equity can be ascertained by deducting the appropriate differential from the equity return of a group of industrials or utilities. Mr. Langsam compared A.T.&T.'s return to the returns of Moody's Utilities, Standard & Poor's Utilities, and Standard & Poor's Industrials for this purpose. He found that current earnings of industrials are 15–17% and the appropriate differential between A.T.&T. and the industrials is 2.5%–3.5%. Accordingly, he recommended a range of 12.5% to 13.5% for a A.T.&T.'s return on common stock equity.

49. A.T.&T. contended that Mr. Langsam's conclusion that a market value approach not be used should be rejected because all of the other witnesses including the Trial Staff and intervenor witnesses did use some form of market value approach. A.T.&T. stated that the Commission would have to find that all of the other witnesses are wrong in order to adopt Mr. Langsam's conclusion.

50. A.T.&T. also questioned Mr. Langsam's choice of indices and asserted that he used obsolete and partially inaccurate data to determine the equity return for stocks included in the indices. A.T.&T. noted that the 15–17% range for the index stocks represented returns for 1978 and 1979 and that Mr. Langsam's calculation of the 1979 return for those stocks was based upon an estimate that was somewhat lower than the subsequently published final data. A.T.&T. also asserted that Mr. Langsam failed to demonstrate any basis for finding that a 2.5%–3.5% spread is the appropriate differential between the A.T.&T. equity return and the equity return of the companies which comprised the index.

4. Maryland Peoples' Counsel

51. David A. Kosh, who appeared as an expert witness for the Maryland Peoples' Counsel, employed a DCF analysis to determine a capitalization rate that investors in A.T.&T. stock would expect if market conditions that prevail in the near future are comparable to the market conditions that prevailed during the March, 1977, to February, 1980, period. He computed a 36-month average dividend yield for that period of 7.66%. Mr. Kosh assumed on the basis of the historical growth in book value and retained earnings during the 1975–79 period that investors would expect an annual growth rate of 5% for A.T.&T. From these figures he derived a 12.5% to 12.75% range as the capitalization rate for A.T.&T.'s common stock.

52. Mr. Kosh concluded that a market to book ratio of 1.05 would be appropriate to prevent "dilution" of shareholder investment. He calculated that a return on equity of 12.9% would be required to preserve that ratio if the capitalization rate is 12.5% and an equity return of 13.15% would be required if the capitalization rate is 12.75%.

53. A.T.&T. claimed that Mr. Kosh's assumptions with respect to the dividend yield that investors will require (7.66%) and the growth in dividends that shareholders will expect (5%) are erroneous. A.T.&T. contended that the use of an average dividend yield for any past period in lieu of the current dividend yield is a departure from accepted DCF analysis methods. It claimed that the DCF theory is based on the premise that share price reflects investor requirements. It noted that A.T.&T.'s current dividend yield at the time Mr. Kosh filed his testimony was 10.3%.

54. A.T.&T. also noted that the 5% growth rate was based upon Mr. Kosh's expectations and asserted that Mr. Kosh had no basis for assuming that actual investor expectations for A.T.&T. growth correspond with his own. It claimed that investors would expect growth in dividends to exceed the growth in book value because investor growth expectations will necessarily reflect anticipated increases in the authorized rate of return.

55. A.T.&T. also questioned Mr. Kosh's computation methods and claimed that upward adjustments would be required to correct methodological errors even if one accepted Mr. Kosh's dividend yield and growth assumptions. A.T.&T. claimed that Mr. Kosh should have assumed that the first year dividend is received at the end of the year instead of at the beginning and should have included a sale of stock at the end of the 100 year dividend stream which Mr. Kosh assumed for purposes of his computations.

5. Consumer Consortium

56. Dr. Caroline M. Smith, who appeared as an expert witness for the Consumer Consortium, testified that the composite equity return for the A.T.&T. interstate rate base would be 11.94% on an unspecified date. The initial Brief of the Consumer Consortium states (p. 8) that Dr. Smith's testimony was not offered as a return on equity

recommendation and should not be "entertained for any purpose other than capital structure determination." We will accordingly refrain from considering Dr. Smith's testimony in resolving the return on equity question.

C. Discussion

57. The cost of common equity capital has presented the greatest disagreement among the parties. Dr. Friend, for A.T.&T., used the DCF approach in addition to subsidiary analyses to reach his conclusion that A.T.&T. required a 16.0 percent book return as of the time he conducted his analyses. Under current conditions, A.T.&T. contends this figure should be increased. Miss Dwyer, another Bell witness, undertook a risk premium analysis and a DCF study to estimate A.T.&T.'s return on equity. Her original conclusion indicated a book return of 15.5 to 16.5 percent based on the risk premium method and a book return of 15.3 to 16.5 percent based on the DCF method. Miss Dwyer subsequently updated her study and proposed a market return of at least 17.2 to 19.4 percent. Drs. Gordon and Gould, for the Trial Staff, also used the DCF methodology and computed a return of 14.5 percent. The Trial Staff recommended a return on book equity of 14.25 percent which was later updated to 15.3 percent. The Administrative Law Judge recommends a cost of equity of 14.60 percent after considering the evidence of record.

58. The parties in this proceeding have not disagreed with the contention that an investment in common stock equity entails more risk than an investment in debt in the same firm at the same point in time. On this premise it is generally conceded that equity requires a higher return relative to debt. Thus, it follows that the cost of equity capital is greater than the cost of debt. None of the parties have contested this basic premise during the course of this proceeding.

59. Both the Trial Staff and A.T.&T. utilized the DCF method to develop costs of common stock equity. Although the Trial Staff did not use the Gordon-Gould result, *per se*, it did apply factors derived by Drs. Gordon and Gould in recommending an updated return on equity of 15.3 percent. A.T.&T. uses the DCF method to support its proposed 17.2–19.4 percent return requirement (as updated) which was determined through the use of a "risk premium" analysis. In order to better understand the differences in the estimates of various parties we will analyze the components of the derived return figures.

60. Miss Dwyer developed a risk premium that ranged from 5.6 to 6.6 percent above the yield of bonds. Adding these premiums to the yields of Government bonds, occurring during the period from October, 1980, through January, 1981,[39] of 11.6 to 12.8 percent resulted in a required market return on equity of 17.2 to 19.4 percent. The key element in the risk premium analysis is the estimate of the risk premium itself. Miss Dwyer utilized two groups of *industrial* stocks to make this determination. However, Miss Dwyer does not show the correlation, if one existed, between the risk premiums of the industrials and A.T.&T. Without that link we can not assign conclusive weight to Miss Dwyer's estimates of the costs of equity using the risk premium method. There is evidence in the record suggesting that A.T.&T. is less risky than the industrials utilized in Miss Dwyer's analysis which would have the effect of reducing the risk premium, and concomitantly the return on equity which is proposed. Although it is clear that a risk premium exists for A.T.&T.'s common stock, the derivation of such a risk premium has not been adequately developed during the course of this preceeding. We believe, however, that the risk premium methodology can be a valuable aid to us in determining the cost of equity capital and anticipate further development of this technique so that we may place more reliance upon the risk premium approach in future proceedings.

61. We will accord some weight to the DCF methodology presented in this case. Dr. Friend found that the growth rate was 5.71 percent whereas Drs. Gordon and Gould found it to be closer to five percent using an allegedly more precise method of calculation. Miss Dwyer, in her DCF study, found a 5.0 to 5.3 percent growth rate. Both Dr. Friend's and Miss Dwyer's growth rates were over relatively short time horizons.[40] The Trial Staff demonstrated that if Dr. Friend had used longer forecast periods from his survey data he would have computed a growth rate similar to that derived by Drs. Gordon and Gould. The theory under which the DCF formula operates considers the growth rate as continuing to infinity. In the absence of other considerations we could ordinarily place more weight on the Gordon and Gould estimate of the growth rate.

62. The other portion of the DCF equation, the dividend yield, would appear to be rather straight-forward. However, the critical element is the time frame chosen to extract the two variables required for the computation: the dividend and the price of common stock.

63. The Administrative Law Judge found that Mr. Kosh's determination of the cost of A.T.&T. equity "should be given little weight" because he concluded that Mr. Kosh had based his computation upon an inappropriate dividend yield. The Judge noted that none of the other experts who presented DCF studies had used an average historical dividend yield and that some of the other witnesses testified that such a procedure is "unsound from a theoretical standpoint" and is not supported by academic or scientific literature. We agree with the Administrative Law Judge's conclusion although we would not attach as much weight to the theoretical objections to the Kosh method. An authorized rate of return ordinarily is not adjusted daily, weekly, or even annually. Our decision in this proceeding is likely to remain in effect for some time to come. Therefore, we are not seeking to determine the return that is reasonable today or that would have been reasonable in the past. We are endeavoring to determine the rate of return that will be reasonable during the period that is likely to elapse between this decision and our next decision establishing an authorized rate of return. Mr. Kosh's assumption that average dividend yields for a past period are indicative of the dividend yield investors will require in a future period may be valid under some circumstances. However, we do not believe that the dividend yield for the March, 1977, to February, 1980, period is likely to be indicative of the dividend yields that investors will require in the next year or two. Therefore, we concur with the Administrative Law Judge's determination that Mr. Kosh's cost of equity determination should be given little weight even though we might attach considerable weight to a cost of equity determination based on the Kosh method in some other proceeding at some other time. The rejection of Mr. Kosh's dividend yield assumption does not determine the weight that should be assigned to his dividend growth assumption or his estimate of the appropriate underpricing allowance. The Administrative Law Judge apparently gave greater weight to the somewhat higher growth assumption of other witnesses and gave lesser weight to the somewhat higher underpricing allowance estimates of other witnesses. We find no reason to conclude that the Administrative Law Judge erred in these assessments.

[39] The administrative Law Judge took official notice of this data in FCC, 81M–299, Jan. 30, 1981.

[40] 24 out of 33 growth rates used by Dr. Friend were from 3–5 or five year forecasts. Half of Miss Dwyer's forecasted growth rates were of 3–5 years duration.

64. The Trial Staff in its exceptions updated the dividend yield ratio by using A.T.&T.'s recently declared (February 18, 1981) quarterly dividend of $1.35, annualized to $5.40 [41] as the numerator and the high-low prices of A.T.&T. common stock for the week ended February 27, 1981 which were $52.63 and $51.25, respectively, as the denominator in the dividend yield formulation. Thus, the dividend yield range which has been proposed by the Trial Staff is 10.26 to 10.54 percent. The Trial Staff recommends use of the lower figure because of uncertainties associated with A.T.&T.'s current status as a defendant in various antitrust suits throughout the country. We are not convinced by the Trial Staff's explanation for its conclusion. As we see it, the collective effect of these uncertainties would tend to add risk to A.T.&T.'s cost of equity.

65. There has been substantial disagreement as to the relationship between the market return on equity and the book return on equity, with the essential contention being whether, and if so to what extent, the market return on equity should be increased by some allowance for the effects which occur when additional shares are issued by A.T.&T. The interactions of market forces, of course, determine the market price and therefore the market return of A.T.&T. common stock. Among those market forces is the supply of A.T.&T.'s common stock which is available to potential purchasers per unit of time, which may in particular periods be increased as a consequence of a new offering of A.T.&T. common stock. Dr. Friend, in an attempt to quantify the differential which represents issuance effects, analyzed the three major A.T.&T. common stock offerings which have been made since 1964 and derived a factor of 6.5 percent as an appropriate "underpricing" allowance. Miss Dwyer computed an allowance of 10 percent utilizing the same data as Dr. Friend. Another witness in this proceeding, Mr. David Kosh, indicated the allowance should be five percent. The Trial Staff in its exceptions suggested an allowance of 0.1 percent.[42]

66. The Trial Staff's figure is, of course, substantially lower than Dr. Friend's proposed adjustment. The lower Trial Staff allowance is based on the fact that public offerings have provided only 12 percent of the equity capital raised by A.T.&T. over the period from 1968 to 1978. The remaining 88 percent has been derived from retained earnings and A.T.&T.'s stock reinvestment and savings plans, which have little or no flotation costs. The Trial Staff, therefore, contends that upon consideration of all of the sources of equity capital which are acquired by A.T.&T., the flotation costs should be only 0.1 percent. In the *Initial Decision* the Administrative Law Judge agreed with the Trial Staff analysis by stating, in part, ". . . it appears that an appropriate underpricing allowance should be something less than that calculated either by Miss Dwyer or Dr. Friend." (*I.D.*, p. 29.)

67. We concur in the Administrative Law Judge's opinion on this point which he supported with the following reasoning.

Since 1964, there have been only three public offerings of A.T.&T. common stock, occuring in October, 1975, June, 1976, and November, 1977. Since public offerings may or may not occur, there seems to be no sound reason for looking, as A.T.&T. does, solely to the three public offerings made over the last 16 years in determining an underpricing allowance. As the Trial Staff says, "To follow the practices of determining total flotation costs on the basis of public offerings—which may not occur—is to burden the ratepayer with unnecessary revenue requirements and to reward stockholders with earnings premiums not required by total flotation costs." (T.S.P.F. p. 172.) All sources of equity capital—retained earnings, the stock reinvestment and savings plans, and public offerings—should be considered in arriving at an appropriate underpricing allowance. Retained earnings do not give rise to flotation expenses, but there do appear to be some costs associated with sales of shares through the stock reinvestment and savings plans (A.T.&T. P.F. 184). [*I.D.*, p. 29.]

The record in this proceeding does not provide sufficient information for us to precisely compute an underpricing allowance.[43] However, it is apparent that a slight upward adjustment to A.T.&T.'s market cost of common stock is appropriate at this time to reflect our assessment of the testimony which has been provided by the witnesses on this point.[44]

68. In a comparable earnings study, Mr. Langsam found that the common stocks of industrial firms were achieving a return of 15 to 17 percent which Mr. Langsam then reduced by 2.5 to 3.5 percent to arrive at his estimate of the required return on common stock equity for A.T.&T. The Administrative Law Judge found that the 2.5%–3.5% differential was not based upon any quantitative study and "appears to be wholly judgmental, indeed, simply arbitrary." The Federal Executive Agencies, in their sole exception to the *Initial Decision*, objected to the characterization of Mr. Langsam's testimony as "arbitrary," and correctly noted, in our view, that Mr. Langsam's recommendation represents his judgment as an expert witness of the cost of common stock differential between A.T.&T. and industrial companies. Although we are not persuaded that Mr. Langsam's overall assessment of A.T.&T.'s cost of equity capital is correct, we would not characterize Mr. Langsam's judgment in that regard as "arbitrary," and we will, therefore, grant the Federal Executive Agencies' exception to the *I.D.* While we have not accorded substantial weight to Mr. Langsam's comparable earnings assessments, we do attach some weight

[41] A.T.&T. has also indicated that the dividend yield should reflect the $5.40 dividend.

[42] A clarification of the allowances proposed by the parties and their implications is appropriate here. The figures proposed by Dr. Friend (6.5 percent), Miss Dwyer (10 percent), and Mr. Kosh (5.0 percent), are applied by subtracting the allowance from 1.0 and dividing that result into the dividend yield. Thus, for Dr. Friend's figure, the adjustment would consist of dividing .935 (1.065) into the dividend yield. The Trial Staff's proposed figure of 0.1 percent would simply be added to the market return to arrive at the return on book equity.

[43] We note, however, that A.T.&T. during 1979 sold 14,923,918 shares of common stock at 95% of market under its dividend reinvestment plan, and 2,362,833 shares at 100% of market for optional cash payments under the Share Owner Dividend Reinvestment and Stock Purchase Plan. In addition, 11,362,600 shares of common stock were sold at 100% of market to the Bell System employee savings plans, and 1,736,580 shares were issued at market in connection with the Bell System Employee Stock Ownership Plan through the election of an extra 1% investment tax credit. *A.T.&T. 1979 Annual Report*, p. 36 (T.S. Ex. 82(c)).

[44] References by various witnesses to A.T.&T.'s market to book ratio have contained the inference that this Commission has an obligation to set an interstate rate of return which will insure that A.T.&T.'s market to book ratio will exceed one. As we have noted earlier, the bulk of A.T.&T.'s activities are not regulated by this Commission. A.T.&T.'s book value per share reflects A.T.&T.'s considerable intra-state and unregulated activities. Presumably, the market price for A.T.&T.'s common stock fully reflects A.T.&T. activities which are not dependent upon the rate of return which this Commission sets for A.T.&T.'s interstate and foreign services. Accordingly, because this Commission only sets rates of return for A.T.&T.'s interstate and foreign services, it would be inappropriate to set an interstate rate of return which would be designed to offset rates of return which were received from other activities. *Cf., Smyth v. Ames*, 171 U.S. 361 (1898). Although we reject the contention that this Commission has an affirmative obligation to set an interstate rate of return which will insure a market to book ratio for A.T.&T.'s common stock which will exceed one, we do recognize that a market to book ratio of less than one may be symptomatic of deficient rates of return in one or more jurisdictions. As a consequence, the market to book ratio statistic may, when assessed in the light of other information, provide useful insights into the adequacy of existing rates of return.

to Mr. Langsam's observation that a market value approach may not produce an appropriate return on equity when financial markets are unstable. Any market value analysis that is performed during a period of volatile interest rates is likely to be less reliable as a tool for determining the cost of equity in a future period than a market value analysis that is performed in a period of greater stability. We have taken this into account in evaluating studies presented by other expert witnesses in this proceeding.[45]

69. During the course of this proceeding the economy and financial markets have experienced substantial volatility. (*See e.g.*, T.S. Exc. pp. 34–38, Appendix I.) A.T.&T. and the Trial Staff continuously updated the record during this proceeding with information which was not available to their respective expert witnesses at the time at which those witnesses offered their testimony and were cross-examined thereon. Most recently, the record during oral argument was supplemented with several very significant pieces of information. To be more specific, during February 1981, two A.T.&T. subsidiaries issued debt at abnormally high interest rates. In the case of the New Jersey Bell subsidiary, the interest rate was stated to be 14.9% on a forty year "AAA" rated debt issue, and in the case of the Pacific Telephone and Telegraph Company, the interest rate was stated to be 16.4% for a single "A" rated debt issue. (Tr. 3440.) Various measures of inflation in the economy have increased since the time that Dr. Brimmer prepared his testimony (Tr. 3452–3453; A.T.&T. Ex. 1, 2; *I.D.* paras. 6–8), and the price of A.T.&T.'s common stock has generally not kept pace with increases in the composite index of all of the New York Stock Exchange issues during this proceeding. (Tr. 3456.)

70. We do not believe that it would be fair to the users of telecommunication services, nor do we believe that it would be equitable to A.T.&T., to ignore this more recent information in making our assessment of A.T.&T.'s cost of equity capital. It is, on the basis of the record which is before us, self evident that the cost of A.T.&T.'s common stock equity must exceed the cost of A.T.&T.'s *long term* debt. With the effective yields which occurred on recent A.T.&T. debt issues, we cannot adopt, *in toto*, the cost of common stock equity estimates of Mr. Langsam, Mr. Kosh, Drs. Elton and Gruber, Drs. Gordon and Gould, or Dr. Friend. Nor, because of methodological criticisms, can we fully accept the risk premium adjustments of Mr. Langsam or Miss Dwyer.

71. We will proceed under the premise that A.T.&T.'s cost of common stock equity must exceed the 14.9% effective yield on the "AAA" rated New Jersey Bell Telephone Company forty year debt issue. Miss Dwyer calculated risk premiums on *industrial* stocks which varied from 5.7 to 6.6 percentage points. (A.T.&T. Ex. 7, pp. 26–27.) Mr. Langsam, on the other hand, correctly noted that *"(T)here is no firm, or group of firms, comparable to AT&T and the Bell Telephone System,"* nor can industrial firms "be considered comparable to the Bell Telephone System." (F.E.A. Ex. 1, p. 17.) (Emphasis in the original) To account for this difference, Mr. Langsam adjusted his estimate of the required return for A.T.&T.'s common stock by 2.5% to 3.5% to allow for the reduced risk which A.T.&T. experiences when compared with required returns for industrial stocks. (*Id.* at 45–46.) After having considered this conflicting testimony in addition to the testimony of all of the witnesses in this proceeding and the updated evidence which was provided during oral argument, we have concluded that A.T.&T.'s cost of common stock equity is 17.4 percent. As we stated at the time of our decision in Docket No. 20376:

> * * * no one method can be determinative of the appropriate return on Bell's equity capital. In the final analysis, we must apply our informed judgment to the range of estimates which we have found to be helpful indicators of the cost of equity. 57 F.C.C. 2d 960, 972 (1976).

V. Embedded Cost of Debt and Preferred Stock

72. The Administrative Law Judge computed A.T.&T.'s rate of return in the *Initial Decision* by utilizing an embedded cost of debt of 7.8 percent. In using this figure, the Administrative Law Judge has adopted A.T.&T.'s embedded cost of debt as of June 30, 1980. The Administrative Law Judge employed the 7.8 percent measurement because, as he states (*I.D.*, p. 30), it is the latest figure on the record. In our view the Administrative Law Judge was mistaken as to the most recent embedded cost of debt in the record. The *Initial Decision* (footnote 11, paragraph 66) states that A.T.&T. submitted, in a letter to the Administrative Law Judge, its embedded cost of debt of 8.8 percent as of December 31, 1980. The Administrative Law Judge took official notice of this letter in an Order, FCC 81 M–29, which was released on January 30, 1981.

73. It is on this latter point that a controversy now arises. Relying on prior Commission determinations, A.T.&T. submits that the embedded cost of debt should reflect the most current data of record which was 8.8 percent as of December 31, 1980. (A.T.&T. Exc., p. 29–30.) Thus, A.T.&T. maintains that the rate of return calculation should incorporate an embedded cost of debt of 8.8 percent.

74. The Trial Staff also recognizes the change in A.T. & T.'s embedded cost of debt (T.S. Exc., p. 34–40) as of year end 1980. In its proposed findings the Trial Staff indicated that the June 30, 1980, figure of 7.8 percent might change in the period following the closing of the hearings and before the Administrative Law Judge issued the *Initial Decision*, and suggested an update to reflect such a change if it were to occur. (T.S. P.F., para D26). However, rather than allowing the most recent embedded cost of debt, 8.8 percent, to be used in the rate of return computation, the Trial Staff sets forth another proposal in its exceptions to the *Initial Decision*. The Trial Staff suggestion would break the cost of embedded debt into long term and short term components, assign cost rates to each, and from the sum of the products of those components develop a weighted cost of embedded debt. The cost factor for long term debt would be 7.93 percent, the rate as of December 31, 1980. The cost factors for various short term debt would be based on the average for the year 1980, rather than as of December 31, 1980. The result of this methodology is to produce an embedded cost of debt of 8.32 percent.

75. This deviation from the traditional method of portraying the cost of embedded debt is based on the Trial Staff's contention that the embedded cost of short term debt as of December 31, 1980 is substantially higher than the year's average and that since December 31, 1980, there has been some decline in short term interest rates as shown by empirical data. (T.S. Exc. p. 39.) The Trial Staff also cites recent activity in the interest futures markets as indicating an expected decline in short term rates (T.S. Exc., p. 39.) In order to properly weigh these factors the Trial Staff has averaged A.T.&T.'s monthly cost of embedded short term debt during 1980 to arrive at a figure to be used in the overall cost of embedded debt.

76. We agree that an adjustment must be made to A.T.&T.'s embedded cost of debt to be used in the rate of return calculation to reflect current conditions.

[45] Mr. Langsam also presented some market value computations. He did not recommend that those computations be used to determine the return on equity. The Administrative Law Judge did not discuss those computations. We can infer that the Administrative Law Judge did not find those computations to be helpful. The Administrative Law Judge did not err in attaching little or no weight to those computations.

However, we do not accept the Trial Staff's methodology for computing that figure. Although the data presented by the Trial Staff (T.S. Exc., App. I, p. 2) shows that A.T.&T.'s embedded cost of short term debt attained a maximum in December 1980, it is sheer speculation as to what will happen in the future. In fact the Trial Staff's own data (T. S. Exc., p. 36) show 3-month Treasury Bills at both higher and lower rates in 1981 as compared with December, 1980. We cannot, in all fairness to A.T.&T., and ultimately to its interstate rate payers, reduce the actual embedded cost of debt [46] and substitute a lower figure based on speculation. Accordingly, we will adjust A.T.&T.'s embedded cost of debt to 8.8 percent for the purpose of computing its interstate rate of return.

77. The cost of preferred stock was set at 7.8 percent in the *Initial Decision* and no party has contested the methodology by which that figure was calculated. There has, however, been disagreement as to the treatment of the convertible portion of preferred stock in the capital structure. The Administrative Law Judge made no distinction between the two types of preferred and thus included the convertible preferred with the non-convertible. A.T.&T. contends that the convertible should be included with common equity. The impact of A.T.&T.'s proposal would be to increase the overall rate of return as long as the cost of equity is above 7.8 percent, which is the case herein. The Trial Staff, on the other hand, advocates that no distinction be made between the two types of preferred and that the embedded cost of 7.8 percent should be applied to the total amount.

78. As of December 31, 1980, total preferred stock amounted to $2,532 millions. Of this amount $385 million is associated with the convertible issue. The convertible preferred can be converted to common equity at any time, and conversion is currently taking place as is evidenced by the decrease in the book value of A.T.&T.'s convertible preferred stock from $408 millions as of June 30, 1980 to $385 millions as of December 31, 1980. Furthermore, with an annual dividend on A.T.&T.'s common stock of $5.40 it would appear that even more preferred stock will be converted to take advantage of the higher yield on A.T.&T.'s common stock. In Docket No. 20376 we rejected a similar argument by the Trial Staff with respect to the treatment of convertible preferred (57 F.C.C. 2d 960, 963). There is nothing in this record to persuade us to change our conclusion. In other words, because we expect that A.T.&T.'s convertible preferred stock will be converted into common stock equity during the life of this decision, we shall impute the cost of A.T.&T.'s common stock equity to A.T.&T.'s convertible preferred stock.

[46] We note that none of the parties to this proceeding introduced evidence which examined the algorithms which have been employed by A.T.&T. in its measurements of its embedded cost of debt. Accordingly, we are not in this Decision adopting a specific method or algorithm for the calculation of A.T.&T.'s cost of embedded debt.

VI. Weighted Average Rate of Return

79. After having made determinations of the costs of capital which are to be employed for interstate cost of capital weighting purposes and the weights to be applied thereto, we have concluded that the weighted average rate of return for A.T.&T. is 12.75% calculated as follows:

Source of financing	Cost (percent)	Weight	Product (percent)
Common Stock	17.4	0.475522	8.274082
Convertible preferred	17.4	.004025	.070035
Nonconvertible preferred	7.8	.022434	.174985
Debt (short term, intermediate term, and long term)	8.8	.480967	4.232510
Deferred credit	0	.000199	.000000
Unmatured interest	0	.009785	.000000
Unmatured dividends	0	.006774	.000000
Matured interest and dividends	0	.000293	.000000
Weighted average rate of return			12.751612

VII. Application of the Weighted Average Rate of Return (WARR) [47]

80. At the conclusion of our determinations in *Docket No. 20376* and in *Phase I of Docket No. 19129* we permitted A.T.&T. to earn an additional increment above the prescribed rate of return as an incentive for productivity and efficiency. *Docket No. 20376*, 57 F.C.C. 2d 960, 973 (1976); *Phase I of Docket No. 19129*, 38 F.C.C. 2d 213, 245 (1972). In the designation order in this proceeding, we stated that we intended to initiate a separate proceeding to consider an allowance for productivity and efficiency. *Docket No. 79-63*, 73 F.C.C. 2d 689, 695 (1979). After further consideration, we have concluded that a separate allowance for productivity and efficiency is not merited. Efficient management, and the most productive and effective use of a utility's assets, are to be expected to occur in the ordinary course of the performance of a utility's business. However, we recognize, as a practical matter, the difficulties which a "point estimate" [48] of a prescribed rate Commission. Quite simply, during periods of volatile economic and financial conditions, it is unreasonable to expect that a carrier's tariffs will result in earnings by category of service which will exactly yield the prescribed rate of return. Continuous daily or weekly modifications of a carrier's tariffed charges to achieve such an objective would not be an efficient use of the resources of carriers or of this Commission. The testimony of witnesses in this proceeding as to the cost of common stock equity amply demonstrates the variability in estimates of witnesses which can occur during the course of hearings which extended over approximately eight months. We recognize that a prescribed rate of return is a condition precedent to a meaningful assessment of the adequacy of materials which are filed as support for interstate and foreign services tariffs, and accordingly we prescribe a rate of 12.75% as the rate to be achieved by each category of A.T.&T.'s interstate and foreign services. However, in so doing, we recognize under current economic and financial conditions that an interval of 0.25 percent on each side of the prescribed rate of return would not be inappropriate in making subsequent determinations of the adequacy of A.T.&T.'s compliance with the rate of return prescribed herein.

81. The recent record in this Docket has demonstrated the volatile economic and financial conditions which have occurred during the course of this proceeding. In *Nader* v. *F.C.C.*, 520 F. 2d 182 (D.C. Cir. 1975), the Court upheld the Commission's power to prescribe a rate of return, but in so doing observed that "such a prescription cannot remain binding indefinitely, especially during periods of rapidly changing economic conditions." *Id.* at 205. After considering the substantial increases which have occurred in A.T.&T.'s costs of common stock equity and embedded debt, and the volatility of current economic and financial conditions, we believe that it is imperative that A.T.&T. be permitted to realize the new rate of return *as soon as possible*. Accordingly, as in our prior decision in *Docket No. 20376*, 57 F.C.C. 2d at 973, we shall permit A.T.&T. to effect tariff revisions which are designed to produce revenues necessary to earn the new rate of return on not less than thirty days notice from the filing of its tariffs. [49] Because of our concern with respect to the amount of time which was required in this case to prescribe a new

[47] We are adopting the terminology which was utilized by Administrative Law Judge Luton in paragraphs 11–14 and 69–70 of the *Initial Decision*.

[48] A "point estimate" is a single, specific, numerical value for the carrier's prescribed rate of return.

[49] These tariffs were filed on April 10, 1981, and April 13, 1981.

rate of return during a period in which economic and financial conditions were changing rapidly, we are also instructing the Acting Chief of the Common Carrier Bureau to report within thirty days on the steps which must be taken to ensure the prompt represcriptions of carriers' rates of return.

VIII. Ordering Clauses

82. Accordingly, it is ordered, Pursuant to Sections 1, 4(i), 4(j), 203, and 205, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 203, and 205, that the rate of return for A.T.&T. and for the Bell System Operating Companies' interstate and foreign services is prescribed to be at an annual rate of 12.75 percent.

83. It is further ordered, That the provisions of Section 61.58 of the Commission's Rules and Regulations, 47 CFR 61.58, are waived, and tariff revisions necessary to increase A.T.&T.'s rate of return to the prescribed level may be effective not less than thirty days from the filing thereof.

84. It is further ordered that all exceptions to the *Initial Decision* that are in accordance with our findings and conclusions herein are granted and are otherwise denied.[50]

85. It is further ordered that the Secretary shall send a copy of this order by registered mail, return receipt requested, to the American Telephone and Telegraph Company's designated agent in the District of Columbia.

86. It is further ordered that this proceeding is terminated.

Federal Communications Commission.[51]

William J. Tricarico,

Secretary.

[50] Rulings on specific exceptions are contained in the third appendix to this decision.

[51] See attached Statements of Commissioners Lee, Chairman; and Fogarty.

Note.—This appendix will not appear in the CFR.

Appendix 1.—*A.T. & T. Construction Financing*

[Billions of dollars]

	1979	1978	1977	1976	1975	Total
Construction expenditures	15.837	13.670	11.566	9.847	9.329	60.249
Funds from operations	10.313	9.388	8.577	7.514	6.696	42.488
Funds from major sources of external financing: [1]						
Shares issued (net)	1.704	1.157	1.597	1.213	1.022	6.693
Long and intermediate debt issued	3.409	2.788	2.285	2.027	2.545	13.054
Net short term borrowing	.704	.058	1.053	(.243)	(.651)	.921
Long and intermediate debt retired	.785	.321	2.585	.810	.180	4.681
Total (net)	5.032	3.682	2.350	2.187	2.736	15.987

[1] Not included are other portions of new outside financing for A.T.&T. entities such as: debt (net of retirements) by the associated companies in which A.T.&T. has a minority common stock interest, and Western Electric as well as sales of shares to minority owners of consolidated subsidiaries. Source: Trial Staff Exhibit 82D.

Note.—This appendix will not appear in the CFR.

Appendix 2.—*A.T. & T. Shares of Common Stock Sold and Outstanding*

[Millions of Shares Except Market and Book Values]

	1979	1978	1977	1976	1975	Total
Plan: [1]						
DRISP [2]	17.287	13.489	9.411	8.047	7.062	55.296
BSSP, SSP	11.363	5.098	4.065	2.399		22.925
ESOP	1.737	1.390	1.274			4.401
General			12.0	12.0	12.0	36.000
Warrants					3.177	3.177
Total	30.387	19.977	26.750	22.446	22.239	121.799
Year end:						
Outstanding	701.367	669.549	637.632	607.405	582.024	
Book value (dollars)	63.43	60.67	57.78	55.08	52.86	
Market value (dollars)	52.13	60.50	60.50	63.50	50.88	

[1] Common stock has also been issued for the conversion of preferred shares, as well as other purposes. However, shares issued in this manner represent a change in the form of capitalization rather than new outside financing.

[2] Shares sold under the dividend re-investment portion of DRISP were sold at 95% of the prevailing price. All other shares were sold either under the terms of the general offering or at prevailing market prices.

Source: Trial Staff Exhibit 82C, D).

Note.—This appendix will not appear in the CFR.

Appendix 3.—*Rulings on Exceptions*

Exception No.	Ruling
A. American Telephone and Telegraph Company	
I	*Granted in part.* Based upon our analysis of the record, including the information which was provided during oral argument on April 6, 1981, we have concluded that the return on A.T.&T. common stock equity should be set at 17.4%. Although our decision differs from the *Initial Decision* of the Administrative Law Judge, we do not find that the *Initial Decision's* conclusion on A.T.&T.'s return on common equity was "totally unsupported and entirely lacking in reasoned analysis," as A.T.&T. has contended. Judge Luton accorded "due weight" to the record which was before him at that time, and although we have subsequently arrived at a different conclusion on the basis of additional information we do not concur in the Respondent's characterization of the *Initial Decision* as being either unsupported or lacking in reasoned analysis.
II	*Granted.* From the record which is before us, the most recent cost of embedded debt as of December 31, 1980, was 8.8%.
III	*Granted in part.* An updating of A.T.&T.'s actual financial structure from June 30, 1980, to December 31, 1980, is appropriate under current circumstances. Because of the conversion which has been occurring from A.T.&T. convertible preferred stock to common stock, we have concluded that the convertible preferred stock should receive a 17.4% cost. *Denied in part.* Unmatured dividends and accrued interest constitute "zero cost" sources of funds which are used by A.T.&T. in financing its interstate and foreign services rate base. This Commission has employed A.T.&T.'s *actual*, as distinguished from its *projected*, financial structure in its prior decisions. The evidence of record in this proceeding has not persuaded us that we should depart from our prior practice in this regard.
IV	*Denied.* We have concluded that the record which is before us requires that A.T.&T.'s rate of return for its interstate and foreign services be set at 12.75%.
B. Trial Staff	
I, p. 15, para. 12	*Denied.* We do not find Dr. Friend's survey to be totally without foundation, although the nature of such a survey should properly be a matter of concern. We concur in the assessment of the Administrative Law Judge that the results of such surveys should be viewed circumspectly.
II, p. 30, para. 35	*Denied.* Some weight has been accorded to aspects of the comparable earnings and risk premium analyses.

Appendix 3.—*Rulings on Exceptions*—Continued

Exception No.	Ruling
III. p. 31, para. 36; p. 33, para. 41.	*Denied.* We agree with the Trial Staff that because there have only been three public offerings of A.T.&T. common stock in the last seventeen years following Dr. Friend's or Miss Dwyer's recommendation would place an inequitable burden on A.T.&T.'s interstate and foreign services ratepayers. Although the record of this proceeding does not provide sufficient information to precisely compute an underpricing allowance, we believe that there should be a slight upward adjustment to A.T.&T.'s market cost of common stock to reflect our assessment of the testimony of the witnesses in this proceeding. The 17.4% cost of common stock equity incorporates our assessment of the modest adjustment which is required to reflect flotation costs.
IV. pp. 33-34, para. 42	*Denied.* Events which have occurred since September 29, 1980, and January 30, 1981, have required us to reevaluate and update A.T.&T.'s cost of equity to 17.4%.
V. p. 38, para. 49	*Granted.* It is clear that a reevaluation and update of A.T.&T.'s cost of capital is required.
VII. pp. 38-39, para. 52	*Denied.* The volatility which has occurred with respect to short term interest rates clearly demonstrates the potential inequities which may be associated with forecasting measurements of the embedded cost of debt, even where such a forecast was grounded upon the use of historical data. Accordingly, we shall continue our prior practice of using the most recent embedded cost of debt.
VIII. pp. 42-43, paras. 60-61.	*Denied in part.* Uncertainties due to risk are reflected in the market price of A.T.&T. securities which are traded on the secondary market. We have used a figure which is less than the highest rate of return on common stock equity which is in the record in this proceeding, and believe our choice reflects a considered judgment of the adjustment that is required.
C. Federal Executive Agencies	
I.	*Granted.* We do not view the testimony of Mr. Langsam as being "arbitrary."
D. Maryland People's Counsel	
I. p. 4	*Denied in part.* As our decision, *supra*, clearly indicates, a 14.6% cost of equity under current conditions is not excessive.
II. p. 4	*Denied.* The record evidence in this case does not clearly establish that A.T.&T.'s financial structure contains either excessive equity or excessive debt.
E. *U.S.I.T.A.*	
I. p. 3	*Granted in part.* The current cost of common stock equity exceeds the current cost of *long term* debt.
II. p. 7, para. 1	*Granted.*

Separate Statement of Chairman Robert E. Lee

In Re: CC Docket 79-63, AT&T Rate of Return

I join my colleagues in affirming this decision to authorize the American Telephone and Telegraph Company a 12.75 percent weighted average rate of return. This decision was reached following extensive hearings, review of a comprehensive record, and oral argument before the full Commission. I believe the record fully supports the Commission's conclusion herein.

My concerns with the item are limited solely to the language relating to the filing of tariffs implementing this rate of return decision. These concerns in no way reflect any disagreement with, or concern about, the 12.75 percent decision. The rate of return decision is a separate, distinct action, and I trust that any reviewing authority recognizes this critical distinction. A discussion of these concerns is set forth in my concurring statement to the Commission's action on the special permission concerning the tariff filings.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: American Telephone and Telegraph, Petition for Modification of Prescribed Rate of Return, Docket No. CC 79-63.

I think the Commission's decision changing AT&T's prescribed rate of return from 10.5 percent to 12.75 percent is clearly in the best interests of consumers of telecommunications services. As both the Commission and the courts have long recognized, the Commission's obligation to protect consumers requires us to ensure that excessive rates are not being charged by a carrier and, in addition, that the carrier is financially able to provide the needed service. This, in turn, requires a rate of return "sufficient to assure confidence in the financial integrity of the carrier, so as to maintain its credit [e.g., capital costs such as service on debt and dividends on stock as well as operating costs] and to attract capital." *FPC* v. *Hope*, 320 U.S. 591, 603 (1944); see also Docket No. 20376, 51 FCC 2d 619, 626 (1975). The newly prescribed rate of return will allow AT&T to attract the capital required to continue the modernization and maintenance of its plant which is necessary if the American telephone system is to remain the best in the world. To prescribe a return of less than 12.75 percent would be "penny wise and pound foolish." True, in the short-run a lower prescription would result in smaller rate increases, but in the long-run a lesser prescription would result in even greater rate increases. Consumers would have to pay more for the delayed modernization and maintenance. At the same time the rate paying public would be exposed to deterioration in the quality of the service it receives.

The increased rate of return prescribed the commission is needed, obviously, and justified. AT&T has been subject to the sustained impact of inflation. While many other business concerns also have been hit hard by inflation, the volatile economy has been particularly oppressive with respect to regulated companies like AT&T because of their substantial construction budgets which require huge and frequent infusions of debt and equity capital. The large disparity between the book value and market value of AT&T's stock is an indication of the serious and continuing problem that Bell has had in attracting capital and the need for the new rate of return prescription.That the price of AT&T's common stock has generally not kept pace with increases in the composite index of all of the New York Stock Exchange issues during the course of this proceeding is also indicative of the need for an increased rate of return now.

The 12.75 percent rate prescription is both just and reasonable, and should serve to ameliorate this potentially dangerous financial situation. I note, however, that due to the volatility of the economy, the Commission could have justified an even greater increase in the rate of return. Our determination that AT&T's cost of common stock equity is 17.4 percent is fair without being excessive. New Jersey Bell, a triple A Company, issued debt at 14.9 percent while Pacific Telephone and Telegraph, and A Company, issued debt at 16.4 percent. Any determination of the cost of common stock equity which does not allow for, at least, several percentage points between the cost of equity and the current cost of long-term debt would be patently unreasonable.

Our decision to permit a 0.25 percent range on each side of the prescribed rate of return is justified too. As our decision correctly observes, during this volatile economic period it would be unreasonable, if not arbitrary and capricious, to require that a carrier's tariffs earn precisely the prescribed rate of return on a category-by-category-of-service basis. Such a requirement would also be impractical due to the pendency of several Commission proceedings which might result in changes in tariff rates and structure. See *e.g.* Revisions of Tariff FCC No. 259 (WATS), Docket No. 80-765 (WATS time-of-day pricing); AT&T Private Line Rate Structure and Volume Discount Practices, CC Docket 79-246. Additionally, the Telpak tariff has finally come to an end and this will also result in yet to be determined rate changes. *Aeronautical Radio, Inc.* v *FCC*, F. 2d , #77-1333 et seq., D.C. Cir., June 24, 1980, cert. den. (1981); *General Electric Company* v. *FCC*, #77-1333 et seq., D.C. Cir., June 24, 1980, cert. den. (1981).

It has taken the Commission two years to prescribe this rate of return. All parties concede that during this extended time period AT&T has not been earning a fair return. Under these pressing circumstances, the Commission's statutory responsibility is to balance competing carrier-investor and consumer interests in an equitable manner so as to ensure the financial integrity of the carrier's facilities and services at a fair charge to the consumer. It might be politically appealing to shave AT&T's rate of return in ostensible solicitude for lower consumer rates. However, to yield to this easy temptation would be irresponsible and only work to the detriment of consumer and company alike. The Commission's decision meets our clear responsibility and serves the paramount public interest.

[FR Doc. 81-17168 Filed 6-10-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1100 and 1137

Submission of Pleadings and Other Documents in Motor Carrier Applications and Restriction Removal Applications

AGENCY: Interstate Commerce Commission.

ACTION: Notice: Submission of Pleadings and Other Documents in Motor Carrier Applications and Restrictions Removal Applications.

SUMMARY: It has come to our attention that various individuals and companies who participate in Commission proceedings fail to submit the required number of copies of pleadings or other documents or improperly address such pleadings. The purpose of this notice is to remind those who participate in Commission proceedings of our requirements in 49 CFR 1100.14, Copies; 1100.253(c), General rules governing the application process—copies; and 1137.10, Form and content of applications.

EFFECTIVE DATES: 49 CFR 1100.14 became effective July 1, 1977; 49 CFR 1100.253(c) became effective February 9, 1981; 49 CFR 1137.10 became effective December 28, 1980.

FOR FURTHER INFORMATION CONTACT: Kathleen King, Office of the Secretary, (202) 275–0956; Melinda Collins, Office of Proceedings, (202) 275–7340.

Number of Copies

Our general rules in 49 CFR 1100.253(c) governing the application process, (45 FR 86771, 86793, 12–31–80) require that "all material forwarded to the Commission in Washington, D.C., except for telegraphic material shall consist of an original and one copy." This rule applies to all documents including transmittal letters and withdrawal letters. In restriction removal application proceedings, an original and one copy is required. See 49 CFR 1137.10 (45 FR 86747, 86757, 12–31–80).

In cases in which an administrative appeal is filed an original and six copies of a document are required. This rule applies to the administrative appeal, a reply to an administrative appeal or any other motion or document submitted. See 49 CFR 1100.14.

Parties who want the Commission to date stamp and return a copy of their transmittal letter or pleading must provide an additional copy for that purpose and a self-addressed stamped envelope. If only one copy of a document is submitted, it cannot be returned because it is necessary for our files.

Proper Addressing of Pleadings and Documents

All pleadings and other documents submitted for filing must contain the docket number and sub number of the proceeding in which they are being filed. All parties should be careful to provide the correct docket number and sub number. All pleadings and documents relating to restriction removal proceedings must contain the suffix X.

All pleadings and documents in motor carrier applications proceedings and restriction removal applications, which must be filed in Washington, D.C., should be addressed to Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Such pleadings should be addressed to an applications Evaluation and Authorities Team or an individual on a Team.

The parties are also reminded that appeals in emergency temporary authority and temporary authority proceedings, must be filed with the Regional Office whose Regional Motor Carrier Board decided the application. Any subsequent discretionary appeals to review board, or Commission decisions in emergency temporary authority or temporary authority matters are filed in Washington.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17399 Filed 6-10-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 112
Thursday, June 11, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 81-AWE-11]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points and Special Use Airspace; Proposed Temporary Restricted Areas, Twenty Nine Palms, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws a proposal published in the **Federal Register** Document 81-12775 on April 30, 1981, (46 FR 24196), to establish temporary restricted areas in the vicinity of Twenty Nine Palms, Calif., to contain a major joint military exercise. The military mission has been cancelled by the United States Air Force due to budgetary restraints. Consequently, the proposed restricted area is not now needed.

EFFECTIVE DATE: June 11, 1981.

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.

Withdrawal of the Proposal

Accordingly, pursuant to the authority delegated to me, effective June 11, 1981 the proposal to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73), as specified in Airspace Docket No. 81-AWE-11 and published in the **Federal Register** on April 30, 1981, (46 FR 24196), is hereby withdrawn.

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

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 substanial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 4, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-17252 Filed 6-10-81; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Utah-2)]

High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

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

DATE: Comments on the proposed rule are due on July 6, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 22, 1981.

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

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8616.

Issued: June 5, 1981.

I. Background

On May 20, 1981, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mancos "B" Formation located in Uintah and Grand Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Mancos "B" Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is part of the Southeast Uintah Basin and underlies certain lands in Uintah and Grand Counties in eastern Utah, 40 to 80 miles northwest of Grand Junction, Colorado. The recommended area contains 428,976 acres within Townships 13 through 16 South, Ranges 20 through 26 East. Approximately 82 percent of the acreage is Federal, 15 percent is State, and three percent is fee. The average depth to the top of the Mancos "B" Formation is 3,475 feet. The average net productive interval is approximately 120 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-101 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Manco "B" Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 6, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Utah-2), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 22, 1981.

(Natural Gas Policy Act of 1978, [15 U.S.C. 3301-3342])

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I Title 18, Code of Federal Regulations, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding new subparagraph (53) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(37) through (52) [Reserved]

(53) *Mancos "B" Formation in Utah* RM79-76 (Utah-2)

(i) *Delineation of formation.* The Mancos "B" Formation is found in the Southeast Uinta Basin underlying portions of Uintah and Grand Counties, Utah in Township 13 South, Ranges 20 through 22 East, Sections 31 through 36; Township 13 South, Ranges 23 through 26 East, All Sections; Township 14 and 15 South, Ranges 20 through 26 East, All Sections; Township 15½ South, Ranges 23 through 25 East, Sections 31 through 36; Township 15½ South, Range 26 East, Sections 31 through 33; Township 16 South, Ranges 23 and 24 East, All Sections; Township 16 South, Range 25 East, Sections 1 through 12; and Township 16 South, Range 26 East, Sections 4 through 9.

(ii) *Depth.* The average depth to the top of the Mancos "B" Formation is 3,475 feet.

[FR Doc. 81-17377 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 81-025]

Drawbridge Operation Regulations; Kennebec River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of a group of employees of the Bath Iron Works, Bath, Maine, the Coast Guard is considering amending existing regulations to permit the drawspan in the U.S. Route #1 Highway/Maine Central Railroad Company bridge across the Kennebec River at mile 14.0 to be closed to navigation during rush hours. The amendment may provide more uniform vehicular movement along Route #1 and through the City of Bath during these peak traffic periods and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before July 13, 1981.

ADDRESS: Comments should be submitted to and will be available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed envelope or postcard. The Commander, First Coast Guard District will evaluate all comments received and determine the final course of action. The proposed regulations may be changed in light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

The draw of this bridge is presently required to open on signal except that from 1 October through 15 June an advance notice of 4 to 24 hours must be given, depending on the month or portion thereof. The proposed amendment is being considered because opening of the drawbridge during peak traffic periods, when shift workers are entering or leaving the Bath Iron Works, results in a backup of vehicles along Route #1 and severe restriction of traffic flow through the City of Bath. At mean high tide, the vertical clearance under the railroad bridge is ten feet. The tidal difference in the Bath area is 6.4 feet. By reducing congestion during peak traffic periods, the proposed regulations would benefit the City of Bath and commuting employees of the Bath Iron Works. Bridge records indicate there were a total of 17 openings of the drawspan during the proposed restricted periods in the months of June, July, and August, 1980. Nine of these openings were for sailboats, and the remainder were for commercial vessels. The maximum delay that would be occasioned to any vessel under the proposal is one hour. In view of these facts, the proposal is not expected to have more than a minimal impact.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the Coast Guard proposed to amend Part 117 of Title 33 of the Code of Federal Regulations by:

(1) Redesignating subparagraphs (1), (2), and (3) of § 117.8(a) as subparagraphs (2), (3), and (4) respectively.

(2) Adding a new subparagraph (1) to § 117.8(a) to read as follows:

§ 117.8 Kennebec River, highway and railway bridge, between Bath and Woolwich.

(a) * * *

(1) The draw need not open from 6:30 a.m. to 7:30 a.m. and 3:45 p.m. to 4:45 p.m. Monday through Friday.

* * * * *

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

Dated: June 5, 1981.

R. H. Wood,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 81-17375 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 160

[CGD 79-026]

Ports and Waterways Safety; Conditions for Vessel Operation and Cargo Transfers

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to delegate to Coast Guard District Commanders and Captains of the Port (COTP), the authority contained in the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1221 et seq.) to prohibit particular tankers from operating in the navigable waters of the United States or transferring cargo in a port or place subject to the jurisdiction of the United States when certain conditions exist. This proposal also clarifies the existing regulations in Part 160 which authorize a COTP or a District Commander to issue orders or regulations regarding vessel operations. These regulations are mandated by the PWSA as a means by which the harbors and ports of the United States may be better protected from the effects of vessel casualties and oil spills.

DATES: Comments must be received on or before: July 27, 1981.

ADDRESSES: Comments may be mailed to Commandant (G–CMC/24), (CGD 79–026), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1477 between the hours of 7 a.m. and 5 p.m. Monday through Thursday .

FOR FURTHER INFORMATION CONTACT: Lieutenant Virgil R. Allen, Office of Marine Environment and Systems, Room 1100, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 755–1354. Normal working hours are 7 a.m. to 5 p.m. Monday through Thursday .

SUPPLEMENTARY INFORMATION: On December 3, 1979, (44 FR 69306) the Coast Guard published a Notice of Proposed Rulemaking with a request for comments. Seven comments were received. No public hearing was held.

Drafting Information

The principal persons involved in drafting this rule are Lieutenant Virgil R. Allen, Project Manager, Office of Marine Environment and Systems and Lieutenant Commander Brad Short, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Questions were raised as to the inclusion of the Captain of the Port's designated alternate in the delegation of authority. Several commenters stated that this was too low a level of delegation and one felt that the delegation was not low enough. The alternate COTP is designated by the Commandant, is not a delegatee of the COTP, and has no independent authority when the COTP is present for duty. When the COTP is not present for duty the alternate COTP is the Captain of the Port, and assumes the duties and is vested with the authority of that office. For these reasons, the "COTP designated alternate" has been dropped from the proposed list of persons who may issue orders regarding vessel operations.

Most of the commenters expressed interest in the evaluation of manning and training criteria. Their questions centered on when and how the Coast Guard would determine that a particular nation's standards were acceptable. These issues are the subjects of separate Coast Guard rulemaking dockets. Interim final rules on the evaluation of training (CGD 79–081a) were published on April 7, 1980 (45 FR 23425) and a notice of proposed rulemaking on manning (CGD 79–081b) was published on November 17, 1980 (45 FR 75712). Information concerning these dockets may be obtained by contracting Commander Daniel E. Struck (G–MVP/14), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202) 426–2240.

Several comments expressed confusion centering on a note placed at the end of the proposed § 160.118. This note was originally added to explain that although certain paragraphs would become effective on April 18, 1980, foreign vessels could continue to operate in U.S. waters, subject to existing international provisions for adequate manning until the regulations under docket 79–081 were published. In

an effort to avoid confusion, the note has been dropped. The Coast Guard emphasizes that the provisions of subparagraphs 160.118(b) (4) and (5) are triggered only after the Commandant has made a determination that the certificating state's licensing and manning standards are not at least comparable to those of the United States. The Commandant's determinations will be published in future issues of the **Federal Register.**

One comment queried if the requirements for an English speaking deck officer on the bridge could be met by taking aboard a local pilot, and if not, might this invite similar action by other nations against U.S. vessels. The intent of this regulation, which fulfills a mandatory requirement contained in section 9(A)(7) of the Ports and Waterways Safety Act, is to have a ship's officer on the navigation bridge who is capable of clearly understanding English. This requirement is not considered to be met by taking on a pilot. The purpose of this requirement is to facilitate a free flow of information between the pilot and the ship's personnel on the navigation bridge. Due to the widespread use of English as a common language in the international merchant fleet, it is not envisioned that this action will give rise to a similar requirement by other nations.

In addition to the proposed changes to § 160.118, this supplemental notice proposes to revise §§ 160.3, 160.111, 160.116, and 160.121. The proposals regarding these sections contain substantive changes. The remaining sections in Part 160 (§§ 160.1, 160.101, 160.106, 160.126, and 160.131) contain no substantive changes and are included in this notice solely for the convenience of the public.

The substantive changes which have been made are as follows:

The definitions of "Captain of the Port" and "District Commander" in § 160.3 have been amended by deleting the reference to "that person's authorized representative". For the purposes of Part 160, these definitions will only include those persons designated by the Commandant.

The Canal Zone has been deleted from the definition of the term "State" in § 160.3 because on October 1, 1979, the Panama Canal Zone Treaty of 1977 became effective. The term "United States" has also been deleted from this section as an unnecessary addition to the list of definitions.

The intent of § 161.111 has been clarified by dividing the subject matter between two sections; section § 160.111, dealing with special powers (orders), and § 160.113, dealing with vessel operating requirements (regulations). The new wording should make it clear that the orders of the District Commander and COTP under § 160.111 are intended to meet exigent circumstances on a *temporary* basis and that long term situations will be addressed through the rulemaking process under § 160.113.

Section 160.116(a), which addresses the reconsideration of action taken by Coast Guard officials, has been deleted because it was redundant to § 160.131(a).

Section 160.121 has been rewritten to require compliance with any order issued under this subpart, in lieu of the specific sections which are referenced in the present regulations.

The Coast Guard has evaluated this proposal under Executive Order 12291 and the Department of Transportation's "Policies and Procedures for Simplification Analysis and Review of Regulations" (DOT Order 2100.5 dated 22 May 1980), and has determined that it is neither a major nor a significant rule making. A draft evaluation has been prepared and is included in the public docket. Further, because the primary purpose of this proposal relates to the internal organization, practices and policies of the Coast Guard a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act, Pub. L. 96-354, 19 September 1980 (5 U.S.C. 603).

In consideration of the foregoing, the Coast Guard proposes to revise Part 160 of Title 33, Code of Federal Regulations, to read as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart A—General

Sec.

160.1 Purpose.
160.3 Definition.

Subpart B—Orders and Regulations

160.101 Applicability.
160.106 Waterfront safety.
160.111 Special powers (orders).
160.113 Vessel operating requirements (regulations).
160.116 Denial of entry.
160.118 Conditions for vessel operation and cargo transfers.
160.121 Compliance with directions and orders.
160.126 Withholding of clearance.
160.131 Appeals.

Authority: Section 2, P.L. 95-474, Ports and Waterways Safety Act, 92 Stat. 1477, (33 U.S.C. 1231); 49 CFR 1.46(n)(4).

Subpart A—General

§ 160.1 Purpose.

(a) This subchapter contains regulations implementing the Ports and Waterways Safety Act (33 U.S.C. 1221) and related statutes.

§ 160.3 Definitions.

For the purposes of this part:

"Captain of the Port" means the Coast Guard officer commanding a Captain of the Port zone described in Part 3 of this chapter.

"Commandant" means the Commandant of the United States Coast Guard.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District described in Part 3 of this chapter.

"Person" means an individual, firm, corporation, association, partnership, or governmental entity.

"State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, and any other commonwealth, territory, or possession of the United States.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

Subpart B—Orders and Regulations

§ 160.101 Applicability.

(a) This subpart applies to any—

(1) Vessel on the navigable waters of the United States, except as provided in paragraphs (b) and (c) of this section;

(2) Bridge or other structure on or in the navigable waters of the United States; and

(3) Land structure or shore area immediately adjacent to the navigable waters of the United States.

(b) This subpart does not apply to any vessel on the Saint Lawrence Seaway.

(c) Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this subpart does not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) Innocent passage through the territorial sea of the United States; or

(2) Transit through the navigable waters of the United States which form a part of an international strait.

§ 160.106 Waterfront safety.

(a) To prevent damage to, or destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land

structure or shore area immediately adjacent to those waters, and to protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss, each District Commander or Captain of the Port may—

(1) Direct the handling, loading, unloading, storage, stowage, and movement (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in Section 4417a of the Revised Statutes, as amended, (46 U.S.C. 391a) on any structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters; and

(2) Conduct examinations to assure compliance with the safety equipment requirements for structures.

§ 160.111 Special powers (orders).

Each District Commander or Captain of the Port may order a vessel to operate or anchor in the manner directed when—

(a) The District Commander or Captain of the Port has reasonable cause to believe that the vessel is not in compliance with any regulation, law or treaty;

(b) The District Commander or Captain of the Port determines that the vessel does not satisfy the conditions for port entry specified in § 160.118; or

(c) The District Commander or Captain of the Port has determined that such order is justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, other temporary hazardous circumstances, or the condition of the vessel.

§ 160.113 Vessel operating requirements (regulations).

When meeting long term situations or problems of a continuing nature, each District Commander may control vessel traffic in an area which is determined to have hazardous conditions by promulgating regulations—

(a) Specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(b) Establishing vessel size, speed, draft limitations, and operating conditions; and

(c) Restricting vessel operating, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which are considered necessary for safe operation under the circumstances.

§ 160.116 Denial of entry.

Each District Commander or Captain of the Port, subject to recognized principles of international law, may deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States, to any vessel not in compliance with the provisions of the Ports and Waterways Safety Act (33 U.S.C. 1221–32) or the regulations issued thereunder.

§ 160.118 Conditions for vessel operation and cargo transfers.

(a) Each District Commander or Captain of the Port may prohibit any vessel subject to the provisions of section 4417a of the Revised Statutes (46 U.S.C. 391a) from operating in the navigable waters of the United States or from transferring cargo or residue in any port or place under the jurisdiction of the United States, if the District Commander or the Captain of the Port determines that the vessel's history of accidents, pollution incidents, or serious repair problems creates reason to believe that the vessel may be unsafe or pose a threat to the marine environment.

(b) The authority to issue orders concerning operation of the vessel or transfer of cargo or residue under paragraph (a) of this section also applies if the vessel:

(1) Fails to comply with any applicable regulation;

(2) Discharges oil or hazardous material in violation of any law or treaty of the United States;

(3) Does not comply with applicable vessel traffic service requirements;

(4) Is manned by one or more officers who are licensed by a certificating state which the Commandant has determined, pursuant to 46 U.S.C. 391a(11), does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

(5) Is not manned in compliance with manning levels as determined by the Commandant to be necessary to insure the safe navigation of the vessel; or

(6) While underway, does not have at least one licensed deck officer on the navigation bridge who is capable of communicating in the English language.

(c) When a vessel has been prohibited from operating in the navigable waters of the United States under paragraphs (a) or (b) of this section, the District Commander or Captain of the Port may allow provisional entry into the navigable waters of the United States or into any port or place under the jurisdiction of the United States if the owner or operator of such vessel proves, to the satisfaction of the District Commander or Captain of the Port, that the vessel is not unsafe or does not pose a threat to the marine environment, and that such entry is necessary for the safety of the vessel or the persons on board.

(d) A vessel which has been prohibited from operating in the navigable waters of the United States or from tranferring cargo or residue in a port or place under the jurisdiction of the United States under the provisions of paragraph (a) or (b) (1), (2) or (3) may be allowed provisional entry if the owner or operator proves, to the satisfaction of the District Commander or Captain of the Port, that the vessel is no longer unsafe or a threat to the environment and that the condition which gave rise to the prohibition no longer exists.

§ 160.121 Compliance with orders.

Each person who has notice of the terms of an order issued under this subpart must comply with that order.

§ 160.126 Withholding of clearance.

Each District Commander or Captain of the Port may request the Secretary of the Treasury, or the authorized representative thereof, to withhold or revoke the clearance required by 46 U.S.C. 91 of any vessel, the owner or operator of which is subject to any penalties under 33 U.S.C. 1232.

§ 160.131 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard official who is responsible for that action.

(b) Any person not satisfied with a decision made under the procedure contained in paragraph (a) of this section may appeal that decision in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the action was taken. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the District Commander may stay the effect of the action being appealed while the decision is being reviewed. The District Commander issues a ruling after reviewing the appeal submitted under this paragraph.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Chief, Office of Marine Environment and

Systems, U.S. Coast Guard, Washington, D.C. 20593. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the Chief, Office of Marine Environment and Systems, may stay the effect of the action being appealed while the ruling is being reviewed. The Chief, Office of Marine Environment and Systems, issues a final ruling after reviewing the appeal submitted under this paragraph.

(d) A final ruling made by the Chief, Office of Marine Environment and Systems, under the procedure contained in paragraph (c) of this section is final agency action.

(e) If the delay in presenting a written appeal would have a significant adverse impact on the appellant, the appeal under paragraph (b) or (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the oral presentation was made containing, at a minimum, the basis for the appeal and a summary of the material presented orally.

Dated: June 3, 1981.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 81-17376 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-14-M

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

33 CFR Part 402

Tariff of Tolls; Revision Under Consideration

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Request for comments on report.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada presently have under consideration a Report of the Joint Tolls Review Board concerning the sufficiency of revenues expected to be generated by the current Joint Seaway Tariff of Tolls (33 CFR Part 402). The Joint Tolls Review Board has concluded that the current tariff of tolls will not generate revenue sufficient to meet the requirements of either Seaway agency during 1981 or 1982. In its report, the Board suggests several revisions to the tariff of tolls which it estimates would increase revenue to the required levels. These are presently under internal review by the Corporation prior to further discussions with the Canadian Authority.

DATE: Comments must be received in writing no later than June 25, 1981.

ADDRESS: Information should be addressed to: Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591, (Attention: Tolls Revision Docket).

FOR FURTHER INFORMATION CONTACT: Further information regarding the Report of the Joint Tolls Review Board or this request for information may be acquired from Robert J. Lewis, Director, Office of Systems and Econonics Analysis, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591. (Phone 202-426-2884)

SUPPLEMENTARY INFORMATION:

Information Invited

To assist the Corporation in the development of its position in these discussions, interested persons or organizations are invited to submit pertinent information relative to the tariff of tolls revisions suggested by the Joint Tolls Review Board. Particular attention should be given to the suggestion that Seaway tolls be increased by 30 percent as of September 1, 1981.

The Corporation urges persons responding to this invitation to limit their comments to the presentation of documented factual material. Information relative to any negative effects the suggested revisions may have on the movement of waterborne commerce via the Seaway would be especially helpful. Proprietary information furnished in response to this request for information should be identified as such and will be treated confidentially as provided for in 5 U.S.C. 552(b)(4). Because discussions between the Seaway agencies are scheduled to resume in late June 1981, comments must be received in writing no later than June 25, 1981 to assure full consideration. Information should be addressed to: Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591, (Attention: Tolls Revision Docket).

Background

Pursuant to the authority contained in Section 12(a) of Public Law 358, 83rd Congress, approved May 13, 1954 (33 U.S.C. 988), the Seaway Corporation and the St. Lawrence Seaway Authority of Canada, on January 29, 1959, agreed to levy tolls on vessels and cargo for the use of the St. Lawrence Seaway and published a Joint Seaway Tariff of Tolls. With the exception of the imposition of lockage fees at the all-Canadian Welland Canal in 1967, the tariff of tolls remained virtually unchanged until 1978. On March 20, 1978 a major revision of the tariff was agreed to by the governments of the United States and Canada which provided that toll increases would be phased in over a three-year period.

The agreement also provided for a mandatory review of the tariff of tolls during 1981 and established the Joint Tolls Review Board which consists of two representatives from the Corporation and two from the Canadian Seaway Authority. This Board is directed by the agreement to conduct an annual review of the tariff of tolls for the purpose of determining the sufficiency of revenues generated by the tariff to meet the respective requirements of the Authority and the Corporation. The report presently under consideration by the Seaway agencies is the result of Joint Tolls Review Board's 1981 review.

Report of the Joint Tolls Review Board

Following meetings in Washington and Ottawa during April 1981, the Joint Tolls Review Board concluded that, on the basis of realistic traffic projections, the revenue which will be generated by the tariff of tolls during 1981 will leave the Corporation $1.78 million short of its needs for the year and the Authority $10.86 million short. During 1982 the Corporation will be an estimated $2.02 million short of meeting its needs in that year alone and the Authority an estimated $12.42 million. The Board estimated that during the 1981 and 1982 shipping seasons combined the tariff of tolls on the St. Lawrence Seaway will produce revenues which fail to meet the total projected needs of the Authority by $23.28 million and of the Corporation by $3.80 million.

The Board therefore proposed for consideration by the Authority and the Corporation several alternatives by which revenues could be increased to meet the total needs of the two Seaway agencies. The Board recognized that there are any number of combinations of adjustments to the tariff of tolls which could be developed to produce the required revenue.

The alternatives which the Board presented assume that the suggested increases would apply to all items in the tariff including the gross registered tonnage of the vessel. The alternatives suggested include:

1. Modification of tariff during 1981 to produce revenue sufficient to cover the total requirements of each entity over the two-year period.This alternative would require a toll

increase of 30 percent on September 1, 1981. This increase would remain in effect during 1982 and contemplates a 1981 deficit which would be recovered in 1982.

2. Modification to tariff for the 1982 season to generate sufficient revenue to satisfy 1982 requirements and cover the deficit carried forward from 1981. This alternative would require no tariff change during 1981; however, with the opening of the 1982 season an average toll increase of about 41 percent would be required.

3. Modification of tariff during 1981 to an arbitrary level; additional modification for 1982 to produce revenues required to meet 1982 needs and those deferred from 1981. This alternative calls for a September 1, 1981 adjustment of the tariff by some factor. For purposes of illustration, the Board chose a 22 percent increase. (This figure was chosen as it represents the increase which, had it been in effect throughout the 1981 season, would have produced revenue sufficient to meet the combined needs of the entities during the year). Following the 1981 increase, a further increase of 8 perecent would be required for the 1982 season. Following both increases, tolls would be, on the average, about 33 percent above 1980 levels.

Issued at Washington, D.C. on June 9, 1981.

D. W. Oberlin,

Administrator.

[FR Doc. 81-17549 Filed 6-10-81; 10:25 am]

BILLING CODE 4910-61-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Special Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of special meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) will hold a special meeting at 10:00 AM, on June 23, 1981, to consider proposed rulemaking activities on the ATBCB Minimum Guidelines and Requirements for Accessible Design, published in the Federal Register as a Final Rule on January 16, 1981. Suspension of work or proposed cancellation of a contract with the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) relating to the ATBCB Minimum Guidelines and Requirements is also on the agenda for action by the ATBCB.

DATE: June 23, 1981, 10:00 AM–5:00 PM.

ADDRESS: Room 1331, 330 C Street, S.W., Mary E. Switzer Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information, (202) 245–1591 (voice or TDD).

SUPPLEMENTARY INFORMATION: The special meeting of the ATBCB will enable the Board to further consider developments, including modification, rescission, amendment, of its accessibility rule adopted January 6, 1981 (46 FR 4270; January 16, 1981).

ATBCB Committee of the Whole of the Board is scheduled for Monday, June 22, 1981. This meeting will be from 10:00 AM–5:00 PM, Room 1331, 330 C Street, S.W., Washington, D.C. Contact Larry Allison, Director of Public Information, (202) 245–1591 (voice or TDD).

Mason H. Rose V,

Chairperson.

[FR Doc. 81-17284 Filed 6-10-81; 8:45 am]

BILLING CODE 4000-07-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201, 1241 and 1248

[Docket No. 37614]

Elimination of Accounting and Reporting Requirements of Class II Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of comment date.

SUMMARY: By notice of proposed rulemaking published in the Federal Register May 5, 1981 (46 FR 25114), the Commission proposed to eliminate all accounting and reporting requirements of Class II railroads. The Association of American Railroads (AAR) has requested an extension for filing comments in this proceeding. As set forth in our May NPR, the current comment date is June 19, 1981. The AAR requested the comment date be extended to August 1, 1981. The request shall be granted in order to give parties sufficient time to develop their positions and prepare comments.

DATE: Comments are due August 3, 1981.

ADDRESSES: Send comments with 10 copies, if possible, to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr.; Phone No. (202) 275–7448.

Decided: June 3, 1981.

By the Commission, Marcus Alexis, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17276 Filed 6-10-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 112
Thursday, June 11, 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

Federal Grain Inspection Service

Request for Comments on Applicants for Designation in the Area Currently Serviced by the Illinois Department of Agriculture

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the area currently serviced by the Illinois Department of Argriculture. Illinois requested voluntary cancellation of its designation effective 12 p.m., June 30, 1981.

DATE: Comments to be postmarked on or before June 26, 1981.

ADDRESS: Comments should be submitted to USDA, FGIS, Issuance and Coordination Staff, Room 1127, Auditors Building, 1400 Independence Avenue, S.W., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service; (202) 447–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291; therefore, the Executive Order does not apply to this action.

The May 11, 1981, issue of the **Federal Register** (46 FR 25329) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the area currently serviced by the Illinois Department of Agriculture (Illinois), Springfield, Illinois. Applications were to be postmarked by May 21, 1981. Eleven applicants requested to be designated as an official agency in all or a portion of the geographic area currently serviced by Illinois.

The following persons who are proposing to establish a new official agency have applied for designation:

James W. Barton, a licensed inspector with the Illinois Department of Agriculture, Marion, Illinois;

Holger Danielson, Division Director of the Missouri Department of Agriculture, Jefferson City, Missouri;

Charles L. Harl, a licensed inspector with the Illinois Department of Agriculture, Mt. Vernon, Illinois; and

Howard K. Saylor, a licensed inspector with the Missouri Department of Agriculture, St. Louis, Missouri.

The following existing official agenceis have applied for designation (If designated, this action would result in an amendment to their presently assigned geographic area in accordance with § 800.207 of the regulations under the Act.):

Alton Grain Inspection Department, Alton, Illinois, Owner and Chief Inspector: Thomas P. Russell;

Cairo Grain Inspection Agency, Cairo, Illinois, Owner and Chief Inspector: Robert P. Fronabarger;

Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois, Sole Stockholders and Chief Inspectors: Charles Cratz and Thomas King;

Eastern Iowa Grain Inspection and Weighing Service, Inc., Blue Grass, Iowa, President and Chief Inspector: Joseph L. Slater;

Evansville Grain Inspection, Evansville, Indiana, Owner and Chief Inspector: James Goodge, Sr.;

Paris Illinois Grain Inspection, Paris, Illinois, Owner and Chief Inspector: Robert R. Beals; and

Quincy Grain Inspection and Weighing Service, Quincy, Illinois, Owner and Chief Inspector: Anthony L. Marquardt.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to the Issuance and Coordination Staff, specified in the address section of this notice, and postmarked not later than June 26, 1981.

The Administrator of FGIS has determined that a 15-day comment period would not impose any undue obligations on others and, under the circumstances, provides a sufficient period of time for comments while expediting the designation process.

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, DC on: June 5, 1981.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 81-17283 Filed 6-10-81; 8:45 am]

BILLING CODE 3410-02-M

CIVIL RIGHTS COMMISSION

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 10 a.m. and will end at 12 p.m., on June 30, 1981, at the Wesley House, 2001 North 35th Street, Omaha, Nebraska. The purpose of this meeting is the discussion and progress report on Omaha Police Community Relations Study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Shirley M. Marsh, 2701 South 34th Street, Lincoln, Nebraska 68509, or the Central States Regional Office, Old Federal Office Building, Room 3130, 911 Walnut Street, Kansas City, Missouri, 64106, (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 5, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-17291 Filed 6-10-81; 8:45 am]

BILLING CODE 6335-01-M

Texas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on June 26, 1981, at the Southwestern Regional Office, 418 South Main, San Antonio, Texas 78204. The purpose of this meeting is for the Southwest Texas Subcommittee to discuss current program activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Denzer Burke, 1421 Pine Street, Texarkana, Texas 75501, (214) 749-8222 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Committee.

Dated at Washington, D.C., June 8, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-17290 Filed 6-10-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Ceramic Wall Tile From the United Kingdom; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 20, 1981, the Department of Commerce published the preliminary results of its administrative review and its tentative determination to revoke the antidumping finding on ceramic wall tile from the United Kingdom. The review covered the only known exporter, H & R Johnson, Ltd., and the period December 1, 1975 through December 31, 1979. Interested parties were provided an opportunity to submit written comments or request disclosure and/or a hearing. Oral comments were made by the petitioner during the course of a disclosure meeting. The Department made no adjustments to its calculations as a result of these comments.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3986).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 18, 1971, a dumping finding with respect to ceramic wall tile from the United Kingdom was published in the **Federal Register** as Treasury Decision 71-129 (36 FR 9009-10). On June 26, 1974, the Department of the Treasury published in the **Federal Register** a notice excluding Pilkington's Tiles Sales, Ltd. from the scope of the finding (39 FR 20786). On March 20, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review and its tentative determination to revoke the finding (46 FR 17820-21).

The Department has now completed its administrative review of the finding.

Scope of the Review

Merchandise covered by this review is glazed ceramic wall tile, currently classifiable under item 532.2400 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of only one exporter of ceramic wall tile from the United Kingdom to the United States still covered by the finding. That firm is H & R Johnson, Ltd. The review covers the period December 1, 1975 through December 31, 1979.

Final Results of the Review

The Department received a request from the petitioner for a disclosure meeting, which was held on April 20, 1981. During disclosure, the petitioner requested the right to comment before final revocation by the Department. The Department has agreed. The petitioner made no other comments.

The preliminary results of our review indicated that all sales by H & R Johnson, Ltd., with the exception of several isolated sales on which *de minimis* margins were found, were made at not less than fair value for the period December 1, 1975 through December 31, 1979. The final results of our review are the same as these preliminary results. The Department will issue appraisement instructions directly to the Customs Service.

The Department intends to conduct an additional administrative review covering the period January 1, 1980 through March 20, 1981. Upon completion of that review, the Department will decide whether or not to revoke the finding on ceramic wall tile from the United Kingdom. The results of that review and decision will be published in a subsequent notice.

As required by § 353.48(b) of the Commerce Regulations, a cash deposit of 0 (zero) percent shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the present review. 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 of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

June 5, 1981.

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

June 5, 1981.

[FR Doc. 81-17241 Filed 6-10-81; 8:45 am]

BILLING COD 3510-25-M

Pig Iron From Canada; 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 pig iron from Canada. The review covers the three known shippers of this merchandise to the United States presently under the finding and separate time periods for each shipper up to June 30, 1980. The review indicates the existence of dumping margins in particular periods for one of the three shippers.

As a result of the review the Department has preliminarly determined to assess dumping duties for that shipper equal to the calculated differences between United States price and foreign market value on each of its shipments during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Betsy E. Stillman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4833).

SUPPLEMENTARY INFORMATION:

Procedural Background

On July 24, 1971, a dumping finding with respect to pig iron from Canada

was published in the Federal Register as Treasury Decision 71-193 (36 FR 13780). On May 12, 1975, Treasury Decision 75-107 was published in the Federal Register excluding shipments made by Quebec Iron and Titanium ("QIT") from the scope of the finding (40 FR 20617). 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 pig iron from Canada. 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 pig iron, currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of three firms engaged in the manufacture or shipment of pig iron to the United States and presently covered by the finding. This review covers all three firms for all time periods up to June 30, 1980 during which these companies shipped pig iron to the United States and for which appraisement instructions ("master lists") have not been issued. For this reason, different time periods are involved for different companies. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued master lists, is under review. Liquidation has been suspended pending disposition of the issue.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act or section 203 or 204 of the 1921 Act, as appropriate. Except in the case of one company, Abex Industries, Ltd. ("Abex"), purchase price was based on the price to an unrelated purchaser in the United States. For Abex, because sufficient company records no longer exist, we used the best information available for its two entries of 120 tons. Exporter's sales price was based on the price to the first unrelated purchaser in the United States. Where applicable, deductions were made for U.S. duty, lake freight, U.S. inland freight, loading charges, commissions to unrelated parties, and selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price or the price to purchasers in third countries (Japan) when sufficient sales did not exist in the home market, both as defined in section 773 of the Tariff Act or sections 205 or 206 of the 1921 Act. The foreign market values were adjusted, where applicable, for discounts and commissions paid to unrelated parties. Finally, we allowed as an offset selling expenses up to the amount of U.S. commissions paid to unrelated parties, in accordance with section 353.15 of the Commerce Regulations and § 153.10 of the Customs Regulations. No other adjustments were claimed or allowed.

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:

Shipper	Time period	Margin (percent)
Abex Industries, Ltd	9/1/74-12/31/74	0
	1/1/75-6/30/80	[1] 0
Algoma Steel Corp. Ltd	5/1/77-6/30/80	0
	6/71 (one entry)	0
Dofasco Inc	1/1/74-12/9/76	0
	12/10/76-12/31/77	3.9
	7/1/78-4/30/79	3.1
	5/1/78-6/30/80	2.7

[1] No shipments during period.

Interested parties may submit written comments on these preliminary results on or before July 13, 1981 and may request disclosure and/or a hearing on or before June 26, 1981. Any request for an administrative protective order must be made no later than June 16, 1981. The Department will publish the final results of the administrative review including the results of 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 or export dates, as appropriate, 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 shipper 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 pig iron 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).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

June 5, 1981.

[FR Doc. 81-17242 Filed 6-10-81; 8:45 am]

BILLING CODE 3510-25-M

Potassium Chloride, Otherwise Known as Muriate of Potash, From Canada; Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The U.S. International Trade Commission published in the Federal Register of April 15, 1981 its determination that "an industry in the United States would not be materially injured, nor threatened with material injury, by reason of imports of potassium chloride from Canada covered by the antidumping order if the order were to be modified or revoked."

As a result, the Department of Commerce is revoking the finding of dumping applicable to potassium chloride, otherwise known as muriate of potash, from Canada.

EFFECTIVE DATE: April 15, 1981.

FOR FURTHER INFORMATION CONTACT: Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-2496).

SUPPLEMENTARY INFORMATION:

Procedural Background:

On December 19, 1969, a dumping finding with respect to potassium chloride, otherwise known as muriate of potash, from Canada was published in the Fedeal Register as Treasury Decision 69-265 (34 FR 19904). Imports

covered by this finding are shipments of potassium chloride, currently classifiable under item number 480.5000 of the Tariff Schedules of the United States Annotated (TSUSA). 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 20511–12) a notice of intent to conduct administrative reviews of all outstanding dumping findings.

On December 11, 1980, the U.S. International Trade Commission (ITC), at the request of Texasgulf, Inc., instituted an investigation on potassium chloride from Canada under section 751(b) of the Tariff Act. As a result of its investigation, the ITC determined that an industry in the United States would not be materially injured, nor threatened with material injury, by reason of imports of potassium chloride from Canada covered by the antidumping order (finding) if the order were to be modified or revoked. The ITC published its determination in the **Federal Register** on April 15, 1981 (46 FR 22083–87).

Revocation of Finding

The Department of Commerce, as administering authority, revokes the antidumping finding for all exports of potassium chloride, otherwise known as muriate of potash, from Canada. This revocation applies to all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after April 15, 1981. The Department will instruct Custom officers to proceed with liquidation of this merchandise without regard to antidumping duties.

Unappraised entries of potassium chloride from Canada, made prior to April 15, 1981 and covered by the finding remain unaffected by this notice, and continue to be subject to appraisement under the antidumping finding. As required by section 751 of the Tariff Act, the Department is currently conducting its administrative review of the finding on potassium chloride from Canada. The results of this review, which covers varying time periods through November 30, 1980, will be published in a subsequent notice. In addition, the Department will conduct an administrative review of shipments of potassium chloride from Canada to the United States from December 1, 1980 through April 15, 1981, the effective date of the revocation. These results will also be published in a subsequent notice.

We are discontinuing the practice of updating the table in Annex I to Part 353 of the Commerce Regulations. Instead, interested parties may contact the Director of the Office of Compliance, International Trade Administration, for copies of the updated list of antidumping findings and orders.

This revocation is in accordance with section 751(c) of the Tariff Act (19 U.S.C. 1675).

B. Waring Partridge, III,

Acting Deputy Assistant Secretary For Import Administration.

June 4, 1981.

[FR Doc. 81-17243 Filed 6-10-81; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

June 4, 1981.

This announcement under Federal Assistance Catalogue Number 11.800 is to solicit applications for a Native American Portfolio Consultant Services Program in the Minority Business Development Agency, Dallas Region which includes the States of Montana, North Dakota, South Dakota, Wyoming, and Utah. The Project will operate at a cost not to exceed $282,300 under Project I.D. Number 08–10–80025–01. Executive Order 11625 authorizes the Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, to fund projects which will provide technical and management assistance to minority business enterprise. This proposed project is specifically designed to provide an intensive management and technical assistance in a portfolio manner to an identified minimum number of Native American businesses in the five northern States of Montana, North Dakota, South Dakota, Utah and Wyoming.

This project or program is *not* subject to OMB Circular A–95 for the project notification and review system.

Program Description

The basic mission of the Native American Portfolio Consultant Service Program is to provide management consulting services to Native American clients. The purpose of those services is to improve the operation of existing business or to increase the chances for success of proposed ventures. Towards that end, the recipient shall:

1. Assist clients in the development of their individual business plans. A business plan is required to be on file for each client as follows:
   - Each plan should include as a minimum, the objectives of the assistance to be provided.
   - A description of the business and its operations.
   - Identification of the needs, issues and problems of the business and the entrepreneur, how these needs will be met and those issues and problems resolved.
   - An analysis of the financial situation of the business with an indication of how its financial needs will be met.
   - An analysis of the firm's marketing position and, if indicated, the strategy to improve it.
   - A schedule of activities to be undertaken to meet the assistance and business objectives based on the priority assigned to those objectives.
   - The financial element of the plan should attempt to reduce debt financing.
   - The marketing elements should target beyond the minority community and the domestic buyer.
2. Use the business plan as a dynamic document subject to perodic modification which shall serve as the basis for continuing, in-depth services to the client.
3. Use, in providing assistance to a client, resources beyond those available in house. These may include:
   - Other MBDA funded activities.
   - Suppliers of business products and/or services.
   - Other experts, both paid and voluntary.
4. Assist the client, when the client agrees that every avenue of assistance has been exhausted and there is no chance of restructuring or salvage, in an orderly dissolution of the business in order to protect the integrity and credit of the client.
5. Provide for minority construction contractor's assistance in preparation of cost, schedule and contingency analysis for bid proposals, job planning and control, and in the development of union agreements. This includes assistance in the analysis and interpretation of specifications and plans.
6. Maintain information about business opportunities, alternative sources of business assistance, education and training opportunities, and requirements for doing business in a given geographic area, i.e., registration, licenses, taxes, etc., for the benefit of all applicants.
7. Inform clients that financial and business information may be reviewed

by Regional MBDA program staff for the purposes of collecting minority data and validation of services. Otherwise client information will be held in confidence.

8. Direct the client to sources of information, assistance, and training and encourage him/her to take advantage of them. It is critical that the client firm have or develop the management capacity to implement the business plan, therefore, concentration on management development is essential.

9. Develop and utilize a system to identify potential clients: use techniques that will reach the maximum number of Native American businesspersons and Native American persons who aspire to business ownership.

10. Assist minority clients to take advantage of the opportunities available under P.L. 95–507.

11. Assure that suitable portfolio clients are registered with the National Minority Data Bank, through the Office of Policy and Market Development, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

12. Support ongoing and special initiatives sponsored by MBDA. The performance activities associated with these initiatives will be evaluated in the same manner as performance of other items specified in the scope of work. The principal source of direction for these activities will be the designated Regional MBDA Project Officers. Activities which require additional effort on the part of the recipient are subject to negotiation with the Project Administrator.

Eligibility Requirements

Any for-profit or non-profit institution is eligible to submit an application. If an award is made, continuation of awards of up to two additional years may be made to the successful recipient without competition, provided that: (1) Funds have been appropriated for a project of this kind, (2) MBDA has determined that such funds are available, (3) there is a continuing need for a project of this kind, and (4) the recipient has performed satisfactorily.

Application Procedure

An application kit is available by written request to the following address: Mr. Richard L. Greene, Grant/Cooperative Agreement Specialist, Department of Commerce/MBDA, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

The closing date for submiting an application is Close of Business, July 17, 1981. Applications received after this date will not be considered for funding.

Expected date of award for this grant is September 1, 1981.

Ruben Porras,

Deputy Regional Director.

[FR Doc. 81-17287 Filed 6-10-81; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel; Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The purpose of the meeting is to discuss the current posture and future outlook of the Sea Grant Program. A joint discussion will be held with the Sea Grant Directors on the second day to duscuss potential changes impacting the operational strategy, legislation, administrative, and fiscal changes, as well as future role of the Review Panel.

DATE: The announced meeting is scheduled for two days, July 21 and 22, 1981 as follows: July 21, 1981 2:00–5:00 p.m.; July 22, 1981 9:00–5:00 p.m.

ADDRESS: The meeting will be held at: Washington Marriott Hotel, 1221 22nd Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8894.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Public Law 94–461. This Act, signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this program.

The agenda for the meeting is:

Tuesday, July 21, 1981

2:00–5:00 p.m.—Discussion of current posture and nature of problems facing the Sea Grant Program

Wednesday, July 22, 1981

9:00–12:00 noon—Discussion with Sea Grant Directors on: Restructuring of Sea Grant Program; Legislation changes; Administrative changes; Fiscal changes

2:00–5:00 p.m.—Future Role of the Review Panel

The meeting will be open to the public.

Dated: June 5, 1981.

Francis J. Balint,

Acting Director, Office of Information and Management Services.

[FR Doc. 81-17280 Filed 6-10-81; 8:45 am]

BILLING CODE 3510-12-M

COMMODITY FUTURES TRADING COMMISSION

Terms and Conditions of the Proposed Corporate Bonds Futures Contract of the New York Futures Exchange, Inc.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rules.

SUMMARY: The New York Futures Exchange ("NYFE") has applied for designation as a contract market in 25-Year Corporate Bonds. The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of this proposed futures contract are of major economic significance and that, accordingly, publication of the proposed terms and conditions is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act, as amended.

DATE: Comments must be received on or before August 10, 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 NYFE 25-Year Corporate Bond futures contract.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955; or Ronald Hobson, Division of Economics and Education, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The terms and conditions of NYFE's proposed 25-Year Corporate Bond futures contract are as follows:

25-Year Corporate Bond Futures Contract

Scope of Chapter

Rule 1200 This chapter governs transactions involving contracts for the future delivery of 25-year corporate bonds issued by certain United States corporations ("25-Year Corporate Bond Futures Contracts"). The 25-Year Corporate Bond Futures Contract and all trading therein shall be subject to the Rules contained in this chapter, the Rules of the Exchange and the Rules of the Clearing Corporation.

Obligation of Parties to Contract

Rule 1201 The seller under any 25-Year Corporate Bond Futures Contract agrees to sell and deliver to the purchaser, and the purchaser agrees to buy and receive from the seller, the delivery unit specified in these Rules in the delivery month and for the price agreed upon at the time the contract is transacted, in accordance with the Rules of the Exchange and the Rules of the Clearing Corporation. The standard grade for delivery under the 25-Year Corporate Bond Futures Contract shall be bonds (including debentures and other general obligation long-term debt instruments, but not including any bonds secured by liens, mortgages, or security interests on real or personal property) that:

(1) are issued by American Telephone and Telegraph Company, a New York corporation ("AT&T"), or any Eligible Subsidiary. The term "Eligible Subsidiary" shall mean a corporation, at least 51 percent of whose outstanding shares of stock of every class is owned by AT&T, which is organized under the laws of one of the 48 states of the continental United States and doing business in at least one such state or the District of Columbia, and engaged primarily in the business of furnishing communication services and local and toll telephone services;

(2) are of an issue of securities which: (a) on delivery day are registered under the Securities Exchange Act of 1934, and are rated AAA by Standard & Poor's Corporation and Aaa by Moody's Investor Services, Inc., and (b) had an aggregate principal amount of not less than $20 million when issued;

(3) have not less than 25 years to maturity on the first calendar day of the delivery month; and

(4) are not callable for at least two years after the first calendar day of the delivery month or, if callable sooner, have a market value on the first calendar day of the delivery month of 90 percent or less of face value. For the purposes of this chapter, the term "market value" shall mean the amount which is derived by discounting the total coupon payments remaining on the bond to maturity plus the principal value of the bond at maturity by the settlement yield.

(b) The settlement yield of a delivery unit on delivery day shall be a yield derived from the settlement price of the contract on the day the delivery notice is issued with respect to such contract on a yield-to-maturity basis and shall assume 25 years to maturity and an annual interest rate of 10 percent paid semi-annually.

Delivery Unit

Rule 1203 The delivery unit for 25-Year Corporate Bond Futures Contracts shall be bonds of the same issue having an appregate face value at maturity of $100,000.

Months Traded

Rule 1204 Trading in 25-Year Corporate Bond Futures Contracts shall be conducted for delivery in February, May, August and November and shall at all times be conducted in eight delivery months. Trading in a new delivery month shall be initiated at the opening of trading on the first Exchange business day following the last trading day for any delivery month.

Price Basis

Rule 1205 The price shall be quoted as a figure which is based upon the assumption that the par value of a delivery unit equals 100 points. Minimum price fluctuations shall be in amounts of 1/32 of a point. The dollar value of 1/32 of a point shall be $31.25.

Limits on Daily Price Changes

Rule 1206 (a) Except as provided in paragraphs (b) and (c) of this Rule, there shall be no trading at a price more than 9 9/32, or its equivalent, above or below the preceding day's settlement price for contracts in the same delivery month (the "normal daily price limit").

(b) Notwithstanding paragraph (a) of this Rule, whenever on two successive days any delivery month closes at the normal daily price limit in the same direction (not necessarily the same delivery month on both days), an expanded daily price limit schedule shall go into effect for all delivery months as follows:

(1) The third day's daily price limit shall be 150 percent of the normal daily price limit.

(2) If any delivery month closes at its expanded daily price limit on the third day in the same direction, then the fourth day's expanded daily price limit for all delivery months shall be 200 percent of the normal daily price limit.

(3) If any delivery month closes at its expended daily price limit on the fourth day in the same direction, then there shall be no daily price limit on the fifth day. The normal daily price limit will be reinstated on the sixth day.

(4) Whenever any of the foregoing expanded daily price limits is in effect and no delivery month closes at the expanded daily price limit in the same direction which initiated or maintained the expanded daily price limit, then normal daily price limit shall be reinstated on the following day.

(c) Notwithstanding paragraph (a) of this Rule, there shall be no limit on daily contract price changes for any current delivery month on and after the first Exchange business day of that delivery month.

Position Limits

Rule 1207 The Board from time to time may set limits on the maximum long or short position in any one delivery month or in all delivery months combined which any individual or organization acting alone or in concert with any other person may hold or control in 25-Year Corporate Bond Futures Contracts at the end of any business day.

Reportable Positions

Rule 1208 The Board from time to time may set the number of contracts, long or short, in any one delivery month or in all delivery months combined which shall be a reportable position for 25-Year Corporate Bond Futures Contracts in any account. Every member and member organization shall report each and every reportable position to the Exchange at such times and in such form and manner as shall be prescribed by the Exchange.

Hours of Trading

Rule 1209 The hours of futures trading in 25-Year Corporate Bond Futures Contracts shall be from 9:00 a.m. to 4:00 p.m. New York time on all Exchange business days, except that on the last trading day in any delivery month, trading in contracts for delivery in such month shall terminate at 11:00 a.m. New York time.

Last Trading Day

Rule 1210 No trades in 25-Year Corporate Bond Futures Contracts deliverable in the current delivery month shall be made after the close of trading on the last notice day of that delivery month.

Delivery Under Futures Contracts

Rule 1211 (a) All deliveries under 25-Year Corporate Bond Futures Contracts shall be made through the Clearing Corporation, in accordance with the Rules of the Exchange and the Clearing Corporation.

(b) For purposes of this chapter, the following terms shall have the meanings indicated, unless the context otherwise requires:

(1) The term "first notice day" shall mean the first day on which a delivery notice may be issued to the Clearing Corporation and, with respect to any delivery month, shall be the twentieth day of such delivery month or, if such day is not an Exchange business day, the first Exchange business day thereafter.

(2) The term "last notice day" shall mean the last day on which a delivery notice may be issued to the Clearing Corporation and, with respect to any delivery month, shall be the fifth Exchange business day after the first notice day of such delivery month.

(3) The term "delivery day" shall mean the day on which a 25-Year Corporate Bond Futures Contract is to be settled by delivery and payment in accordance with these Rules and shall be the fifth Exchange business day after the day on which a delivery notice is issued with respect to such Contract.

(4) The term "first delivery day" shall mean the first day on which a 25-Year Corporate Bond Futures Contract may be settled by delivery and, with respect to any delivery month, shall be the fifth Exchange business day after the first notice day.

(5) The term "last delivery day" shall mean the last day on which a 25-Year Corporate Bond Futures Contract may be settled by delivery and, with respect to any delivery month, shall be the fifth Exchange business day after the last notice day of such delivery month.

(6) The term "notice period" shall mean the time period in any current delivery month of a 25-Year Corporate Bond Futures Contract between the first notice day and the last notice day, both inclusive.

(7) the term "delivery notice" shall mean a notice, on a form prescribed by the Clearing Corporation, issued to the Clearing Corporation by clearing members who are, or who carry accounts for others who are, holding short positions in 25-Year Corporate Bond Futures Contracts that are to be settled by delivery.

(8) The term "receive notice" shall mean a notice, on a form prescribed by the Clearing Corporation, issued to the Clearing Corporation by clearing members who are, or who carry accounts for others who are, holding long positions in 25-Year Corporate Bond Futures Contracts that are to be settled by delivery.

(c) Any clearing member which has, or carries accounts for others which have, an open short position in 25-Year Corporate Bond Futures Contracts on any day during the notice period may issue a delivery notice with respect to each such open position not later than 5:00 p.m. on any Exchange business day during the notice period and shall issue a delivery notice with respect to any such open position held at the close of trading on the last notice day not later than 12:00 p.m. on the last notice day.

(d) The Clearing Corporation shall allocate the delivery notices received on each day during the notice period among clearing members which have, or which carry accounts for others which have, open long positions in 25-Year Corporate Bond Futures Contracts at the close of trading on such day.

(e) The Clearing Corporation shall issue delivery instructions to clearing members which have been allocated delivery notices pursuant to paragraph (d) of this Rule before 9:00 a.m. on the first Exchange business day after delivery notices are received, except that with respect to delivery notices received on the last notice day, such instructions shall be issued before 12:00 p.m. on the first Exchange business day after last notice day. The delivery instructions shall include: a full description of the bonds to be delivered; the amount of money to be paid by the clearing member; the delivery day; and such other information as the Clearing Corporation may consider necessary or appropriate to effect settlement by delivery.

(f) Any clearing member which receives delivery instructions pursuant to paragraph (e) of this Rule shall issue a receive notice before 1:00 p.m. on the day such delivery instructions are issued to such clearing member.

(g) The Clearing Corporation shall issue delivery instructions to clearing members which have issued delivery notices pursuant to paragraph (c) of this Rule before 4:00 p.m. on the first Exchange business day after such delivery notices are received, except that with respect to delivery notices received on the last notice day, such instructions shall be issued before 1:00 p.m. on the first Exchange business day after last notice day. The delivery instructions shall include: the amount of money to be paid to such clearing member; the delivery day; and such other information as the Clearing Corporation may consider necessary or appropriate to effect settlement by delivery.

(h)(1) The amount to be paid for a delivery unit by clearing members who have, or who carry accounts for others who have, open long positions shall equal the price of the bond or bonds delivered, as hereinafter defined, plus accrued interest. Any such clearing member shall make payment not later than 2:00 p.m. on delivery day and shall take such actions and execute and deliver such documents as may be required to take delivery in accordance with delivery instructions received pursuant to paragraph (e) of this rule.

(2) The price of the bond or bonds shall be determined as follows:

(a) If the annual interest rate payable on any bond is less than or equal to the settlement yield, then such bond shall be priced on a yield-to-maturity basis in accordance with the following formula:

$$\text{Bond Price} = \sum_{t=1}^{n} \frac{I_t}{(1+SY)^t} + \frac{1000}{(1+SY)^n}$$

where:

n = the number of semi-annual interest payments remaining until the bond matures

I_t = the semi-annual interest payment in time t

SY = the settlement yield

(b) If the annual interest rate payable on any bond exceeds the settlement yield, then such bond shall be priced on a yield-to-first-call basis in accordance with the following formula:

$$\text{Bond Price} = \sum_{t=1}^{n} \frac{I_t}{(1+SY)^t} + \frac{CP}{(1+SY)^n}$$

where:

n = the number of semi-annual interest payments remaining until the first call date on the bond

SY = the settlement yield

I_t = the semi-annual interest payment in time t

CP = the initial call price

(i) Clearing members who have, or who carry accounts for others who have, open short positions with respect to which delivery notices have been issued shall deliver the delivery unit not later than 1:00 p.m. on delivery day and shall take such actions and execute and deliver such documents as may be required to make delivery in accordance with delivery instructions received pursuant to paragraph (g) of this rule.

Copy of Delivery Notice to Commission

Rule 1212 Every clearing member shall furnish promptly to the Commission a copy of each delivery notice issued by such member in conjunction with the delivery of bonds under a 25-year Corporate Bond Futures Contract.

Costs of Delivery

Rule 1213 Except as may otherwise be agreed by the parties, all costs incurred in connection with deliveries under the 25-Year Corporate Bond Futures Contract shall be borne by the clearing member making delivery of bonds.

Delinquency in Performance

Rule 1214 If a clearing member fails to perform any acts required by this chapter or fails to deliver or accept delivery as required under Clearing Corporation Rules 502 and 503, respectively, the clearing member will be subject to disciplinary action, and the Exchange may assess such clearing member for the expenses associated therewith.

* * * * *

Other materials submitted by NYFE in support of its application for contract market designation 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)). 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 terms and conditions of the proposed futures contracts, or with respect to other materials submitted by NYFE in support of its application for contract market designation, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by August 10, 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 June 5, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-17295 Filed 6-10-81; 8:45 am]

BILLING CODE 6351-01-M

Terms and Conditions of the Proposed New York Stock Exchange Equity Indexes Futures Contracts of the New York Futures Exchange, Inc.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rules.

SUMMARY: The New York Futures Exchange ("NYFE") has applied for designation as a contract market in four New York Stock Exchange Equity Indexes. The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of these proposed futures contracts are of major economic significance and that, accordingly, publication of the proposed terms and conditions is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before August 10, 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 NYFE's Application for NYSE Equity Indexes Futures Contracts.

FOR FUTURE INFORMATION CONTACT: Linda Kurjan, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955; or Ronald Hobson, Division of Economics and Education, 2033 K Street NW., Washington, D.C. 20851, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The terms and conditions of NYFE's proposed New York Stock Exchange Equity Indexes futures contract are as follows:

NYSE Equity Index Futures Contracts

Scope of Chapter

Rule 1100 This chapter governs transactions involving contracts for the future delivery of the value of the New York Stock Exchange Composite Index, the New York Stock Exchange Transportation Index, the New York Stock Exchange Utility Index and the New York Stock Exchange Financial Index (each of the foregoing Indexes shall be referred to as an "NYSE Equity Index"). The term "NYSE Equity Index Futures Contract" shall mean a contract for the future delivery of any such NYSE Equity Index. Each NYSE Equity Index Futures Contract, regardless of the NYSE Equity Index underlying such contract, and all trading therein shall be subject to the rules contained in this chapter, the Rules of the Exchange and the Rules of the Clearing Corporation.

Obligations of Parties to Contract

Rule 1101 The seller under any NYSE Equity Index Futures Contract agrees to deliver to the purchaser, and the purchaser agrees to receive from the seller, $2000 times the NYSE Equity Index underlying such contract in accordance with the Rules of the Exchange and the Rules of the Clearing Corporation.

Months Traded

Rule 1102 (a) Trading in each NYSE Equity Index Futures Contract shall be conducted for delivery in the following months:

(1) The current calendar month and the two calendar months following the current month (the "spot months"); and

(2) March, June, September and December (the "cycle months") beginning with the first cycle month following the last spot month.

(b) Trading shall at all times be conducted in ten delivery months. Trading in a new delivery month shall be initiated at the opening of trading on the first Exchange business day following the last trading day for any delivery month.

Price Basis

Rule 1103 Prices shall be quoted as figures which are the NYSE Equity Indexes underlying the contracts to the nearest one-hundredth. Minimum price fluctuations shall be .01 and shall be known as one basis point. The dollar value of one basis point shall be $20.

Limits on Daily Price Changes

Rule 1104 With respect to each NYSE Equity Index Futures Contract market and the futures contracts traded therein:

(a) Except as provided in paragraphs (b) and (c) of this Rule, there shall be no trading at a price more than 100 basis points above or below the preceding day's settlement price for contracts in the same delivery month (the "normal daily price limit").

(b) Notwithstanding paragraph (a) of this Rule, whenever on two successive days any delivery month closes at the normal daily price limit in the same direction (not necessarily the same delivery month on both days), an expanded daily price limit schedule shall go into effect for all delivery months as follows:

(i) The third day's daily price limit for all delivery months shall be 150% of the normal daily price limit.

(ii) If any delivery month closes at its expanded daily price limit on the third day in the same direction, then the fourth day's expanded daily price limit for all delivery months shall be 200% of the normal daily price limit.

(iii) If any delivery month closes at its expanded daily price limit on the fourth day in the same direction, then there shall be no daily price limit for any delivery month on the fifth day. The normal daily price limit will be reinstated on the sixth day.

(iv) Whenever any of the foregoing expanded daily price limits is in effect and no delivery month closes at the expanded daily price limit in the same direction which initiated or maintained the expanded daily price limit, then the normal daily price limit shall be reinstated on the following day.

(c) Notwithstanding paragraph (a) of this Rule, there shall be no limit on daily contract price changes for any NYSE Equity Index Futures Contract which must be settled in any current delivery month on and after the first Exchange business day of that delivery month.

Position Limits

Rule 1105 The Board from time to time may set limits on the maximum long or short position in any one delivery month or in all delivery months combined which any person acting alone or in concert with other persons may hold or control in any or all NYSE Equity Index Futures Contracts at the end of any business day.

Reportable Positions

Rule 1106 The Board from time to time may set the number of contracts, long or short, in any one delivery month or in all delivery months combined that shall be a reportable position for any or all NYSE Equity Index Futures Contracts in any account. Every member and member organization shall report each and every reportable position to the Exchange at such times and in such form and manner as shall be prescribed by the Exchange.

Hours of Trading

Rule 1107 The hours of futures trading in all NYSE Equity Index Futures Contracts shall be from 10:00 a.m. to 4:00 p.m., New York time, on all Exchange business days, including the last trading day.

Last Trading Day

Rule 1108 No trades in any NYSE Equity Index Futures Contract which must be settled in any current delivery month shall be made after the close of trading on the Exchange business day before the last Exchange business day of that delivery month ("last trading day").

Settlement Of Futures Contracts

Rule 1109 (a) All settlements must be made through the Clearing Corporation.

(b) Final settlement under each NYSE Equity Index Futures Contract for any delivery month shall be made on the last Exchange business day of that delivery month ("final settlement day") and shall be made in the same manner and in accordance with the same procedures that payment of variation margin is made, except that on any final settlement day payments shall be made to the Clearing Corporation before 1:00 p.m. New York time and by the Clearing Corporation before 2:00 p.m. New York time.

(c) The amount to be paid in final settlement of each NYSE Equity Index Futures Contract shall be determined by multiplying $20.00 times the basis point difference between the settlement price of the previous trading day for such contract and the NYSE Equity Index underlying such contract as of the close of business on the last trading day of either the Exchange or the New York Stock Exchange, Inc., whichever comes later.

Delinquency in Performance

Rule 1110 If a clearing member fails to perform any acts required by this chapter or by the Clearing Corporation, the clearing member will be subject to disciplinary action, and the Exchange may assess such clearing member for the expenses associated therewith.

* * * * *

Other materials submitted by NYFE in support of its application for contract market designations 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)). 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 terms and conditions of the proposed futures contracts, or with respect to other materials submitted by NYFE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by August 10, 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 June 5, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-17296 Filed 6-10-81; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 81-C0007]

Century Products, Inc.; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a consent order agreement under the Consumer Product Safety Act.

SUMMARY: Under requirements of 16 CFR 118.20, the Commission must publish in the **Federal Register** consent agreements which it provisionally accepts under the Consumer Product Safety Act. Published below is a provisionally-accepted Consent Order Agreement with Century Products, Inc.

DATES: Any interested person may ask the commission not to accept this agreement by filing a written request with the Office of the Secretary by June 26, 1981.

ADDRESS: Persons who wish to comment on this Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, 1111–18th St., NW, Washington, DC 20207.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Ronald Yelenik, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION: Set forth below.

Dated: June 8, 1981.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commission.

Century Products, Inc., a Corporation. CPSC Docket No. 81–C0007.

Consent Order Agreement

This agreement is made by and between Century Products, Inc., a corporation (hereinafter, "Century Products" or "Respondent") and the staff of the Consumer Product Safety Commission (hereinafter, the "Commission") pursuant to 16 CFR 1118.20, in settlement of a complaint for a civil penalty pursuant to 15 U.S.C.

2069, which alleges that Century Products knowingly failed to report immediately to the Commission a defect in the 747 Command High Chair, Model 16–430, which could create a substantial product hazard, as required by 15 U.S.C. 2064(b)(2), in violation of 15 U.S.C. 2068(a)(4). A copy of the Complaint is attached hereto and incorporated herein by reference.

Century Products and the staff of the Commission stipulate and agree:

1. The Consumer Product Safety Commission has jurisdiction over Century Products and the subject matter of this Consent Order Agreement pursuant to 15 U.S.C. 2051 *et seq.*

2. Century Products is a corporation organized and existing under the laws of the state of Ohio, with its principal place of business located in Cleveland, Ohio. Century Products is engaged in the manufacture and sale of furniture and accessories, including high chairs, for infants.

3. Century Products "manufactured" and "distributed in commerce" as these terms are defined in 15 U.S.C. 2052(a)(8), (11), and (12), respectively, the 747 Command High Chair, Model 16–430 (hereinafter, the "High Chair").

4. The High Chair was produced and distributed in commerce for sale to consumers for use in and around a permanent or temporary household or residence, a school, in recreation, or otherwise, and is therefore, a "consumer product" within the meaning of 15 U.S.C. 2052(a).

5. Between March 1974, and February 1975, Century Products manufactured and distributed in commerce approximately 650 High Chairs that the staff of the Commission alleged contained a defective metal support plate (upon which seat rested) which presented a "substantial product hazard" within the meaning of 15 U.S.C. 2064(b), as more fully set forth in the complaint.

6. In the complaint, the staff of the Commission has alleged that Century Products knowingly failed to inform the commission immediately of the defect upon having obtained information which reasonably supported the conclusion that the High Chair contained a defect which could create a "substantial product hazard," as required by 15 U.S.C. 2064(b)(2), in violation of 15 U.S.C. 2068(a)(4), for which a civil penalty may be issued pursuant to 15 U.S.C. 2069. The staff of the Commission seeks in the complaint a civil penalty against Century Products in the sum of $50,000.

7. Without admitting the existence of a substantial product hazard or a violation of any reporting requirements under 15 U.S.C. 2064(b), and solely for the purposes of settling the complaint, Century Products hereby agrees to execute the attached promissory note and upon final acceptance of this Consent Order Agreement by the Commission, to pay the sum of $25,000 in accordance with the terms set forth in such promissory note. The terms of the promissory note and the consequences of default under such note have been fully explained to Respondent.

9. Full compliance by Century Products with the terms of the promissory note and this Consent Order Agreement will result in final settlement of any and all claims by the Commission of any kind whatsoever against Century Products arising out of the alleged defect in the High Chair, which is the subject of this complaint.

10. Upon final acceptance by the Commission of this Consent Order Agreement, Century Products knowingly and voluntarily waives any and all rights to an administrative or judicial hearing, and to any and all procedural stages, including the right to judicial review or otherwise to challenge or contest the validity of this Consent Order Agreement and the Commission's Order.

11. Upon execution of this Consent Order Agreement by Century Products and the Commission Staff, and provisional acceptance by the Commission, as provided in 16 CFR 1118.20(d), pursuant to 16 CFR 1118.20(e), this Consent Order Agreement will be made a matter of public record in the Commission's Public Calendar, and in the Federal Register for a period of fifteen days. The Commission will then consider and act upon the Consent Order Agreement pursuant to 16 CFR 1118.20(f) and (g).

12. This Consent Order Agreement only becomes effective upon final acceptance by the Commission, and service upon the consenting party.

13. Upon final acceptance, the Commission will disclose the terms of this Consent Order Agreement to the Public and will make the Consent Order Agreement available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street N.W., Washington, D.C. 20207.

Order

It is ordered that Century Products, Inc., in accordance with the terms of the attached promissory note, shall pay to the order of the United States Treasurer, the sum of twenty-five thousand dollars ($25,000) in full settlement of any and all claims of any kind whatsoever by the Consumer Product Safety Commission against Century Products arising out of an alleged defect in the 747 Command High Chair, Model 16–430, as more fully set forth in the complaint which accompanies the Consent Order Agreement executed by Century Products and the staff of the Commission on January 13, 1981.

Century Products, Inc., a corporation.

By Elmer Rocker,

President.

Ronald G. Yelenik,

Trial Attorny Counsel for the staff of the Consumer Product Safety Commission.

By direction of the Commission, this Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1118.20(s) and shall be placed on the public record, and the Commission shall announce provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the Federal Register.

So ordered by the Commission, this day of , 1980.

Sadye E. Dunn,

Secretary.

In the matter of Century Products, Inc., a corporation; CPSC Docket No. Complaint.

Nature of Proceeding

1. This is an Adjudicative Proceeding under the Consumer Product Safety Commission's Rules of Practice for Adjudicative Proceedings, 45 Fed. Reg. 29215 (May 1, 1980) (to be codified in 16 CFR Part 1025), for the assessment of a civil penalty against Century Products, Inc. in the sum of fifty thousand dollars ($50,000) pursuant to Section 20 of the Consumer Product Act, as amended (hereinafter, the "CPSA"), 15 U.S.C. 2051, 2069.

Respondent

2. Respondent Century Products, Inc. (hereinafter, "Century Products") is a Ohio corporation with its principal corporate office at 2150 West 114th Street, Cleveland, Ohio 44102. Century Products is a manufacturer of furniture and accessories, including high chairs, for infants; and is, therefore, a "manufacturer" within the meaning of Section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

Consumer Product

3. Century Products "manufacturers" and "distributes in commerce," as these terms are defined in Sections 3(a)(8), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(8), (11) and (12), respectively, the "747 Command High Chair," Model 16–430 (hereinafter, the "High Chair").

4. The High Chair is produced and distributed for sale to consumers for use in or around a permanent or temporary household or residence, a school, in

recreation, or otherwise, and is, therefore, a "consumer product" within the meaning of Section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

Defect

5. On or after December 26, 1972, Century Products manufactured and distributed in commerce approximately 650 High Chairs, which contained defective seating assemblies.

6. The seat of the High Chair rests on a metal support plate which is welded to a tubular, metal pedestal. During normal use, the collar of the metal support plate develops fatigue cracks. When the remaining material of the support plate can no longer support the weight in the chair, the chair seat suddenly breaks from the tubular metal pedestal and falls to the floor, along with any infant or child seated in the chair.

7. The sudden, unexpected breaking of the chair seat from the pedestal can result and has resulted in personal injury to infants or children seated in the chair at the time of the breakage.

8. The potential for sudden and unexpected breaking of the chair seat from the pedestal exists in all of the approximately 650 high chairs, and creates a substantial risk of injury to the public.

Violation

9. On or before June 27, 1975, a consumer informed Century Products that the seat of her infant's High Chair had broken from the pedestal.

10. On or before March 26, 1976, a consumer informed Century Products that the pedestal of her infant's High Chair broke while the infant was seated in the chair.

11. On or before May 7, 1976, a consumer informed Century Products that the seat of her infant's High Chair had broken from the pedestal while the infant was seated in the High Chair and that her daughter had required medical attention because of her fall.

12. On or before June 1, 1976, a consumer informed Century Products that the seat of her grandson's High Chair had fallen while her grandson was seated in it.

13. On or before January 7, 1977, a consumer informed Century Products that the seat of his High Chair had broken from the pedestal while his son was seated in the High Chair.

14. On January 25, 1977, Century Products informed the Commission staff of the defect in the High Chairs.

15. The potential for sudden and unexpected breaking of the seating assembly of the High Chair, as set forth in paragaphs 5 through 8 of this Complaint, could create a "substantial product hazard" as the term is defined in Section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

16. By June 1, 19786, and thereafter, Century Products had obtained information which reasonably supports the conclusion that the High Chair contained a defect which created or could create a substantial product hazard.

17. Century Products, during the time which it had obtained the information which reasonably supported the conclusion that the High Chair contained a defect which created or could create a substantial product hazard, was subject to the requirements for notification of defect pursuant to Section 15(b) of the CPSA, 15 U.S.C. 2064(b), and the Commission's regulations for substantial product hazard notification, then in effect, 16 CFR Part 1115.

18. Century Products knowingly failed to inform the Commission of the defect in the High Chair immediately upon having obtained information which reasonably supported the conclusion that this defect created or could create a substantial product hazard, as required by Section 15(b) of the CPSA, 15 U.S.C. 2064(b).

19. The failure of Century Products to furnish the information required by Section 15(b) of the CPSA, 15 U.S.C. 2064(b), is a prohibited act pursuant to Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

20. Century Products knowingly failed to furnish the information required by Section 15(b) of the CPSA, 15 U.S.C. 2064(b), in violation of Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), and is, therefore, subject to a civil penalty pursuant to Section 20 of the CPSA, 15 U.S.C. 2069.

Relief Sought

Wherefore, the staff of the Consumer Product Safety Commission believes that the following relief is in the public interest and requests that the Commission:

1. Determine that by June 1, 1976, and thereafter, Century Products had obtained information which reasonably supported the conclusion that the High Chair contained a defect which created or could create a "substantial product hazard" within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

2. Determine that Century Products knowingly failed to report immediately to the Commission that the High Chair contained a defect which created or could create a substantial product hazard, as required by Section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), in violation of Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

3. Assess a civil penalty against Century Products in the amount of fifty thousand dollars ($50,000.00) pursuant to Section 20 of the CPSA, 15 U.S.C. 2069, for knowingly violating Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

4. Grant such other and further relief as the Commission deems necessary and proper.

David Schmeltzer,

Associate Executive Director for Compliance and Enforcement, Consumer Product Safety Commission.

[FR Doc. 81-17387 Filed 6-10-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement (DEIS); Local Flood Protection Project on West Little Pine Creek Near Etna, Allegheny County, Pa.

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The Pittsburgh District of the Corps of Engineers is studying the feasibility of local flood protection measures in Etna, Pennsylvania along West Little Pine Creek. Preliminary studies have identified various possible structural and non-structural alternatives to eliminate or reduce the primary flood damages. The structural alternatives include a flood wall and/or a dike, deepening the channel, or a combination of these. Non-structural alternatives include temporary evacuation, privately financed flood proofing, flood insurance, and flood plain management.

The Corps participated in preliminary meetings with local, county, state and federal agencies interested in resolving the water resource problems of the entire Pine Creek watershed which includes West Little Pine Creek. Potential environmental and social impacts of the various possible flood control measures being considered appear to be restricted to the immediate project area and the approximate one-mile of Pine Creek between its juncture

with West Little Pine Creek and the Allegheny River. A formal scoping meeting will be held in the near future to identify the significant issues and concerns to be addressed in the DEIS. All interested federal, state, and local agencies, private organizations and parties are invited to attend this scoping meeting. For further details, contact Mr. James Purdy at the Pittsburgh District, U.S. Army Corps of Engineers, 1000 Liberty Avenue, Pittsburgh, PA 15222, commercial phone number (412) 644-6844 or FTS 722-6844. The DEIS should be available to the public by September, 1981.

Dated: June 5, 1981.

Joseph A. Yore,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 81-17292 Filed 6-10-81; 8:45 am]

BILLING CODE 3710-06-M

Nebraska; Application

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 USC 185), Kaneb Pipe Line Company has applied for a right-of-way easement to install, operate and maintain fuel-carrying pipeline in, through, and across the following U.S. Government-owned lands, said lands being a part of the Nebraska National Guard Weekend Training Site, Hasings, Nebraska.

Clay County Nebraska

T. 7 N., R. 8 W.,
Secs. 29, 30.

Adams County, Nebraska

T. 7 N., R. 9 W.,
Sec. 25.

The pipeline, in its entirety, will convey finished petroleum products from Geneva, Nebraska, to North Platte, Nebraska, as a common carrier.

The purpose of this publication is to inform the public that the Corps of Engineers will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Those persons who desire to make comments or objections should state their views in detail and send them to the District Engineer, Omaha District, Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, Nebraska 68102, on or before July 13, 1981.

Dated: June 4, 1981.

V. D. Stipo,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 81-17288 Filed 6-10-81; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Adams Resources and Energy, Inc.; Notice of Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), 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: Petition submitted to the Office of Hearings and Appeals: June 1, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3517.

SUPPLEMENTARY INFORMATION: On November 2, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Adams Resources and Energy, Inc., (Adams) of Houston, Texas on October 11, 1979, 44 FR 63136 (1979). A corrected notice was published on November 16, 1979, 44 FR 66024 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund amount paid by Adams pursuant to the Consent Order were requested to submit notice of their claims to the OE.

One comment was received on a timely basis. Another comment was received more than two months after the close of the comment period. Neither comment contained evidence which was materially inconsistent with evidence upon which the DOE's acceptance of the Consent Order was based. The Office of Enforcement has determined that the Consent Order, therefore, should not be modified.

Pursuant to the Consent Order, Adams refunded the sum of $80,000 by certified checks made payable to the United States Department of Energy. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

The following person submitted a timely notice of claim to the OE: Standard Oil Company (AMOCO)

A notice of a claim was also submitted by Exxon Company U.S.A. more than two months after the close of the comment period.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $80,000 or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals (OHA) on June 1, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* 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 4th day of June, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-17235 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-01-M

Gas Engine and Compressor Service; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), 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: Petition submitted ot the Office of Hearings and Appeals May 26, 1981.

FOR FURTHER INFORMATION CONTACT: Natural Gas Liquid Products, Attn: Claude Corzatt, Program Operations Division, Office of Enforcement, 2000 M Street, N.W., Room 5108, Washington, D.C. 20461 (202) 653-3541.

SUPPLEMENTARY INFORMATION: On September 11, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Gas Engine and Compressor Service (GEC) of Longview, Texas on August 28, 1979, 44 FR 52860 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by GEC pursuant to the Consent Order were

requested to submit notice of their claims to the ERA.

One comment was received. The commentor supported a refund policy which compensates those persons who were ultimately injured by the overcharges. This policy is consistent with DOE's refund policy and the refund provisions in the Consent Order with GEC. The Consent Order, therefore, was not modified.

Pursuant to the Consent Order, GEC refunded the sum of $51,400 by certified check made payable to the United States Department of Energy dated September 6, 1979. This sum has been placed into a suitable account pending determination of its proper distribution.

Action Taken

The ERA is unable readily to identify the persons entitled to receive the $51,400 or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the ERA has petitioned the Office of Hearings and Appeals (OHA) on May 26, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identify 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 5th day of June, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-17234 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-01-M

James B. Kite Operating Company, Ltd. and Mohegan Company; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), 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: Petition submitted to the Office of Hearings and Appeals: June 3, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461; Telephone Number (202) 653-3517.

SUPPLEMENT INFORMATION: On May 5, 1980, the OE published notification in the **Federal Register** that it executed a Consent Order with James B. Kite Operating Company, Ltd. and the Mohegan Company (the working interest owners) of Oklahoma City, Oklahoma on April 1980, 45 FR 29626 (1980). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by the working interest owners pursuant to the Consent Order were requested to submit notices of their claims to the OE. The OE received no notices of claim to the refunds.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order, therefore, was not modified.

Pursuant to the Consent Order, the working interest owners refunded the sum of $34,000 by certified check made payable to the United States Department of Energy on April 18, 1980. This amount has been placed into a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $34,000 or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals (OHA) on June 3, 1981 to implement Special Refund Procedures pursuant to 10 CFR 205.280 *et seq.* 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 4th day of June, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-17236 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-01-M

Independent Oil and Tire Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: June 1, 1981. Comments by: July 13, 1981.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On June 1, 1981, the Office of Enforcement of the ERA executed a Consent Order with Independent Oil and Tire Company, Inc. of Elyria, Ohio. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Independent Oil and Tire Company (Independent) with its home office located in Elyria, Ohio, is a firm engaged in the sale of motor gasoline to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Independent the Office of Enforcement, ERA, and Independent entered into a Consent Order.

The Consent Order encompasses Independent's sales of covered products during the period January 1, 1979, through December 31, 1979.

II. Disposition of Refunded Overcharges

In this Consent Order, Independent agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of thirteen thousand dollars ($13,000.00) by November 30, 1981.

Refunds of overcharges to all customers of $13,000.00 will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These refunds will remain in a suitable

account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required.

Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of prooof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for the Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments: The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this Consent Order.*

You should send your comments or written notification of a claim to William D. Miller, Central District Manager of Enforcement, Department of Energy, 314 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816-374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Independent Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on July 13, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 1st day of June 1981.

William D. Miller,

District Manager of Enforcement.

Concurrence: David H. Jackson,

Chief, Enforcement Counsel.

June 1, 1981.

[FR Doc. 81-17237 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4583-000]

Mrs. Charles L. Baily and Mr. Everett M. Baily; Notice of Application for Preliminary Permit

June 4, 1981.

Take notice that Mrs. Charles L. Baily and Mr. Everett M. Baily (Applicant) filed on April 23, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 4583 known as the Point Spill Hydroelectric Project located on the Snake River and the Twin Falls Canal in Twin Fall 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. Everett M. Baily, 12080 Chinden Blvd., Boise, Idaho 83704, with a copy to Mr. W. Hugh O'Riordan, 420 W. Bannock, Boise, Idaho 83702.

Project Description—The proposed project would consist of: (1) an intake structure diverting water, during non-irrigation season and that in excess of irrigation needs, from the Twin Falls Canal to; (2) a forbay structure leading to; (3) three 1,200-foot long, 12-foot diameter penstocks serving; (4) a powerhouse to contain three Francis-type, turbine-generating units with a total rated capacity of 120 MW; (5) a switchyard; and (6) a 1.7-mile long 138-kV transmission line to tie into the existing Eden substation. The proposed project would be located 11 miles downstream from the Twin Falls and North Side Canal Companies' existing Milner Dam.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a 36-month period during which it would study the feasibility of constructing and operating the proposed project.

Competing Applications—This application was filed as a competing application to the Milner Dam Hydroelectric Project No. 2899 filed on November 11, 1980, by the Twin Falls Canal Company and North Side Canal Company and to the Twin Falls Canal Big Drop Project No. 3910 filed on December 29, 1980, by the Idaho Water Power Company under 18 C.F.R. § 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the describerd application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before July 7, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17331 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-387-000]

Central Power & Light Co.; Order Accepting for Filing in Part and Suspending Revised Rates, Granting and Denying Motions To Reject, Granting in Part and Denying in Part Summary Disposition, Denying Waiver of Notice, Granting Intervention, and Establishing Price Squeeze and Hearing Procedures

Issued: May 29, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

On March 31, 1981, Central Power and Light Company (CP&L) tendered for filing a proposed increase in rates to six full requirements wholesale customers[1] and one partial requirements wholesale customer, the City of Brownsville, Texas.[2] The proposed rates, which reflect the inclusion of all CWIP in rate base, would result in increased revenues from jurisdictional sales and services of approximately $8,994,624 (63.4%) based on the twelve-month test period ending December 31, 1981. CP&L proposes prospective implementation of the CWIP-based rates following a hearing in accordance with section 2.16 of the regulations. CP&L has also filed non-CWIP rates which would increase revenues by $3,645,035 (25.7%). The company requests waiver of notice and an effective date of March 31, 1981, for the rates to the full requirements customers. With respect to Brownsville, whose contract with CP&L requires a four-month prior notice of rate change filings, CP&L requests a deferred filing date and an effective date of July 29, 1981.

Notice of the filing was issued on April 6, 1981, with responses due on or before April 20, 1981.

On April 20, 1981, Brownsville filed a protest, petition to intervene, and motion to reject parts of the filing. Brownsville seeks to have the rates applicable to Brownsville rejected on the grounds that the filing violates CP&L's contractual obligation to give Brownsville four months' notice and the opportunity to negotiate prior to filing. In the alternative, Brownsville requests summary disposition of certain issues[3] and a five-month suspension of the rates. Brownsville also seeks to have the CWIP-based portion of CP&L's filing rejected on the grounds that CP&L has not made the showing of "severe financial difficulty" required by section 2.16(b) of the Commission's regulations. Additionally, Brownsville alleges that the increase would result in a price squeeze and rate discrimination.

On April 20, 1981, Magic Valley Cooperative, Rio Grande Cooperative, and Kimble Electric Cooperative (REA Cooperatives) jointly filed a protest, petition to intervene, motion to reject the CWIP-based rates, and motion for summary disposition of certain elements of the non-CWIP rates.[4] The REA Cooperatives oppose waiver of the notice requirements and request a full five-month suspension. They also request that the increase in their rates be accepted for filing no sooner than the increase to Brownsville on the grounds that separate filing or effective dates would be discriminatory.

Also on April 20, 1981, Victoria County Electric Corporative, Nueces Electric Cooperative, and Medina Electric Cooperative (STEC/MEC) filed a petition to intervene, protest, motion to reject that portion of the filing predicated upon inclusion of CWIP in rate base, and motion for summary disposition of two rate issues.[5] They also seek a five-month suspension and allege that a price squeeze is likely to be created or exacerbated by the proposed increase.

Supplemental comments on the issues of descrimination and price squeeze were filed by REA Cooperatives and by STEC/MEC on April 27, 1981. An "initial response" opposing the substantive positions of petitioners, but not opposing the requests for intervention, was filed by CP&L on May 4, 1981.[6]

Discussion

The City of Brownsville seeks rejection of that portion of the filing that would increase its rates on the grounds that it did not receive the four months' notice of the proposed filing to which it is entitled by the terms of its Interconnection Agreement with CP&L.[7] We agree that a literal reading of the pertinent contract language would require CP&L to advise Brownsville of its intention to file revised rates with the Commission four months prior to the actual submittal of such rates. However, both in its transmittal letter and in its May 14, 1981 response, CP&L has clearly stated its willingness to negotiate with Brownsville and its request that the *filing* date assigned to the Brownsville rates be deferred until July 29, 1981, in order to satisfy the company's contractual obligation. As with the remaining rates, CP&L has requested an *effective* date coincident with the filing date. However, certain consequences follow from the designation of a filing date; absent waiver or other action by the Commission, section 35.2 of the regulations provides that the effective date of a rate change shall be sixty days after the filing date.

It appears that actual notice of the instant rate filing was provided to Brownsville on or before March 30, 1981. Therefore, had CP&L complied strictly with the terms of its agreement, it would have been free to submit the rates for Brownsville to the Commission as of July 29, 1981, the requested "filing date." At that time, the Commission would have sixty days in which to analyze and act on the submittal pursuant to section 205 of the Federal Power Act and the regulations thereunder. If we now elected to reject CP&L's submittal as

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[1] Victoria County Electric Cooperative Company, Nueces Electric Cooperative, Medina Electric Cooperative, Magic Valley Electric Cooperative, Rio Grande Electric Cooperative, and Kimble Electric Cooperative.

[2] *See* Attachment A for rate schedule designations.

[3] 1) Use of incorrect billing units; 2) inclusion of payments to a subsidiary in rate base; 3) inclusion of engineering studies in rate base; 4) inclusion of nuclear fuel in process in rate base; 5) inclusion of a catastrophe reserve in rate base; (6) inclusion of ADITC in capital structure; and 7) failure to synchronize the interest deduction.

[4] 1) Inclusion of ADITC in capitalization; 2) inclusion of plant held for future use in rate base; 3) inclusion of nuclear fuel as a deferred debit; 4) failure to flow-back excess deferred income taxes resulting from the reduction in the federal income tax rate from 48% to 46%; and 5) failure to normalize.

[5] (1) Inclusion of ADITC in capital structure, and (2) inclusion of nuclear fuel in process in rate base.

[6] Both REA Cooperatives and STEC/MEC had requested leave to file the additional comments in their petitions of April 20, 1981. The seven additional days they requested appears reasonable in light of the complexity of this filing; accordingly, the request will be granted. CP&L, in its initial response, requested leave to file an additional response within ten days in view of the additional comments as well as the length of the original petitions and protests. However, no such response by the company was forthcoming. On May 19, 1981, Brownsville requested leave to respond to CP&L's answer within fifteen days. This motion will be denied inasmuch as such responses are not contemplated by our regulations and Commission action on this filing must be taken prior to exporation of the requested fifteen-day period.

[7] Article XIII of the agreement provides as follows:

Company agrees to give City notice of any proposed filing for such rate change or substitution not less than four (4) months prior to such filing, by furnishing City a complete copy of the proposed filing, and Company further agrees as soon as practicable thereafter to begin negotiations with City concerning the contents of such filing, including the terms and conditions and all other provisions thereof, provided that failure by Company and City to agree on the contents of such filing shall not in any manner affect Company's unilateral right to make such filing on or after four (4) months following the date of notice to City.

requested by Brownsville, CP&L, having provided the requisite notice, would still be entitled to refile its rates as of July 29, and the same results would follow. Whether for administrative ease or other purposes, CP&L chose to submit a single rate package to the Commission. Under these circumstances, the attendant consequences are again the same, *viz.*, July 29 may be deemed the filing date and the Commission may suspend the revised rates for a period commencing sixty days after the filing date.

Given the fact that each of the scenarios presented above yields the same result, we believe that CP&L's filing, insofar as it requests a July 29 filing date, complies with the substance of the contract provision and that rejection of the filing as to Brownsville would unnecessarily waste the resources of the parties and the Commission. As noted below, we shall suspend the rates for five months from sixty days after the filing date. Thus, Brownsville's ability to enter into meaningful negotiations should not be hampered. Furthermore we do not believe, as suggested by the REA Cooperatives, that mere recognition of the terms of Brownsville's contract and the consequent imposition of a different filing date and effective date for Brownsville will engender undue discrimination *vis-a-vis* the remaining customers.

The intervenors request summary rejection of the application for prospective inclusion of CWIP in rate base on the ground that CP&L has failed to make the initial showing of severe financial difficulty required by the Commission's regulations, 18 CFR § 2.16(b). We find merit to this request. In its filing, CP&L asserts in general terms that rate base inclusion of CWIP is necessary for the company to fund its construction program, and to maintain its credit ratings, interest coverage ratios, dividend yields, AFUDC ratio, and market price of stock at levels which CP&L deems necessary and desirable. These factors are all relevant to the consideration of the proper rate of return to which the company is entitled and reflect the financing problems currently facing all utilities. However, section 2.16(b) requires more substantial allegations that specific factors uniquely or especially affecting the filing utility hamper its financial condition to such an extent that the Commission's traditionally accepted ratemaking practices cannot adequately protect the company's financial viability without materially increasing the cost of electricity to consumers. Upon review of the instant application, we find that CP&L has failed to make the threshold showing of severe financial difficulty required by section 2.16(b) of the Commission's regulations. Accordingly, that portion of CP&L's application which is based on the prospective inclusion of CWIP in rate base under section 2.16 will be rejected. Such rejection is without prejudice to CP&L's refiling an application which makes the requisite showing under section 2.16.

The Commission further finds that summary disposition is warranted with respect to four issues: (1) inclusion of ADITC in capitalization; (2) inclusion of nuclear fuel in process in rate base; (3) inclusion of the cost of water in the fuel adjustment clause; and (4) use of incorrect billing units. We shall require CP&L to refile its cost of service and rates to reflect these determinations. Concerning the first of these issues, we have consistently held that ADITC must either be distributed proportionally throughout the capital structure or eliminated from it.[8] Accordingly, we shall summarily dispose of this issue. However, we note that CP&L has used book interest during the test period, and not the interest imputed from its weighted long-term cost of debt, to compute its interest expense for tax purposes. Thus, CP&L's treatment of ADITC has no direct effect on its cost of service.

CP&L has included in rate base approximately $12 million representing nuclear fuel in process (Account No. 120.1) and approximately $30 million attributable to nuclear fuel assemblies (Account No. 120.2). These costs are related to a facility that is not scheduled to be in service until 1984. We have previously determined that expenses recorded in Account No. 120.1 are tantamount to CWIP and, therefore, do not qualify for rate base treatment.[9] Although completely fabricated fuel assemblies delivered for use in refueling or carried in stock as spares are properly booked to Account No. 120.2 and are generally includable in rate base, the amounts recorded by CP&L in Account No. 120.2 represent nuclear fuel assemblies which will not be used until a time significantly after the calendar 1981 test period. Accordingly, rate base inclusion is inappropriate and summary disposition will be ordered.

We further note that CP&L has included the cost of water for operating hydroelectric generation in its fuel adjustment clause computations. This treatment is not appropriate. We do not construe the definition of fuel costs for purposes of Account Nos. 151 or 518 as including water costs. Moreover, we would not expect the costs to be subject to the fluctuations for which the fuel adjustment clause is intended to permit recovery. Because we do not regard water costs as a proper element of the fuel clause calculations under section 35.14 of the regulations, we shall summarily dispose of this issue.

Finally, CP&L has determined its proposed unit demand charge to Brownsville based on the demands billed during the test period rather than on the demands incurred during the test period. The failure to synchronize Brownsville's billing demands for allocation purposes with the billing demands for purposes of determining unit charges results in an overstatement of the demand charge on a $/kw basis. Therefore, CP&L will be required to revise its rates to Brownsville and its supporting cost of service statements to reflect billing demands and demand charges based on the monthly billing demands used for allocation purposes.

Our analysis of CP&L's filing indicates that the non-CWIP rates have not been shown to be just and reasonable and that these rates may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore we shall accept the rates for filing, as modified by this order, and suspend them as directed below.

In a number of suspension orders,[10] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Moreover, we find that good cause has not been shown to grant waiver of

[8] *E.g., Carolina Power & Light Co.*, Opinion No. 19, at 10 (August 2, 1978); *Public Service Company of New Mexico*, Docket Nos. ER79-478 and ER79-479, Order Granting Rehearing In Part And Denying Rehearing In Part, at 3 (December 18, 1979).

[9] *See Kansas City Power & Light Company*, Docket No. ER79-166 (March 28, 1979), and *Florida Power and Light Company*, Opinion No. 784, Docket No. E-8008, (December 15, 1976).

[10] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five-month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one-day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one-day suspension).

the notice requirements. Accordingly, we shall suspend the non-CWIP rates, as modified by summary disposition, for five months from sixty days after the respective filing dates, to become effective, subject to refund, on October 31, 1981, for the full requirements customers and on March 1, 1982, for Brownsville.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79-339, order issued August 6, 1979, we shall phase the price squeeze issue. This procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission finds that participation in this proceeding by each of the petitioners is in the public interest. Accordingly, the petitions to intervene will be granted.

The Commission Orders:

(A) The motion to reject that portion of CP&L's filing which is based on prospective inclusion of CWIP in rate base under section 2.16 is hereby granted without prejudice. All other motions to reject the filing in whole or in part are hereby denied.

(B) The motions for leave to file further pleadings are hereby granted in part and denied in part as set forth in the body of this order.

(C) The motions for summary disposition are hereby denied except as set forth below.

(D) CP&L's request for waiver of the notice requirements is hereby denied, and CP&L's non-CWIP rate increase, as modified by summary disposition, is hereby accepted for filing and suspended for five months from 60 days after filing to become effective, subject to refund, on October 31, 1981, for the full requirements customers, and on March 1, 1982, for Brownsville.

(E) Summary disposition is hereby directed as set forth in the body of this order with respect to: (1) inclusion of ADITC in capital structure; (2) inclusion of nuclear fuel (Account Nos. 120.1 and 120.2) in rate base; (3) inclusion of the cost of water under the fuel adjustment clause; and (4) use of incorrect billing units. Within thirty (30) days of the date of this order, CP&L shall file a revised cost of service and rates to all customers to reflect these conclusions.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I (1980)], a public hearing shall be held concerning the justness and reasonableness of CP&L's rates.

(G) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(H) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Commission staff shall serve top sheets in this proceeding on or before June 8, 1981.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

Attachment A

Central Power & Light Co., Docket No. ER81-387-000, Rate Schedule Designations

Designation and Other Party

FERC Electric Tariff, 2nd Revised Volume No. 1, Original Sheet Nos. 1-20 (Supersedes Ist Revised Volume No. 1)—Magic Valley Electric Cooperative, Inc., Nueces Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Medina Electric Cooperative, Inc., Victoria County Electric Cooperative, Inc.

Supplement No. 5 to Rage Schedule FERC No. 62—City of Brownsville, Texas

[FR Doc. 81-17306 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-52-000]

City of Blountstown, Fla.; Notice of Petition for Extraordinary Relief

June 4, 1981.

On May 22, 1981, the City of Blountstown, Florida (Blountstown) filed a petition pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(b)) requesting temporary and permanent extraordinary relief from the volumetric entitlements and curtailment provisions of Florida Gas Transmission Company's (FGT) FERC Gas Tariff, Original Volume No. 1, for the period from June 4, 1981 through September 30, 1981. Blountstown specifically requests that it be afforded a waiver of its volumetric entitlement during the aforementioned period in order to be able to provide for the requirements of one of its customers, Goodsons' Manufacturing Corporation (Goodsons'). On May 29, 1981, the Commission issued an order in the above-styled proceeding granting Blountstown temporary extraordinary relief, subject to pay-back, if such a course of action is subsequently determined to be appropriate by the Commission.

Blountstown operates a natural gas distribution system and receives all of its natural gas supplies from FGT. Under FGT's tariff, Blountstown is limited to the purchase of 170,000 therms of natural gas for its firm customers and 3,250,000 therms for its interruptible industrial customers on an annual basis. Approximately 250,000 therms of the interruptible industrial gas is allocated to Forest Veneer Products and 3,000,000 therms to Goodsons'. The natural gas purchased by Goodsons' is used in a

drying kiln (approximately 180,000 therms a month) and a boiler (300,000 therms per month) for the production of sheathing, roofing, and sound deadening board from wood, bark, wood chips and sawdust. At its current rate of usage, Goodsons' will have consumed its annual allocation by June 4, 1981.

Goodsons' has the storage capacity and the capability to use No. 2 fuel oil as an alternative to natural gas. However, Goodsons' contends that the cost for No. 2 fuel oil is approximately three times that of natural gas and would necessitate its increasing the cost of its product by approximately 40 percent. It further contends that since it only sells to wholesalers and builders on a competitive bidding basis, its product would be totally unmarketable if No. 2 fuel oil were utilized. In any event, Goodsons' asserts that it would be forced to close its plant and lay off approximately 107 full-time employees if it could not market its product. The shut-down of Goodsons', Blountstown's largest employer, would result in a loss of $1,300,000 in annual pay-roll and have adverse effects on the three saw mills from which Goodsons' purchases its raw material.

Goodsons' stresses that it is not requesting a permanent increase in its allocation from Blountstown because it contemplates installing a wood chip gasification system which could eventually eliminate its need for natural gas. Since Goodsons' must seek commercial funding to finance the purchase of such a system, it contends that it is necessary for it to avert a plant shut-down.

The Commission's May 29, 1981, order is this proceeding leaves unresolved the issue of permanent relief for Blountstown and the further question, in the event that permanent relief is not found to be warranted, whether Blountstown should be required to pay-back any of the volumes over and above its entitlement that FGT delivered to it under the latter order.

Any person desiring to be heard or to protest said petition 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 Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 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 petition are on on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17335 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4610-000]

City and County of Denver, Colo.; Application for Preliminary Permit

June 5, 1981.

Take notice that City and County of Denver, Colorado (Applicant) filed on April 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 4610 to be known as the Blue River Project located on the Blue River, Dillon Reservoir in the town of Silverthorne, Summit County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne D. Williams, General Counsel, Denver Water Department, 1600 West 12th Avenue, Denver, Colorado 80254. 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 231-foot high, 2,500-foot long earth-fill dam; (2) Dillon Reservoir with a surface area of 3,233 acres and a storage capacity of 254,036 acre-feet at elevation 9,017 feet (m.s.l.); (3) a new 1,200-foot long, 10-foot diameter power tunnel; (4) a new powerhouse containing two turbine-generator units with a rated capacity of 750 kW each; (5) a switchyard; (6) a 1,200-foot long transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,500,000 kWh.

Purpose of Project—Energy produced at the project would be sold to the Public Service Company of Colorado for distribution.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Dillon Project No. 3785 filed on November 24, 1980, by Hydroelectric Constructors, Inc., under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about 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 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. 4610. 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. 81-17345 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4523-000]

The City of Joliet, Ill.; Application for Preliminary Permit

June 4, 1981.

Take notice that the City of Joliet, Illinois (Applicant) filed on April 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 4523 to be known as the Brandon River Lock and Dam Project located on the Illinois River in Will County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: John R. Gallagher, Jr., Acting City Manager, Municipal Building, 150 West Jefferson Street, Joliet, Illinois 60431. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Brandon Road Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse containing an installed generating capacity of 15 MW; and (2) appurtenant facilities.

The project would be located upon Federal lands.

The Applicant estimates that the average annual energy output would be 70 GWh.

Purpose of Project—The Applicant proposes to market the power output of the site to Commonwealth Edison Company, Incorporated.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36-months. During this time the Applicant would analyze hydrological, engineering, environmental, and economic data and prepare an application for FERC license. The Applicant intends to use the U.S. Army Corps of Engineers feasibility study as the basis for a license application and foresees no substantial cost associated with issuance of a 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—This application was filed as a competing application to the Mitchell Energy Company Project No. 3567 on October 14, 1980, 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 July 6, 1981.

Filing and Service of Responsive Documents—Any comments, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of application for preliminary permit for Project No. 4523. 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. 81-17332 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3024-001]

The City of Richmond, Va.; Notice of Application for Major License for Constructed Project

June 4, 1981.

Take notice that an application was filed on December 11, 1980, [under the Federal Power Act 16 U.S.C. §§ 791(a)–825(r), by the City of Richmond, Virginia (Applicant)] for a license for its major project. The Hollywood Project, FERC No. 3024, is located on both the "James River and Kanawha Canal" and the James River in Richmond, Virginia. Correspondence with the Applicant should be addressed to: Manuel Deese, City Manager, City Hall, 900 East Broad Street, Richmond, Virginia 23219.

Project Description—The existing project would consist of: (1) an existing 2,366-foot long concrete diversion dam varying from 3 to 16 feet in height; (2) an existing concrete control gate structure; (3) an existing 455-foot long forebay wall; (4) an existing powerhouse containing 6 generating units with an installed capacity of 2,075 kW (five of the generating units utilize the flow of the James River, while the sixth unit utilizes the flow of "the James River and Kanawha Canal"); (5) the existing James River and Kanawha Canal section, approximately two miles in length, between the Byrd Park Project No. 3029 and the Hollywood Project control gate; (6) the James River upstream of the Hollywood Dam for a distance of approximately two miles; (7) the existing 4 kV generator leads; and (8) appurtenant facilities. The average annual energy generation is estimated to be 12,264 GWh.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 19, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 22, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17333 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4621-000]

The City of Winnetka, Ill.; Notice of Application for Preliminary Permit

June 4, 1981.

Take notice that the City of Winnetka (Applicant) filed on May 4, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 4621 known as the Mississippi River Lock and Dam No. 11, located on the Mississippi River in the Counties of Dubuque, Iowa and Grant, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary L. Zimmerman, 510 Green Bay Road, Winnetka, Illinois 60093.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers dam. The proposed project would consist of: (1) a proposed powerhouse containing an installed generating capacity of 23.1 MW; (2) a proposed 69-kV transmission line; and (3) appurtenant facilities. The project would be located upon Federal lands. The Applicant estimates that the average annual energy output would be 130 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of project will be defined, investigated and assessed to support an investment decision. The Applicant estimated total cost of performing a feasibility study is $50,000.

Competing Applications—This application was filed as a competing application to the Mitchell Energy Company, Inc. Project No. 3668 filed on January 13, 1981, under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before July 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 in response to this notice of application for preliminary permit for Project No. 4621. 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. 81-17334 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-256-002]

Columbia Gulf Transmission Co.; Petition To Amend

June 8, 1981.

Take notice that on May 8, 1981, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP79-256-002 a petition to amend the order of April 24, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Columbia Gulf to make partial deliveries of the gas currently being transported through Project 37 pipeline and delivered to Columbia Gulf through its 24-inch Venice pipeline in LaFourche Parish, (Project 37 gas), which gas it transports and delivers to Texas Eastern Transmission Corporation (Texas Eastern) for Gulf Oil Corporation's

(Producer's) account at existing interconnection of Producer's and Texas Eastern's facilities near Venice, Louisiana, in order to balance deficiencies in exchange volumes at the Erath, Louisiana, delivery point; and to authorize Columbia Gulf to transport an additional 40,000 Mcf of gas per day produced from Eugene Island Block 238, offshore Louisiana, for Producer on an interruptible basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Columbia Gulf indicates that the order of April 24, 1979, authorized it to transport and exchange all the natural gas received by it from the Grand Isle Processing Plant of Exxon Company, U.S.A. (Grand Isle gas), and all of the Project 37 gas which Columbia Gulf delivers to Texas Eastern for Producer's account at existing interconnection of Columbia Gulf and Texas Eastern's facilities near Venice. In exchange, Producer causes thermally equivalent volumes of gas produced in Eugene Island Block 238, to be delivered to Columbia Gulf, such gas being transported by the Sea Robin Pipeline Company and delivered to Columbia Gulf's facilities at a point of connection near Erath, Louisiana, it is stated. Columbia Gulf indicates that under the terms of the certificate if Producer cannot deliver sufficient gas volumes at Erath to balance the deliveries of Grand Isle gas and Project 37 gas, Producer would use its best efforts to have the deficiency in volumes delivered to Columbia Gulf at a mutually agreeable point on Columbia Gulf's system at no cost to Columbia Gulf, but if Producer is unable to achieve a balance of such volumes, then Columbia Gulf shall discontinue delivery of all Project 37 gas to enable the volumes exchanged to be brought into balance.

The petition states that Producer at times does not have sufficient quantities available at Erath and elsewhere to balance the delivery at Venice of the Grand Isle gas and the Project 37 gas. Therefore, by the terms of an amendment dated December 11, 1980, to the original transportation agreement dated March 27, 1979, between Producer and Columbia Gulf, Columbia Gulf requests authorization to make partial deliveries of Project 37 gas at Venice in order to balance deficiencies in volumes available to Producer for delivery to Columbia Gulf. Columbia Gulf states that there would be no change in the rate for transportation of such partial volumes.

Producer now anticipates that it may at times produce volumes of gas from Eugene Island Block 238 in excess of the total volumes of Project 37 gas and Grand Isle gas which are available to Columbia Gulf for exchange, it is stated. Columbia Gulf states that in order to enable Producer to deliver such excess gas to its purchaser through existing excess transportation capacity, Columbia Gulf requests authorization to transport an additional 40,000 Mcf of natural gas per day from the Erath delivery point to Texan Eastern for Producer's account at the existing interconnection between Columbia Gulf's and Texas Eastern's facilities in St. Landry Parish, Louisiana, pursuant to the terms of an amendment dated April 4, 1981, to the original transportation agreement. Columbia Gulf states that this additional transportation service would be on a best-efforts, interruptible basis and would enable Columbia Gulf to use most efficiently its transportation capacity without detriment to its existing customers.

Columbia Gulf indicates that it would charge Producer a rate of 15.335 cents for the additional transportation service and that it would deduct volumes equal to 1.65 percent of such gas for fuel usage and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17346 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-249-000]

Duquesne Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Intervention, Denying Motion To Reject, Establishing Hearing and Phased Price Squeeze Procedures

Issued: June 1, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

On January 30, 1981, as completed on April 2, 1981, Duquesne Light Company (Duquesne) tendered for filing revised rates for the Borough of Pitcairn, Pennsylvania, Duquesne's only wholesale customer. The rates, which are proposed to become effective April 1, 1981, would produce an increase in jurisdictional revenues of approximately $121,000 (45%) based on the twelve-month period ending December 31, 1979.[1]

Notice of the filing was issued on February 9, 1981, with responses due on or before February 27, 1981. A protest and petition to intervene was filed by Pitcairn on February 23, 1981. As a customer taking service from Duquesne under the proposed rates, Pitcairn contends that it should be permitted to intervene. Pitcairn requests that the filing be rejected for failure to comply with the Commission's regulations. In the alternative, Pitcairn seeks a maximum suspension and a hearing, arguing that the proposed rates are unduly burdensome and that the filing reflects errors and misrepresentations. Pitcairn also alleges that the rates will result in a price squeeze. On March 6, 1981, Duquesne filed an answer to Pitcairn's protest and petition to intervene.

Discussion

Initially, we find that participation by Pitcairn is in the public interest. Consequently, we shall grant the petition to intervene.

Upon review of Duquesne's filing, the Commission finds that the submittal, as completed on April 2, 1981, is in substantial compliance with the requirements of our regulations as amended by Order No. 91, Docket No. RM79-64 (June 27, 1980).[2] Accordingly, the motion to reject will be denied.

Considering the allegations raised by Pitcairn, we find that Duquesne's revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In a number of suspension orders,[3] we have addressed the considerations

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[1] Designated as: Duquesne Light Company, Supplement No. 6 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 5).

[2] *See Municipal Light Board of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[3] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five-month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, et al., (August 29, 1980) (one-day suspension) *Cleveland Electric*

Continued

underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that a variety of substantive contentions have been raised by Pitcairn, including the allegation of price squeeze, but that preliminary review indicates that the proposed rates may not yield excessive revenues. We, therefore, believe that a five month suspension is unnecessary and may be inequitable to Duquesne. However, in order to ensure refund protection for the affected customer pending further review, we shall exercise our discretion to suspend the rates for one day from sixty days after completion of the filing, permitting the rates to take effect, subject to refund thereafter, on June 3, 1981.

In accordance with the Commission's policy established in *Arkansas Power & Light Company*, Docket No. ER79-339 (August 6, 1979), we shall phase the price squeeze issue raised by Pitcairn. As we have noted in previous orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenor or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) The motion to reject the filing is hereby denied.

(B) Duquesne Light Company's rates tendered for filing in this docket are hereby accepted for filing and suspended for one day from sixty days after completion of the filing, to become effective on June 3, 1981, subject to refund pending hearing and decision thereon.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I (1980)], a public hearing shall be held concerning the justness and reasonableness of Duquesne's rates.

(D) Pitcairn's petition to intervene is hereby granted subject to the rules and regulations of the Commission; *Provided, however,* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, for purposes of expediting discovery, establishing procedural dates, including the submittal of testimony and exhibits by Duquesne, and pursuing other appropriate matters. The designated law judge is authorized to establish procedural dates, and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase on this proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17300 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

Illuminating Co., Docket No. ER80-486 (August 22, 1980) (one-day suspension).

[Docket Nos. RP81-53-000 and RP81-55-000]

East Tennessee Natural Gas Co.; Order Accepting for Filing and Suspending Revised Tariff Sheet, Consolidating Proceedings, and Establishing Procedures

Issued: May 29, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

This order treats two filings submitted by East Tennessee Natural Gas Company (East Tennessee). One filing (Docket No. RP81-53-000) is designed to restate its Base Tariff Rate, and the other filing (Docket No. RP81-55-000) contains a proposal to place the East Tennessee system on a dekatherm billing basis.

I. Base Tariff Rate Filing (Docket No. RP81-53-000)

On April 30, 1981 East Tennessee filed a revised tariff sheet to its FERC GAS Tariff.[1] This tariff sheet was filed by East Tennessee pursuant to part 154.38(d)(4)(vi)(a) of the Commission's Regulations which requires a pipeline company to file a restated "Base Tariff Rate" and a cost study in support of the restated rates upon the expiration of 36 months after either the effective date of the PGA clause or the effective date of the proposed rates under a Section 4(e) rate proceeding. In East Tennessee's case, the relevant period expired on May 1, 1981. As is also required by the Commission's Regulations,[2] East Tennessee's filing states the company's agreement that the restated rates are automatically subject to refund beginning May 1, 1981, and continuing until an agreement is reached or a Commission determination is made pursuant to Part 158.38 of the Commission's Regulations.

Public notice of the instant filing was issued on May 11, 1981, providing for protests or petitions to intervene to be filed on or before May 20, 1981. The East Tennessee Group, an ad hoc association of jurisdictional customers of East Tennessee, filed a petition to intervene in Docket No. RP81-53-000. The Commission finds that The East Tennessee Group has demonstrated an interest in this proceeding warranting its participation. The petition shall be granted.

East Tennessee's costs have been allocated in accordance with the *Atlantic Seaboard* method. East

[1] Thirty-Sixth Revised Sheet No. 4 to its FERC Gas Tariff, Sixth Revised Volume No. 1.

[2] Section 154.38(d)(4)(vi)(a) and (c).

Tennessee is placed on notice of its potential liability for undercollections in the event that the allocation methodolology adopted in this docket assigns more fixed costs to the commodity component than are assigned under the *Seaboard* formula.

Based upon a review of the instant filing, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwse unlawful. Further investigation is necessary to determine whether the various items of cost included in this filing are just and reasonable. Accordingly, the Commission shall accept East Tennessee's revised tariff sheet, subject to refund, and schedule an informal settlement conference [3] at which the issues raised by this filing will be discussed. Further Commission action on the issues raised by this filing will be predicated on the outcome of this settlement conference.

II. Dekatherm Filing (Docket No. RP81–55–000)

In addition to the above-noted filing, on April 30, 1981, East Tennessee filed Original Volume No. 1 to its FERC Gas Tariff. This filing has been docketed as RP81–55–000. In this later filing East Tennessee proposes to implement a dekatherm billing basis for its jurisdictional sales and to make other changes in its tariff as more fully discussed below. East Tennessee states that the heat content of the gas which it delivers differs at various times and points on its system and, therefore, it would be more equitable to change to a heat content billing basis for that portion of East Tennessee's rates which reflect the cost of gas. Accordingly, East Tennessee has revised its existing two-part demand and commodity rates to separate the present commodity charge into two components, a commodity charge based upon non-gas costs and a charge rate based solely on gas costs. The demand and commodity rates which reflect solely the costs of transporting the gas to the customer will continue to be billed on a volumetric basis. East Tennessee states that the rates set forth on Original Sheet No. 4 of the subject filing are designed to produce the same overall revenues as under its existing rates and are based upon the system-wide average heating value of 1030 Btu/cf. In addition to revising the rates and language of the various rate schedules to reflect the addition of the gas rate, East Tennessee has revised various other sections of its tariff to reflect the change to a dekatherm billing basis.

Furthermore, East Tennessee has made a number of other miscellaneous changes to its tariff to reflect current operating conditions and current technology. Included among these changes are revisions to its definition of terms, measurements, measuring equipment, and form of notice between East Tennessee and its customers.

Public notice of the instant filing was issued on May 11, 1981, providing for protests or petitions to intervene to be filed on or before May 20, 1981. The East Tennessee Group filed a petition to intervene in Docket No. RP81–55–000. On May 20, 1981, Chattanooga Gas Company (Chattanooga) filed a document entitled, *Limited Protest, Petition To Intervene And Motion To Reject In Part (Or Suspend) Of Chattanooga Gas Company* (Petition). The Petition urges rejection of, or in the alternative a five month suspension, of the revised tariff sheet [4] which eliminates the language restricting sales by East Tennessee in areas served by its distributor customers. Chattanooga also requests Commission review of East Tennessee's continuation of its annual minimum bill provision. [5] Chattanooga states, among other things, that the minimum bill has become increasingly onerous for distributors in recent years. The East Tennessee Group and Chattanooga have demonstrated an interest in this proceeding which warrants their participation and accordingly, the interventions shall be granted.

Based upon a review of this later filing, the Commission finds that the proposed tariff changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept these revised tariff sheets for filing and suspend their effectiveness, subject to refund.

In a number of suspension orders, [6] the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may run afoul of the other statutory standards. It has been acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. Since this filing is not intended to increase revenues, the Commission shall suspend the effectiveness of the proposed tariff sheets for one day to become effective on June 2, 1981, subject to refund and subject to modification in the consolidated proceeding noted below.

We are not persuaded that good cause has been shown to reject the tariff sheets as requested by Chattanooga. However, the issues raised by Chattanooga shall be the subject of the proceeding prescribed by this order.

III. Consolidation

We find Docket No. RP81–53–000 and Docket No. RP81–55–000 raise common issues of law and fact. Accordingly, we shall consolidate these dockets for purposes of resolving all issues raised in these dockets.

The Commission Orders:

(A) East Tennessee's Thirty-Sixth Revised Sheet No. 4 to its FERC Gas Tariff, Sixth Revised Volume No. 1 is accepted for filing, and waiver is granted so that it may become effective May 1, 1981, subject to refund.

(B) East Tennessee's filing docketed as RP81–55–000 is accepted for filing and suspended for one day to become effective June 2, 1981, subject to refund in the manner prescribed by the Natural Gas Act.

(C) For purposes of all further proceedings, East Tennessee's filings docketed as RP81–53–000 and RP81–55–000 are consolidated.

(D) An informal settlement conference to discuss all the issues raised in this consolidated proceeding shall convene at the offices of the Commission on September 1, 1981.

(E) The East Tennessee Group and Chattanooga are permitted to intervene in this docket subject to the rules and regulations of the Commission: *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interest specifically set forth in the petition to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that The East Tennessee Group and Chattanooga might be aggrieved by any order entered in this proceeding. Chattanooga's petition is

[3] Pursuant to Part 154.38(d)(vi)(c) of the Commission's Regulations.

[4] Proposed Original Sheet No. 194.

[5] Proposed Original Sheet No. 21.

[6] E.g., Valley Gas Transmission Inc., Docket No. RP80–98 (August 22, 1980) (one day suspension); Great Lakes Gas Transmission Company, Docket No. RP80–134 (September 24, 1980) (five month suspension)

denied, however, to the extent that it requests rejection of the subject filing.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17307 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-340-000]

Florida Gas Transmission Co.; Application

June 8, 1981.

Take notice that on May 18, 1981, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-340-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated November 25, 1980, Applicant proposes to transport for Southern up to 6 billion Btu of natural gas produced in Block 84, Ship Shoal area, offshore Louisiana, from an existing point of interconnection between the facilities of Applicant and Transcontinental Gas Pipe Line Corporation in Vermilion Parish, Louisiana, to an existing point of interconnection between the facilities of Applicant and Southern in Washington Parish, Louisiana. It is stated that Southern purchases such gas in the producing Block 84.

Applicant submits that the agreement is for a primary term of five years from the date of initial delivery and from year-to-year thereafter.

Applicant proposes to charge Southern a facility charge of 10.3 cents per million Btu delivered at the Vermilion delivery point plus a transportation rate of 3.0 cents per million Btu redelivered at the Washington redelivery point or a minimum charge of $500 per month. It is asserted that the transportation charge is composed of 50.0 percent mileage and 50.0 percent fixed-costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17347 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2642-001]

Garkane Power Association, Inc.; Application for License for Transmission Line

June 5, 1981.

Take notice that an application for a license for transmission line Project No. 2642 was filed on February 26, 1981, by Garkane Power Association, Inc. (Applicant). The constructed transmission line, known as the Glen Canyon-Paria Line, is located in Kane County, Utah, and Coconino County, Arizona. Correspondence concerning the application should be sent to: Mr. Glen Willardson, General Manager, Garkane Power Association, Inc., 56 East Center Street, Richfield, Utah 84701.

The existing 36.2-mile long, 69-kV transmission line transmits power from the Water and Power Resources Service's Glen Canyon Dam Powerhouse to Applicant's existing Paria sub-station. The transmission line is a primary line as defined by Section 3(11) of the Federal Power Act [16 U.S.C. 796(11)], and would be licensed as a project work under Part I of the Act. The "H"-type pole structures support 3 conductors. The right-of-way is 80 feet in width and occupies private lands, lands owned by the State of Utah, and U.S. lands managed by the Bureau of Land Management of the Department of the Interior.

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 August 17, 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, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 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. 81-17348 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST79-75-001]

Houston Pipe Line Co.; Extension Report

June 8, 1981.

Take notice that on April 23, 1981, Houston Pipe Line Company (Houston), Houston Natural Gas Building, 1200 Travis, Box 1188, Houston, Texas 77001, filed in Docket No. ST79-75-001 an extension report pursuant to Section 284.126 of the Commission's Regulations, reporting the extension of transportation of natural gas for and on behalf of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the extension report which is on file with the Commission and open for public inspection.

Houston states that the identity of the parties involved in the subject transportation arrangement are Houston and Northern, and that Channel Industries Gas Company (Channel) and Dow Pipeline Company (Dow) assist Houston in effectuating, by exchange, the basic transportation between it and Northern.

According to Houston, service commenced on July 25, 1979. The estimated total and maximum daily quantities of natural gas to be transported, according to Houston, are up to 50 billion Btu per day or at such greater flow rate up to 150 billion Btu per day which Northern shall elect upon 30 days' notice or, upon Northern's request, in excess of 150 billion Btu per day if Houston's operating conditions shall reasonably permit, for up to 73 trillion Btu total, subject to increase on the basis of said election or request.

It is stated that the points between which the gas is to be transported are: (i) the interconnection of the interstate pipeline facilities of Texas Eastern Transmission Corporation and Houston's intrastate pipeline facilities near Mont Belvieu, Chambers County, Texas and Mauriceville, Orange County, Texas, (ii) the interconnection of the interstate pipeline facilities of Tennessee Gas Transmission Company, a Division of Tenneco, Inc., and Houston's intrastate pipeline facilities near the Sabine River in Newton County, Texas, (iii) a mutually agreeable point in or near Texas City, Galveston County, Texas, (iv) the interconnection of United Gas Pipe Line Company's interstate pipeline facilities in Refugio and San Patricio Counties, Texas, and (v) the interconnection of Houston's intrastate pipeline facilities and Transcontinental Gas Pipeline Corporation's interstate pipeline facilities near Loeb, Hardin County, Texas, in the Bammel Field Area, Harris County, Texas and near Fulshear, Ft. Bend County, Texas to a point located on the pipeline facilities of Oasis Pipe Line Company near Katy, Waller County, Texas.

According to Houston, the rate to be charged for the instant transportation services is 4.0 cents per million Btu. Further, Houston says that, based on the particular features of the service provided, including mileage, the intrastate service being performed by Houston for Northern is in line with and comparable to the transpoortation services involved in making deliveries under Houston's city-gate domestic sales contract and under the applicable intrastate transportation rate schedule. Houston states that a portion of the revenues derived from the 4.0 cents per million Btu rate charged for such transportation is paid by Houston to Channel, which in turn pays a portion to Dow, to compensate for the exchanges necessary to effectuate the subject transportation.

It is stated that the proposed extension of service would be for a period of two years commencing July 25, 1981, subject to the terms and conditions of an existing agreement between Houston and Northern.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17349 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER81-267-000 and ER81-341-000]

Kentucky Utilities Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motions To Reject, Granting in Part and Denying in Part Requests for Summary Disposition, Granting Intervention, Consolidating Dockets, and Establishing Price Squeeze and Hearing Procedures

Issued: May 29, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

On February 10, 1981, Kentucky Utilities Company (KU) informed the Commission by letter that existing fixed rate contracts with ten Kentucky municipals [1] (Municipals) would be terminated on May 31, 1981, but that as of June 1, 1981, service to these municipals would be provided under KU's current rate schedule WPS-78.[2] Accordingly, on February 10, 1981, KU also filed (1) an amended list of purchasers under the WPS-78 rate schedule, and (2) unexecuted service agreements for each of these customers.[3] That filing was assigned Docket No. ER 81-267-000. KU requested that the unexecuted contracts become effective as of June 1, 1981. The annual increase in revenues generated by converting these ten customers from the WPS-3R rate schedule contained in their contracts to the WPS-78 rates is approximately $3.9 million (18%).

On March 17, 1981,[4] KU tendered for filing a proposed rate schedule WPS-81 to supersede WPS-78 for service to all of its wholesale customers.[5] This filing, which results in an increase of

[1] Cities of Barbourville, Bardstown, Bardwell, Benham, Corbin, Falmouth, Frankfort, Madisonville, Nicholasville, and Providence, all located in Kentucky.

[2] This rate schedule which was filed on June 1, 1978, was the subject of a proceeding in Docket No. ER78-417. The Municipals all were intervenors in that proceeding.

[3] *See Municipal Electric Utility Association of Alabama* v. *FPC*, 485 F.2d 967, 974 (D.C. Cir. 1973). *See* Attachment A for rate schedule designations.

[4] By letter dated April 7, 1981, KU was advised that its submittals in Docket Nos. ER81-267-000 and ER81-341-000 were both deficient. As noted *infra*, KU supplied the necessary information in Docket No. ER81-267-000 in a response filed on March 31, 1981. The submittal in Docket No. ER81-341-000 was completed on April 27, 1981, when KU provided the requisite materials in that docket.

[5] The ten Kentucky Municipals as well as Old Dominion Power Company, Jackson Purchase Electric Cooperative, the City of Paris, Kentucky, and Berea College.

approximately $14.5 million (22%) as compared to the WPS–78 rate level, was assigned Docket No. ER81–341–000. KU requests that this subsequent filing also become effective on June 1, 1981.[6]

Notice of the filing in Docket No. ER81–267–000 was issued on February 20, 1981, with responses due on or before March 16, 1981. On March 16, 1981, a protest and petition to intervene was filed on behalf of the Municipals. The Municipals request that the filing be rejected as deficient due to (1) KU's failure to provide sales and revenue comparisons as required by section 35.13 of the regulations, and (2) KU's failure to provide information explaining the application of its fuel adjustment clause. Municipals also request that (1) the minimum billing provision in the WPS–78 rate schedule, and (2) the power factor provision be summarily rejected, and that the rate increase be suspended for five months. On March 31, 1981, KU filed a response to the Municipals' protest. KU states that it is willing to forego utilization of the minimum billing provision pending the outcome of a hearing. Concerning the request for summary judgment with respect to the power factor adjustment, KU points out that such provision was contained in the terms and conditions of service litigated in Docket No. ER78–417, and that the Municipals raised no objection to the provision at that time. KU also included in its response the cost support required by section 35.13 of the regulations.

Notice of the filing in Docket No. ER81–341–000 was issued on March 23, 1981 with responses due on or before April 13, 1981. On April 8, 1981, a protest and petition to intervene was filed by Jackson Purchase Electric Cooperative Corporation (Jackson). Jackson requests that the filing be rejected for failure to comply with section 35.13 of the regulations. Jackson also requests that the Commission grant summary judgment as to the inclusion of EPRI and EEI contributions in KU's wholesale cost of service. Jackson further raises a number of issues relating to cost of service and the terms and conditions of service and requests the maximum five month suspension. In addition, Jackson alleges that the proposed rates will create a price squeeze.

On April 13, 1981, the Municipals, the City of Paris, and Berea College jointly submitted a protest and petition to intervene in Docket No. ER81–341–000. Municipals, Paris, and Berea request that the filing be rejected, asserting that it represents an attempt to file a new rate increase before the Commission has acted to suspend KU's prior rate increase in Docket No. ER81–267–000. They further request summary disposition in order to require KU to (1) conform its fuel adjustment clause to the remainder of the filing; (2) eliminate the minimum billing and power factor provisions; (3) comply with Opinion No. 116 with respect to the allocation of transmission capacity costs to the City of Paris; (4) exclude EPRI and EEI contributions from the cost of service; and (5) synchronize Period II interest expense for income tax purposes. They raise a number of other issues, including price squeeze, and request a five month suspension if the filing is not rejected.

On April 21, 1981, KU filed a response to the pleadings filed by Jackson, the Municipals, Paris, and Berea. KU opposes the motions for rejection, summary disposition, or a five month suspension.

Discussion

I. Motions for Rejection of Filings

The motions to reject the filing in Docket Nos. ER81–267–000 and ER 81–341–000 will be denied. With respect to Docket No. ER81–267–000, we shall deny the Municipals' motion because the cost support filed by KU in its March 31, 1981 response substantially complies with the requirements of section 35.13 of the regulations and the WPS–78 fuel clause was fully supported by KU in its submittal in Docket No. ER78–417. With respect to Docket No. ER81–341–000, the motion submitted by the Municipals, Paris, and Berea will be denied because there is no support for their argument that the filing is premature and therefore barred. Indeed, our regulations provide otherwise. Section 35.17(b) of the regulations, which does place certain limitations on when a utility can make a new filing, only prohibits a new filing during the suspension period of a prior rate, and even then, the Commission upon application and for good cause shown may allow the new filing. Such a restriction does not apply here since, at the time of KU's submittal in Docket No. ER81–341–000, the rates in Docket No. ER81–267–000 were not subject to suspension.

Jackson's motion to reject the filing in Docket No. ER81–341–000 similarly will be denied because KU's submittal, as completed in that docket on April 27, 1981, substantially complies with the Commission's regulations.

II. Requests for Summary Disposition

We shall deny all requests for summary disposition in Docket Nos. ER81–267–000 and ER81–341–000, with two exceptions, because such requests involve material issues of fact which should be resolved at hearing.[7] The two exceptions for which the Commission will grant summary disposition involve the requests of the Municipals, Paris, and Berea to require KU: (1) to comply with Opinion No. 116 with respect to the allocation of transmission capacity costs to the City of Paris, and (2) to conform its fuel adjustment clause to the remainder of the filing.

In its proposed rate increase in Docket No. ER81–341–000, KU has allocated Period II transmission capacity costs to the City of Paris on the basis of the City's twelve monthly coincident peaks. This is the same allocation methodology with respect to Paris as that which was recently rejected in Opinion No. 116.[8] Accordingly, we shall summarily reject the demand allocation methodology used by KU to allocate transmission costs to Paris, but we shall permit KU to file additional cost support to justify its filed rate by use of an appropriate alternative allocation methodology, or by use incremental energy costs.

With respect to the request for KU to conform its fuel adjustment clause to the remainder of the filing, we note that the company's submittal utilized a base cost of fuel for a period ending in 1978. KU conceded its error in its April 21, 1981 answer. As a result, we shall direct KU to conform its fuel clause to the rest of the filing by filing a revised fuel clause which references fuel costs for a base period consisting of the twelve month test period ending May 31, 1982.

III. Other Matters

Particularly in view of the substantive matters raised by the intervenors, our analysis indicates that the rates and charges filed in Docket Nos. ER81–267–000 and ER81–341–000 have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified by this order, and suspend them as directed below.

In a number of suspension orders,[9] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be

[6] KU has stated that rate schedule WPS–78 was filed as to the Municipals to be effective during any suspension of its WPS–81 rate schedule.

[7] *See, Municipal Light Boards of Reading and Wakefield, Mass.* v. *FPC*, 450 F.2d 1341, 1345, (D.C. Cir. 1971), *cert. denied*, 405 U.S.

[8] *Kentucky Utilities Company*, Docket No. ER78–417, issued April 2, 1981, mimeo at pp. 4–11.

[9] *E.g., Boston Edison Co.*, Docket No. ER80–506 (August 29, 1980) (five-month suspension); *Alabama Power Co.*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one-day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one-day suspension).

suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

With respect to the rates filed in Docket No. ER81-341-000, no such circumstances have been presented. Accordingly, those rates, as modified by summary disposition, will be suspended for five months from 60 days after completion of the filing, to become effective, subject to refund, on November 21, 1981. However, with respect to the rates filed in Docket No. ER81-267-000, circumstances warranting a shorter suspension do exist. The intervenors have raised a number of concerns and we note that the terms and conditions applicable to the WPS-78 rate schedule remain subject to resolution in Docket No. ER78-417. However, our review of the rates proposed in Docket No. ER81-267-000 suggests that they may not produce excessive revenues. Under these circumstances, a nominal suspension and a refund obligation should adequately protect the affected customers pending the outcome of a hearing. Accordingly, we shall exercise our discretion to suspend these rates for only one day to become effective on June 2, 1981, subject to refund.

The Commission finds that Docket Nos. ER81-267-000 and ER81-341-000 present common questions of law and fact. Accordingly, we shall consolidate these dockets for purposes of hearing and decision. Further, as stated above, many of the terms and conditions of service currently proposed are awaiting final Commission action in Docket No. ER78-417. Therefore, in the absence of a showing of changed circumstances, the terms and conditions of service in the instant dockets shall be subject to the outcome of the proceedings in Docket No. ER78-417.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER81-339, order issued August 6, 1979, we shall phase the price squeeze issued raised by the intervenors. As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

We find that participation in this proceeding by each of the petitioners is in the public interest. We shall, therefore, grant the petitions to intervene.

The Commission Orders

(A) The motions to reject KU's filings in these dockets are hereby denied.

(B) The requests for summary disposition are hereby denied, except as noted below.

(C) KU's demand allocation methodology used to allocate transmission costs to the City of Paris is hereby summarily rejected without prejudice to KU's right to file additional cost support to justify its filed rate by use of an appropriate alternative allocation methodology, or by use of incremental energy costs.

(D) Summary disposition is hereby granted with respect to KU's fuel adjustment clause. KU is directed to file, within thirty (30) days of the issuance of this order, a revised fuel adjustment clause in Docket No. ER81-341-000 which references a base cost of fuel for the twelve month period ending May 31, 1982 (Period II).

(E) KU's revised rates in Docket No. ER81-267-000 are hereby accepted for filing and suspended for one day to become effective on June 2, 1981, subject to refund pending hearing and decision.

(F) KU's proposed rates in Docket No. ER81-341-000 are hereby accepted for filing as modified by summary disposition, and are suspended for five months from 60 days after completion of the filing, to become effective on November 21, 1981, subject to refund pending hearing and decision.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I (1980)], a public hearing shall be held concerning the justness and reasonableness of KU's rates.

(H) The petitions to intervene are hereby granted subject to the rules and regulations of the Commission; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(I) The Commission staff shall serve top sheets in this proceeding on or before June 24, 1981.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(K) Docket No. ER81-267-000 is hereby consolidated with Docket No. ER81-341-000 for purposes of hearing and decision.

(L) We hereby order intiation of price squeeze procedures in these dockets and further order that the price squeeze phase of the proceeding begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the completion of the price squeeze phase of this proceeding.

(M) The terms and conditions of service in the instant dockets which are common to those under consideration in Docket No. ER78-417 are hereby made subject to the outcome of the proceeding in Docket No. ER78-417.

(N) We hereby grant KU's request that the operation of its Minimum Bill Provision will be prospective only; that is, it will be effective, if at all, only after a final Commission order determining that such provision is just and reasonable.

(O) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

Attachment A.—*Kentucky Utilities; Rate Schedule Designations*

Designation	Description	Other party
Docket No. ER81-267-000		
(1) Rate Schedule FERC No. 146 (Supersedes Rate Schedule FPC No. 76 as supplemented).	Contract	Barbourville.
(2) Supplement No. 1 to Rate Schedule FERC No. 146	WPS-78	Do.
(3) Supplement No. 2 to Rate Schedule FERC No. 146	Rules, etc	Do.
(4) Rate Schedule FERC No. 147 (Supersedes Rate Schedule FPC No. 64 as supplemented).	Contract	Bardstown.
(5) Supplement No. 1 to Rate Schedule FERC No. 147	WPS-78	Do.
(6) Supplement No. 2 to Rate Schedule FERC No. 147	Rules, etc	Do.
(7) Rate Schedule FERC No. 148 (Supersedes Rate Schedule FPC No. 65 as supplemented).	Contract	Bardwell.
(8) Supplement No. 1 to Rate Schedule FERC No. 148	WPS-78	Do.
(9) Supplement No. 2 to Rate Schedule FERC No. 148	Rules, etc	Do.
(10) Rate Schedule FERC No. 149 (Supersedes Rate Schedule FPC No. 66 as supplemented).	Contract	Benham.
(11) Supplement No. 1 to Rate Schedule FERC No. 149	WPS-78	Do.
(12) Supplement No. 2 to Rate Schedule FERC No. 149	Rules, etc	Do.
(13) Rate Schedule FERC No. 150 (Supersedes Rate Schedule FPC No. 77 as supplemented).	Contract	Corbin.
(14) Supplement No. 1 to Rate Schedule FERC No. 150	WPS-78	Do.
(15) Supplement No. 2 to Rate Schedule FERC No. 150	Rules, etc	Do.
(16) Rate Schedule FERC No. 151 (Supersedes Rate Schedule FPC No. 85 as supplemented).	Contract	Falmouth.
(17) Supplement No. 1 to Rate Schedule FERC No. 151	WPS-78	Do.
(18) Supplement No. 2 to Rate Schedule FERC No. 151	Rules, etc	Do.
(19) Rate Schedule FERC No. 152 (Supersedes Rate Schedule FPC No. 69 as supplemented).	Contract	Frankfort.
(20) Supplement No. 1 to Rate Schedule FERC No. 152	WPS-78	Do.
(21) Supplement No. 2 to Rate Schedule FERC No. 152	Rules, etc	Do.
(22) Rate Schedule FERC No. 153 (Supersedes Rate Schedule FPC No. 84 as supplemented).	Contract	Madisonville (S/N Sub).
(23) Supplement No. 1 to Rate Schedule FERC No. 153	WPS-78	Do.
(24) Supplement No. 2 to Rate Schedule FERC No. 153	Rules, etc	Do.
(25) Rate Schedule FERC No. 154 (Supersedes Rate Schedule FPC No. 87 as supplemented).	Contract	Madisonville (GE Sub).
(26) Supplement No. 1 to Rate Schedule FERC No. 154	WPS-78	Do.
(27) Supplement No. 2 to Rate Schedule FERC No. 154	Rules, etc	Do.
(28) Rate Schedule FERC No. 155 (Supersedes Rate Schedule FPC No. 91 as supplemented).	Contract	Madisonville (4S-41-AA, west sub).
(29) Supplement No. 1 to Rate Schedule FERC No. 155	WPS-78	Do.
(30) Supplement No. 2 to Rate Schedule FERC No. 155	Rules, etc	Do.
(31) Rate Schedule FERC No. 156 (Supersedes Rate Schedule FPC No. 94 as supplemented).	Contract	Madisonville (east sub).
(32) Supplement No. 1 to Rate Schedule FERC No. 156	WPS-78	Do.
(33) Supplement No. 2 to Rate Schedule FERC No. 156	Rules, etc	Do.
(34) Rate Schedule FERC No. 157 (Supersedes Rate Schedule FPC No. 88 as supplemented).	Contract	Nicholasville (No. 1 & 2 Sub).
(35) Supplement No. 1 to Rate Schedule FERC No. 157	WPS-78	Do.
(36) Supplement No. 2 to Rate Schedule FERC No. 157	Rules, etc	Do.
(37) Rate Schedule FERC No. 158 (Supersedes Rate Schedule FPC No. 72 as supplemented).	Contract	Providence.
(38) Supplement No. 1 to Rate Schedule FERC No. 158	WPS-78	Do.
(39) Supplement No. 2 to Rate Schedule FERC No. 158	Rules, etc	Do.
(40) Rate Schedule FERC No. 159 (Supersedes Rate Schedule FPC No. 95 as supplemented).	Contract	Providence (east sub).
(41) Supplement No. 1 to Rate Schedule FERC No. 159	WPS-78	Do.
(42) Supplement No. 1 to Rate Schedule FERC No. 159	Rules, etc	Do.
Docket No. ER81-341-000		
(1) Supplement No. 3 to Rate Schedule FERC No. 146 (Supersedes Supplement No. 1).	WPS-81	Barbourville.
(2) Supplement No. 3 to Rate Schedule FERC No. 147 (Supersedes Supplement No. 1).	WPS-81	Bardstown.
(3) Supplement No. 3 to Rate Schedule FERC No. 148 (Supersedes Supplement No. 1).	do	Bardwell.
(4) Supplement No. 3 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 1).	do	Bonham.
(5) Supplement No. 3 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 1).	do	Corbin.
(6) Supplement No. 3 to Rate Schedule FERC No. 151 (Supersedes Supplement No. 1).	do	Falmouth.
(7) Supplement No. 3 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 1).	do	Frankfort.
(8) Supplement No. 3 to Rate Schedule FERC No. 153 (Supersedes Supplement No. 1).	do	Madisonville (S/N sub).
(9) Supplement No. 3 to Rate Schedule FERC No. 154 (Supersedes Supplement No. 1).	do	Madisonville (GE sub).
Docket No. ER81-267-000		
(10) Supplement No. 3 to Rate Schedule FERC No. 155 (Supersedes Supplement No. 1).	WPS-81	Madisonville (US-41A, west sub).
(11) Supplement No. 3 to Rate Schedule FERC No. 156 (Supersedes Supplement No. 1).	do	Madisonville (east sub).
(12) Supplement No. 3 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 1).	do	Nicholasville (No. 1 & 2 sub).
(13) Supplement No. 3 to Rate Schedule FERC No. 158 (Supersedes Supplement No. 1).	do	Providence.
(14) Supplement No. 3 to Rate Schedule FERC No. 159 (Supersedes Supplement No. 1).	do	Providence (east sub).
(15) Schedule FERC No. 160 (Supersedes Rate Schedule FPC No. 99 as supplemented).	Contract	Berea College.
(16) Supplement No. 1 to Rate Schedule FERC No. 160	WPS-81	Do.
(17) Supplement No. 2 to Rate Schedule FERC No. 160	Rules, etc	Do.

Attachment A.—*Kentucky Utilities; Rate Schedule Designations*—Continued

Designation	Description	Other party
(18) Rate Schedule FERC No. 161 (Supersedes Rate Schedule FPC No. 123 as supplemented).	Contract	Madisonville (hospital sub).
(19) Supplement No. 1 to Rate Schedule FERC No. 161	WPS-81	Do.
(20) Supplement No. 2 to Rate Schedule FERC No. 161	Rules, etc	Do.
(21) Rate Schedule FERC No. 162 (Supersedes Rate Schedule FPC No. 145 as supplemented).	Contract	Madisonville (McCoy Ave. sub).
(22) Supplement No. 1 to Rate Schedule FERC No. 162	WPS-81	Do.
(23) Supplement No. 2 to Rate Schedule FERC No. 162	Rules, etc	Do.
(24) Rate Schedule FERC No. 163 (Supersedes Rate Schedule FPC No. 98 as supplemented).	Contract	Nicholasville (No. 3 sub).
(25) Supplement No. 1 to Rate Schedule FERC No. 163	WPS-81	Do.
(26) Supplement No. 2 to Rate Schedule FERC No. 163	Rules, etc	Do.
(27) Rate Schedule FERC No. 164 (Supersedes Rate Schedule FPC No. 102 as supplemented).	Contract	Old Dominion.
(28) Supplement No. 1 to Rate Schedule FERC No. 164	WPS-81	Do.
(29) Supplement No. 2 to Rate Schedule FERC No. 164	Rules, etc	Do.
(30) Rate Schedule FERC No. 165 (Supersedes Rate Schedule FPC No. 124 as supplemented).	Contract	Old Dominion.
(31) Supplement No. 1 to Rate Schedule FERC No. 165	WPS-81	Do.
(32) Supplement No. 2 to Rate Schedule FERC No. 165	Rules, etc	Do.
(33) Supplement No. 3 to Rate Schedule FERC Nos. 125-144 (Supersedes Supplement No. 1 to Rate Schedules 125-144).	WPS-81	Jackson Purchase.

[FR Doc. 17310 Filed 6-10-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4349-000]

Long Lake Energy Corp.; Application for Preliminary Permit

June 5, 1981.

Take notice that the Long Lake Energy Corporation (Applicant) filed on March 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 4349 to be known as the Moose River Project located on the Moose River in Lewis County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald E. Hamer; Long Lake Energy Corporation; 330 Madison Avenue, 7th Floor; New York, New York 10017.

Project Description–The Applicant proposes three alternatives that would develop the entire river reach from the headwaters of the Agers Falls Dam Site to the tailwaters of the Gould Mill Dam Site. All three alternatives would utilize as project facilities: (1) the existing Agers Falls Dam, 80 feet long and 15 feet high; and (2) the Agers Falls Reservoir having a surface area of 33 acres at a mean surface elevation of 1025.0 feet.

Alternative I would consist of: (1) a new powerhouse at the Agers Falls Dam Site containing new generating units with a rated capacity of 2,200 kW; discharging into (2) a new tailrace; (3) the existing Shuetown Dam, a timber crib structure 80 feet long and 15 feet high; (4) the Shuetown Reservoir with a surface area of 27 acres at a mean surface elevation of 980.0 feet; (5) a new powerhouse at the Shuetown Dam Site containing new generating units with a rated capacity of 2,200 kW; discharging into (6) a new tailrace; (7) the existing Gould Mill Dam, a timber crib structure 80 feet long and 15 feet high; (8) the Gould Mill Reservor with a surface area of 23 acres at a mean surface elevation of 950.0 feet; (9) a new powerhouse at the Gould Mill Dam Site containing new generating units with a rated capacity of 4,200 kW; discharging into (10) a new tailrace; (11) 1,200 feet of new penstock; (12) new transmission lines and switchyard equipment; and (13) appurtenant works. This alternative would have a total installed generaing capacity of 8,600 kW. The Applicant estimates that the average annual energy output for Alternative I would be 46,750,000 kWh.

Alternative II would consist of: (1) 6,850 feet of new penstock connecting the Agers Falls Reservoir to; (2) a new powerhouse at the Gould Mill Dam Site containing new generating units with a rated capacity of 10,900 kW; discharging into (3) a new tailrace; (4) a new transmission line and switchyard equipment; and (5) appurtenant works. The Applicant estimates that the average annual energy output for Alternative II would be 59,250,000 kWh.

Alternative III would consist of: (1) a new powerhouse at the Agers Falls Dam Site containing new generating units with a rated capacity of 2,200 kW; discharging into (2) a new tailrace; (3) the existing Shuetown Dam a timber crib structure 80 feet long and 15 feet high; (4) the Shuetown Reservoir with a surface area of 27 acres at a mean surface elevation of 980.0 feet; (5) 3,500 feet of new penstock; connecting the Shuetown Reservoir to (6) a new powerhouse at the Gould Mill Dam Site containing new generating units with a rated capacity of 7,400 kW; dischargng into (7) a new tailrace; (8) new transmission lines and switchyard equipment; and (9) appurtenant works. This alternative would have a total installed generating capacity of 9,600 kW. The Applicant estimates that the average annual energy output for Alternative III would be 52,160,000 kWH. The current owner of all existing facilities is the Georgia Pacific Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. 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 to be $100,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 14, 1981, either the competing application itself [See 18 C.F.R. § 4.33 (a) and (d) (1980)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c) (1980)] to file a competing appliation. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 14, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the

Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17338 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4333-000]

Long Lake Energy Corp.; Application for Preliminary Permit

June 4, 1981.

Take notice that the Long Lake Energy Corporation (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 Project No. 4333 known as the Clarks Mills Project located on Batten Kill River in Washington 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.

Project Description—The proposed project would consist of: (1) a 21-foot high reinforced concrete dam, having a crest length of 340 feet; (2) an existing reservoir, having a surface area of 83 acres of a mean surface elevation of 134.0 feet (USGS datum); (3) existing sluice gates; (4) existing penstocks; leading to (5) an existing powerhouse, containing generating equipment with a rated capacity of 2,500 kW; (6) a new transmission line and switchyard equipment; and (7) appurtenant works. The existing structures are owned by the Hollingsworth and Vose Company. The Applicant estimates that the average annual energy output would be 10,900,000 kWh.

Proposed Scope of Studies Under Permit.—A preliminary permit, is issued, does not authorize construction. Applicant seeks issuance of 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, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit to be $60,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 12, 1981, either the competing application itself [See 18 C.F.R. § 4.33 (a) and (d) (1980)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 12, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, 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 RB at the above address. 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. 81-17337 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4334-000]

Long Lake Energy Corp.; Application for Preliminary Permit

June 4, 1981.

Take notice that the Long Lake Energy Corporation (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 Project No. 4334 known as the Philadelphia Project located on the Indian River in Jefferson 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.

Project Description—The proposed project would consist of: (1) an existing concrete gravity dam, 175 feet long and 6 feet high; (2) an existing reservoir with a surface area of 2 acres at a mean surface elevation of 460.0 feet (USGS datum); (3) an existing gated concrete intake structure; (4) an existing 5-foot diameter penstock, 500 feet long; leading to (5) an existing powerhouse containing new generators with a total rated capacity of 2,000 kW; (6) an existing tailrace; (7) a new transmission line and switchyard equipment; and (8) appurtenant works. The existing facilities are currently owned by the Village of Philadelphia.

In addition, the Applicant proposes to remove two existing 3-foot high diversion dams located approximately one mile downsteam of the project dam in order to reduce the proposed project's tailwater elevation thereby increasing the operating head. The existing diversion structures are owned by John and Julia Kazak. The Applicant estimates that the average annual energy output would be 9,700,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would

decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $60,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 11, 1981, either the competing application itself [See 18 C.F.R. § 4.33 (a) and (d) (1980)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 11, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17338 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4331-000]

Long Lake Energy Corp.; Application for Preliminary Permit

June 5, 1981.

Take notice that the Long Lake Energy Corporation (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 Project No. 4331 known as the South Glens Falls Hydro Project located on the Hudson River in Warren and Saratoga Counties, 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.

Project Description—The proposed project would utilize the existing Glen Falls—South Glen Falls Dam and Reservoir which is owned and operated jointly by Finch, Pruyn, and Company, Inc. (FERC License No. 2385) and the Niagara Mohawk Power Corporation (FERC License No. 2482) and would consist of: (1) an existing intake structure; (2) 3 new 12-foot diameter penstocks, each 175 feet long; leading to (3) a new powerhouse containing new generators with a rated capacity of 15,750 kW; (4) an existing tailrace; (5) existing switchyard equipment and transmission lines; and (6) appurtenant works. The Applicant estimates that the average annual energy output would be 56,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it 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 the studies under the permit would be $105,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 14, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 14, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17350 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4356-000]

Long Lake Energy Corp.; Application for Preliminary Permit

June 5, 1981.

Take notice that Long Lake Energy Corporation (Applicant) filed on March 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 4356 known as the La Chute River Project located on the La Chute River in Essex 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.

Project Description—The proposed project comprises six developments as follows:

1. The Dam 1 Site, also referred to as the Lake George Outlet Dam, is owned and operated by the New York State Department of Envoronmental Conservation. This development would consist of: (1) an existing concrete and masonry gravity dam, 110 feet long and 8 feet high; (2) a reservoir having a surface area of 29,000 acres at a mean surface elevation of 319.6 feet (USGS datum); (3) a new intake structure; (4) a new penstock; (5) a new powerhouse with new generating units; (6) a new tailrace; (7) a new transmission line and switchyard equipment; and (8) appurtenant works.

2. The Dam 2 Site is located approximately 600 feet downstream from the Dam 1 Site. It is owned and operated by the International Paper Company. This development would consist of: (1) an existing masonry dam having a crest length of 250 feet and a structural height of 10 feet; (2) a reservoir having a surface area of 1.4 acres at a mean surface elevation of 282.5 feet (USGS datum); (3) new control gates and intake structure; (4) a new penstock; (5) a new powerhouse with new generating units; (6) a new tailrace; (7) a new transmission line and switchyard equipment; and (8) appurtenant works.

3. The Dam 3 Site is located approximately 750 feet downstream from the Dam 2 Site. It is owned and operated by the International Paper Company. This development would consist of: (1) an existing stone masonry dam, 250 feet long and 25 feet high; (2) a reservoir having a surface area of 13.2 acres at a mean surface elevation of 212.7 feet (USGS datum); (3) a new intake structure; (4) a new penstock; (5) a new powerhouse with new generating unit; (6) a new tailrace; (7) a new transmission line and switchyard equipment; and (8) appurtenant works.

4. The Dam 4 Site is located approximately 800 feet downstream from the Dam 3 Site. It is owned and operated by the International Paper Company. This development would consist of: (1) an existing limestone masonry dam, 350 feet long and 18 feet high; (2) a reservoir with a surface area of 8.5 acres at a mean surface elevation of 189.6 feet (USGS datum); (3) a new trashrack; (4) an existing intake structure; (5) a new penstock; (6) a new powerhouse with new generating units; (7) a new tailrace; (8) a new transmission line and switchyard equipment; and (9) appurtenant works.

5. The Dam 5 Site is located approximately ⅛ mile downstream from the West Exchange Street Bridge. It is owned and operated by the International Paper Company. This development would consist of: (1) an existing concrete and masonry dam, 275 feet long and 20 feet high; (2) a reservoir with a surface area of 2.9 acres at a mean surface elevation of 171.1 feet (USGS datum); (3) existing control gates; (4) an existing intake structure; (5) a new penstock; (6) a new powerhouse with new generating units; (7) a new tailrace; (8) a new transmission line and switchyard equipment; and (9) appurtenant works.

6. The Dam 6 Site is located approximately 400 feet downstream from the North Main Street Bridge. It is owned and operated by the International Paper Company. This development would consist of: (1) an existing stone masonry dam, 200 feet long and 10 feet high; (2) a reservoir with a surface area of 5.0 acres at a mean surface elevation of 125.8 feet (USGS datum); (3) an existing intake structure at the west abutment; (4) a new intake structure at the east abutment; (5) a new penstock; (6) a new powerhouse with new generating units; (7) a new tailrace; (8) a new transmission line and switchyard equipment; and (9) appurtenant works.

The total development, from the headwaters of the Dam 1 Site to the tailwaters of the Dam 6 Site, would support an installed generating capacity of 6,000 kW. The Applicant estimates that the average annual energy output for the total project would be 26,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $130,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 14, 1981,either the competing application itself [See 18 C.F.R. § 4.33 (a) and (d) (1980)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 14, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commssion's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17351 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4458-000]

Middle Fork Irrigation District; Application for Preliminary Permit

June 5, 1981.

Take notice that Middle Fork Irrigation District (Applicant) filed on April 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 4458 to be known as Middle Fork Irrigation District Project located on Clear Branch and Eliot Branch of the Middle Fork of Hood River in Hood River, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Middle Fork Irrigation District, P.O. Box 291, Parkdale, Oregon 97047. 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 developments. The First Development, located at the Clear Branch Dam, would consist of: (1) a 3,200 acre-foot reservoir; (2) an earth fill dam, Clear Branch Dam; (3) a 50-foot long, 30-inch diameter penstock; (4) a 20-foot long, 30-inch diameter tailrace; (5) a powerhouse containing a 213-kW generating unit, and (6) a 3-mile long transmission line. The Applicant estimates that the average annual energy output from the First Development would be 1,496,450 kWh.

The Second Development, located at the main intake to the pipe distribution system supplied by a short canal from the sedimentation reservoir, would consist of: (1) an earth fill sediment dam; (2) a 12 acre-foot reservior; (3) a 9,240-foot long, 42-inch diameter penstock; (4) a 20-foot long, 24-inch diameter tailrace; (5) a 20-foot long, 30-inch diameter tailrace; (6) a powerhouse containing generating equipment with a combined capacity of 1,676 kW; and (7) a 3.25-mile long transmission line. The Applicant estimates that the average annual energy output from the Second Development would be 14,000,640 kWh.

The Third Development, located at seven pressure reducing stations located throughout the piping network, would consist of: (1) seven 40-foot long pipes with diameters of 30-inches, 24-inches, 18-inches, 16-inches, 14-inches, 12-inches, and 6-inches respectively; (2) seven powerhouses each containing 1 generating unit with capacities of 399 kW, 236 kW, 78 kW, 92kW, 27kW, 62kW, and 77 kW respectively; and (3) seven transmission lines. The Applicant estimates that the average annual energy output from the Third Development would be 6,715,000 kWh.

Purpose of Project—The power generated by the proposed project would be sold to a local utility.

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 study the hydrology; assess the safety; perform an engineering site evaluation and an environmental assessment; prepare preliminary designs; determine equipment availability; and prepare cost estimates and project schedule. The cost of these studies is estimated by the Applicant to be $69,000.

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 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 25, 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 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4458. 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. 81-17352 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4631-000]

Middlebury College; Application for Preliminary Permit

June 5, 1981.

Take notice that Middlebury College (Applicant) filed on May 4, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 4631 known as Battell Project located on Otter Creek in the towns of Weybridge and New Haven, Addison County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: James D. Ross, Business Manager, Middlebury College, Middlebury, Vermont 05753. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the-river project would be an entirely new development and would consist of: (1) a 15 to 17-foot high, 200-foot long concrete dam in two sections straddling an island; (2) a reservoir with a surface area of 30 acres at an elevation of 238 feet M.S.L.; (3) an 1,800-foot long penstock; (4) a powerhouse containing 2 turbine-generator units with a rated capacity of 750-kW each and a tailwater elevation of 218 feet M.S.L.; (5) a transmission line; and (6) appurtenant facilities. The project would generate up to 8,000,000 kWh annually.

Proposed Scope and Cost of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include geologic investigation, 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 $38,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before, either August 17, 1981 the competing application itself [See 18 CFR 4.33(a) and (d)(1980)] or a notice of intent [See 18 CFR 4.33(b) and (c)(1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 16, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained directly from the Applicant). If an agency does not file comments with the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 17, 1981.

Filing and Service of Responsive *Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17353 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2621-001]

Milliken and Co.; Application for Short-Form License (Minor)

June 4, 1981.

Take notice that Milliken and Company (Applicant) filed on December 2, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for a water power project to be known as Pacolet Project No. 2621. The project would be located on the Pacolet River, Spartanburg County, South Carolina. Correspondence with the Applicant should be directed to: Mr. Leslie S. Anderson, General Manager, Lockhart Power Company, P.O. Box 10, Lockhart, South Carolina 29364 and to Mr. Ronald D. Jones, Esquire, LeBoeuf, Lamb, Leiby, and MacRae, 140 Broadway, New York, New York 10005.

Project Description—The project would consist of: (1) an existing 447 feet long and 24 feet high concrete and rubble masonry dam; (2) an existing concrete and brick masonry powerhouse containing two generating units rated at 400 kW each, for a total installed capacity of 800 kW; (3) an existing 100-foot long and 10-foot diameter penstock; and (4) appurtenant facilities. The estimated average annual energy output of the project is 4,785,000 kWh.

Purpose of Project—The energy produced at the project is sold to Lockhart Power Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 12, 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 December 10, 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 application should file a petition to intervene or a protest with the Federal

Energy Regulatory Commission, in accordance with the requirements of the Commission's 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 filed on or before August 12, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17339 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3928-000]

New Mexico Renewable Resources, Inc. and the County of Sierra, N. Mex.; Application for Preliminary Permit

June 5, 1981.

Take notice that New Mexico Renewable Resources, Inc. and the County of Sierra (Applicant), filed on January 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3928 to be known as the Caballo Dam Project located on the Rio Grande in Sierra County, New Mexico. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Edward H. Curland; New Mexico Renewable Resources, Inc.; Suite 1900; 14 Wall Street; New York, New York 10005. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Water and Power Resources Service's Caballo Dam and would consist of: (1) a new penstock; leading to (2) a new powerhouse containing new generators with a rated capacity of 4,300 kW; (3) new switchyard equipment; (4) a new transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 16,500,000 kWh.

Purpose of Project—Project energy generated would be sold to local utilities and/or agencies.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years during whch time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $75,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Sequoia Energy Corporation's Project No. 3663 filed on December 12, 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 July 9, 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. 3928. 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. 81-17354 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-392-000]

Pennsylvania Power & Light Co.; Order Conditionally Accepting for Filing and Suspending Revised Rates, Denying Motions, Granting Intervention, and Establishing Price Squeeze and Hearing Procedures

Issued: May 29, 1981.

Before Commissioners Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

On March 31, 1981, Pennsylvania Power and Light Company (PP&L) tendered for filing revised rates for firm power service to fifteen wholesale customers.[1] The proposed rates would result in increased revenues of approximately $2.1 million (13%) for the twelve-month period ending December 31, 1981. PP&L requests an effective date

[1] *See* Attachment A for rate schedule designations.

of May 31, 1981. On April 10, 1981, PP&L filed a motion requesting that the Commission not suspend its rates or, in the alternative, that a minimum suspension be ordered. PP&L notes that it has not requested an increase in wholesale rates in nearly five years and that it has endeavored to follow Commission precedent.

Notice of the filing was issued on April 10, 1981, with responses due on or before April 28, 1981. The comment deadline was subsequently extended until May 8, 1981, in response to a motion filed by a group of PP&L's affected customers (Boroughs).[2] On May 8, 1981, the Boroughs filed a joint petition to intervene and protest. The Boroughs request that PP&L's rate filing be rejected for failure to comply with certain provisions of a settlement agreement entered into in PP&L's prior wholesale rate case in Docket No. ER76–826. According to the Boroughs, that agreement requires that PP&L schedule a meeting with its wholesale customers prior to any rate increase filing for purposes of discussing the bases and cost data underlying the proposed rates. The Boroughs assert that at the time of filing, PP&L had not met that condition precedent. In the event that the filing is not rejected on this basis, the Boroughs request a maximum suspension stating that additional investigation is needed to examine the details of PP&L's filing. they raise various cost of service objections and, in addition, allege price squeeze.

On May 8, 1981, Citizens' Electric Company of Lewisburg, Pennsylvania (Citizens') filed a petition to intervene and protest. Citizens' challenges the rate increase as excessive and unjustified, raising several cost of service, rate design, and allocation issues. In addition, Citizens' objects to the development of PP&L's fuel adjustment clause and alleges that the proposed rates may create a price squeeze. Citizens' requests a maximum five-month suspension.

On May 13, 1981, PP&L filed a motion for an extension of time until May 29, 1981, in order to respond to the Boroughs' pleading. PP&L notes that the Commission will have to act on its filing prior to receiving PP&L's response.[3] In its motion, PP&L suggests that the Commission suspend its increased rates for one day and defer decision on the issue of its right to file for a rate increase until the Commission receives its response. On May 18, 1981, the Boroughs filed an answer to PP&L's motion urging the Commission to reject PP&L's filing without further pleadings, opposing any suspension period of less than five months, and reserving the opportunity to respond to PP&L's anticipated pleading. PP&L's request for extension of time was granted by notice dated May 19, 1981.

Discussion

The settlement agreement previously entered into in Docket No. ER76–826 provides that:

> PP&L will schedule one or more meetings with Boroughs, Citizens', and its other resale customers early in the summer of 1978 and in advance of any general future rate increase filing. The purpose of such meeting is for PP&L to advise such customers of the bases for its proposals and to review cost and other pertinent developments with them and provide them with opportunity for comment.

In their motion to reject, the Boroughs complain that no pre-filing meeting was held as contemplated by the prior settlement, although they indicate that a meeting eventually was scheduled by PP&L to discuss the filing on April 23, 1981.

The familiar principles of the *Mobile-Sierra* doctrine govern the issue raised by the Boroughs.[4] As the United States Court of Appeals for the District of Columbia Circuit stated in *Richmond Power and Light Company* v. *FPC*, 481 F. 2d 490, 493, *cert. denied*, 414 U.S. 1068 (1973):

> The [*Mobile-Sierra* rule] is refreshingly simple: the contract between the parties governs the legality of the filing. Rate filings consistent with contractual filings are valid; rate filings inconsistent with contractual obligations are invalid.

In *Missouri Utilities Company*, Docket No. ER77–354, order issued June 1, 1977, the Commission rejected a rate filing where a utility had failed to establish that an impasse had been reached in its negotiations with a customer, whose contract required an impasse as a condition precedent to filing with the Commission.

We agree that a meeting between PP&L and the affected customers was a condition precedent to the filing. It is unclear from the pleadings, however, whether such a meeting was held as contemplated by the settlement agreement, either prior to or after the filing of PP&L's rate increase. As a result, we are unable to determine whether or at what point in time PP&L could lawfully submit its filing to the Commission. As noted, we have granted PP&L's request for an extension of time until May 29, 1981, to respond to the Boroughs' allegations. Therefore, in order to preserve the interests of all affected parties, we shall conditionally accept PP&L's filing and suspend it for the maximum five-month period, subject to PP&L's establishing, in its forthcoming response or in a separate pleading, that a meeting actually was held as required by the settlement agreement. If PP&L fails to make such a showing, we will subsequently reject the filing or take other appropriate action. Alternatively, if a showing is made that the terms of the settlement agreement have been satisfied or if further action is taken that subsequently satisfies the settlement requirements, we shall reconsider the appropriateness of a five-month suspension.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79–339, order issued August 6, 1979, we shall phase the price squeeze issue raised by the intervenors. As we have noted in prior orders, this procedure will allow a discussion first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission finds that participation in this proceeding by the Boroughs and Citizens' is in the public interest. Therefore, we shall grant the petitions to intervene.

The Commission Orders:

(A) The motions to reject PP&L's filing or to suspend for five months are hereby denied.

(B) PP&L's revised rates tendered for filing on March 31, 1981, are hereby conditionally accepted for filing, and are suspended for five months to become effective, subject to refund, on October 31, 1981, and subject to PP&L's showing that a meeting with its wholesale customers was held as required by its settlement agreement in Docket No. ER76–826.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the

[2] Those customers include the Boroughs of Watsontown, Duncannon, Blakely, Weatherly, Schuylkill Haven, Perkasie, St. Clair, Catawissa, Ephrata, Lehighton, Olyphant, Hatfield, and Quakertown, Pennsylvania.

[3] Pursuant to section 205 of the Federal Power Act, the rates filed by PP&L would become effective as requested absent Commission action suspending the rates prior to May 31, 1981.

[4] *See FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipeline Co.* v. *Mobile Gas Service Corp. et al.*, 350 U.S. 332 (1956). *See also United Gas Pipeline Co.* v. *Memphis Light, Gas Water Div.*, 358 U.S. 103 (1958).

Federal Power Act [18 CFR, Chapter I (1980)], a public hearing shall be held concerning the justness and reasonableness of PP&L's rates.

(D) The petitions to intervene are hereby granted subject to the rules and regulations of the Commission: *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) The Commission staff shall serve top sheets in this proceeding on or before June 24, 1981.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) We hereby order initiation of price squeeze procedures in Docket No. ER81-392-000 and further order that the price squeeze phase of the proceeding begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the evaluation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Acting Chairman Sheldon dissenting, separate statement attached.

Kenneth F. Plumb,

Secretary.

Attachment A

Pennsylvania Power & Light Co., Docket No. ER81-392-000

Filed: March 31, 1981.

The following are Exhibits to Designations (1) through (15) below:

(a) Exhibit A—Summary Calculations of Fuel Adjustment Clause (Attachment A to letter dated December 10, 1979, Docket No. ER76-398)

(b) Exhibit B—Derivations of Incremental Maintenance, Fuel Handling, etc. (Attachment B to letter dated December 10, 1979, Docket No. ER76-398)

Designations and Other Party

(1) Supplement No. 12 to Rate Schedule FPC No. 28 (Supersedes Supplement Nos. 10 and 11)—Borough of Watsontown

(2) Supp. No. 12 to R. S. FPC No. 32 (Supersedes Supp. Nos. 10 and 11)—Borough of Duncannon

(3) Supp. No. 10 to R. S. FPC No. 45 (Supersedes Supp. Nos. 8 and 9)—Borough of Blakely

(4) Supp. No. 10 to R. S. FPC No. 50 (Supersedes Supp. Nos. 8 and 9)—Borough of Weatherly

(5) Supp. No. 10 to R. S. FPC No. 51 (Supersedes Supp. Nos. 8 and 9)—Borough of Schuylkill Haven

(6) Supp. No. 8 to R. S. FPC No. 54 (Supersedes Supp. Nos. 6 and 7)—Borough of Perkasie

(7) Supp. No. 8 to R. S. FPC No. 56 (Supersedes Supp. Nos. 6 and 7)—Borough of St. Clair

(8) Supp. No. 8 to R. S. FPC No. 57 (Supersedes Supp. Nos. 6 and 7)—Borough of Catawissa

(9) Supp. No. 8 to R. S. FPC No. 58 (Supersedes Supp. Nos. 6 and 7)—Borough of Ephrata

(10) Supp. No. 8 to R. S. FPC No. 61 (Supersedes Supp. Nos. 6 and 7)—Citizens Electric Company of Lewisburg

(11) Supp. No. 9 to R. S. FPC No. 63 (Supersedes Supp. Nos. 7 and 8)—Borough of Lehighton

(12) Supp. No. 4 to R. S. FPC No. 65 (Supersedes Supp. No. 3 as Supplemented)—Borough of Olyphant

(13) Supp. No. 2 to R. S. FPC No. 69 (Supersedes Supp. No. 1)—Borough of Hatfield

(14) Supp. No. 2 to R. S. FPC No. 70 (Supersedes Supp. No. 1)—Borough of Mifflinburg

(15) Supp. No. 2 to R. S. FPC No. 71 (Supersedes Supp. No. 1)—Borough of Quakertown

May 29, 1981.

SHELDON, Acting Chairman, *dissenting:*

I have dissented to the action of the majority herein and find it necessary to state my reasons therefor because I believe the order will cause and compound certain confusion in future proceedings. First, as to the basis for the adopted order, i.e., the so-called "condition precedent." It is not a condition precedent, and, in fact, is not even a condition. Second, as to the invocation by the majority of the *Mobile-Sierra* doctrine [1] because of the illusory "condition precedent," that doctrine would not even be applicable if the condition were in fact a condition.

The settlement agreement entered into by Pennsylvania Power and Light Company (PP&L), Boroughs and Citizens on May 19, 1977, did provide, in pertinent part that:

* * * * *

3. PP&L agrees that it will not file a general increase in the base rates applicable to Intervenors before October 1, 1978.

* * * * *

5. PP&L will schedule one or more meetings with Boroughs, Citizens and its other resale customers early in the summer of 1978 and in advance of any future general rate increase filings.

What we have here, at the most, is a promise by PP&L not to file a general rate increase until October 1, 1978, and to schedule a meeting with the Boroughs, Citizens and "its other resale customers"—who were not parties to the settlement agreement—prior to the filing of the general rate increase. However, PP&L did not make a filing on or about October 1, 1978. In fact it did not make a general rate increase filing until March 31, 1981, two and one-half years later. PP&L more than kept its promise.

But the majority would have us read PP&L's promise as if read ". . . *or* in advance of any future general rate increase filing," and regard it as a "condition precedent". But a condition precedent to what? Such a condition must be precedent to a contractual obligation descending on either party to a contract. It is horn-book law that a condition precedent ". . . is a fact or event which the parties intend must exist or take place before there is a right to performance. A condition is distinguished from a promise in that it creates no right or duty in and of itself but is merely a limiting or modifying factor. If the condition is not fulfilled, the right to enforce the contract does not come into existence." *Williston on Contracts,* 3rd Ed. § 663 p. 126n.

I cannot believe that the majority, or indeed that Boroughs or Citizens, fully appreciates the legal consequences of what the Commission was asked to do

[1] *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipeline Co.* v. *Mobile Gas Service Corp. et al.*, 350 U.S. 332 (1956); *United Gas Pipeline Co.* v. *Memphis Light, Gas Water Div.*, 358 U.S. 103 (1958).

in this proceeding, and what it has done. As Professor Williston cautions:

> Where it is doubtful whether words create a promise or an express condition, they are interpreted as creating a promise. Such an interpretation protects both parties to the transaction and also does not involve the consequences that a slight failure to perform wholly destroys all rights under the contract. (Citations omitted) *id.*, p. 133.

Further, Williston points out:

> Courts are disinclined to construe the stipulations of a contract as conditions precedent, unless compelled by the language of the contract plainly expressed. * * *. The difference between conditions and promises is so radical in its consequences that there is no excuse for a nomenclature which fails to recognize the distinction; *confusion in terminology cannot be too strongly deprecated.* (Citations omitted, emphasis added) *id.*, p. 134, et seq.

Consequently, I believe the settlement agreement contained a mere promise by PP&L that if it filed a general rate increase on or shortly after October 1, 1978, it would schedule a meeting with all of its resale customers, Boroughs and Citizens included, prior thereto. In my opinion, there was no condition precedent inserted in each of PP&L's service agreements by said settlement agreement, and I believe the action of the majority in finding that there was to be in error.

Surely the majority is not stating that the settlement agreement amended or supplemented the contracts or service agreements between the parties. And what of the "other resale customers" who were not parties to the settlement agreement but to whom PP&L made the same promise in the agreement as it made to Boroughs and Citizens? Were these other customers contracts or service agreements so casually amended to include this "condition precedent"? Are all contracts filed with this Commission to be so casually amended? If so, chaos will ensue.

Yet, upon so tenuous contractual grounds the majority leaps into a *Mobile-Sierra* maelstrom, cheerfully pointing out how refreshingly simple it is to drown in one's own profundity. Having determined that somehow this "condition precedent" amended all the service agreements PP&L has on file with this Commission, the majority then concludes that the *Mobile-Sierra* doctrine prohibits PP&L from exercising its rights to file for a rate increase.

The fact is *Mobile-Sierra*, or more correctly, the *Mobile* case—since *Sierra* has no relevance here under any stretch of anyone's imagination—is only applicable here in defense of PP&L's filing. Certainly, the contractual right was unimpaired by any promise made in the settlement agreement. Whether or not PP&L did or did not schedule a meeting prior to filing the subject rate increase with any or all of its resale customers is not relevant. It may be of interest, but it certainly is not determinative of "whether or at what point in time PP&L could lawfully submit its filing to the Commission," as the majority states.

Having concluded that the promise in the settlement agreement was in fact a condition, and a condition precedent at that; that, therefore, the *Mobile* case was applicable; that some legal bar to PP&L's right to file was thereby created, the majority then places a burden on PP&L to show that a "meeting was actually held," or it "will subsequently reject" PP&L's rate filing. This, the majority threatens to do despite PP&L's statutory right to file, *Mississippi River Fuel Corp.* v. *FPC*, 202 F. 2d 899 (CA 3rd, 1953). As the Court there observed (p. 902): "By failing to act it could have allowed [the rates] to become effective, or, it could have entered upon a hearing and, pending such a hearing, could have suspended the proposed new schedules for a period not exceeding five months beyond the proposed effective date. It did neither of these things. It purported to follow a third course, rejection without hearing—*a course for which it cannot show even color of statutory authority.*" (emphasis added) [2] Clearly, then, the Commission has no authority to subsequently reject PP&L's filing.

Thus, I believe the order to be in error in these specific respects, and, as I have stated, even if the promise were at most a condition subsequent, *Williston, supra*, §§ 667 & 667A, p. 144, *et seq.*, it would not give rise to the application of the *Mobile* doctrine, because it was dehors the contracts or service agreements, and apparently was never intended by any one of the parties to be a part thereof.

For all of the above reasons I would suspend the filed rate schedules for no more than one day.[3]

Georgiana H. Sheldon,

Acting Chairman.

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[2] The Court had before it the Natural Gas Act. The Federal Power Act would be the same. *Hope Natural Gas Co.* v. *FPC*, 196 F. 2d 803, 806 (CA 4th, 1952).

[3] The phrase "accepted for filing" is purposely omitted as being a meaningless exercise in semantics, see *Mississippi River Fuel Corp.* v. *FPC*, *supra*.

[Docket No. EF79-4011]

Secretary of Energy, Southwestern Power Administration; Order Disapproving and Remanding Rates, and Granting Interventions

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

Issued: June 3, 1981.

On March 5, 1979, the Assistant Secretary for Resource Applications of the Department of Energy [1] filed with the Federal Energy Regulatory Commission a request for confirmation and approval on a final basis of certain rates and charges for the sale of power by the Southwestern Power Administration (SWPA).

The proposed system rate schedules and contract rates of SWPA include the following:

Rate Schedule P-3, Hydro Peaking and Seasonal Peaking Power;

Rate Schedule F-2, Firm Power from Integrated System;

Rate Schedule F-3, Firm Power through Oklahoma Utilities Companies;

Rate Schedule EE-2, Excess Energy;

Rate Schedule IC-2, Interruptible Capacity; and

Contract Rate under section 2 of the Tex-La Electric Cooperative, Inc. Contract No. 14-02-001-864.

The above rates are requested to remain in effect through September 30, 1983. In addition, the filing proposed that Rate Schedule P-3 be applied to power and energy sales under section 1.02 and that Rate Schedule EE-2 be applied to secondary energy sales under section 1.04 of the contract among SWPA, Arkansas Power and Light Company, and the Reynolds Metals Company, Contract No. Ispa-514 (Aluminum Contract).

Public notice of the filing was published in the **Federal Register** on May 4, 1979, and a Notice of Correction of the filing was published in the **Federal Register** on August 8, 1979. The first notice required protests and interventions to be filed with the Commission on or before May 16, 1979, and the second notice provided that comments be filed on or before August 27, 1979. Petitions to intervene were filed by the City of Piggott, Arkansas, Tex-La Electric Cooperative, Inc., Arkansas Power & Light Company, Reynolds

[1] The Assistant Secretary for Resource Applications was given authority to file rates with this Commission by DOE Delegation Order No. 0204-33, issued December 28, 1978, 43 FR 60636. On March 19 and April 9, 1981, the Secretary of Energy transferred DOE's power marketing responsibilities to the Office of the Assistant Secretary for Conservation and Renewable Energy.

Metals Company, and Associated Electric Cooperative, Inc. In addition, untimely petitions to intervene were filed by the Committee on Power for the Southwest, Inc., the City of Fulton, Missouri, and the City of Lamar, Missouri.

Commission Authority and Standards of Review

The authority delegated to the Commission by the Secretary of Energy is that of confirming and approving on a final basis, or disapproving rates approved on an interim basis by the Assistant Secretary. The Commission must insure that the rates submitted by the Assistant Secretary satisfy the standards of the Flood Control Act of 1944.[2] The Act provides that:

1. Project power and energy must be transmitted and disposed of in a manner that encourages the most widespread use thereof;

2. Rate schedules shall be drawn having regard to the recovery of the cost of producing and transmitting such energy, including amortization of the capital investment, over a reasonable period of years; and

3. Rates to consumers should be the lowest possible consistent with sound business principles.

Unlike our statutory authority under the Federal Power Act or the Natural Gas Act, the statutory mandate accorded to the Commission under the power marketing legislation does not include the power to modify the tendered rates. The power marketing acts vest the responsibility to develop the rates in the first instance in the Administrator of SWPA. Those rates are transmitted to the Assistant Secretary for confirmation and approval on a interim basis. The interim rates and supporting record are then submitted to the Commission for final confirmation and approval or disapproval.

In November and December of 1980,[3] the Commission issued two orders discussing its review responsibility with respect to federal rates. The Commission therein determined that its role could be viewed as in the nature of an appellate function: to affirm, reverse, or remand the rates submitted to it for final review. The Commission determined that in order to discharge this review function it must be apparent from the record before the Commission that the Administrator's development of rate schedules and the Assistant Secretary's interim approval are rational and consistent with the statutory standards. Therefore, under the federal power marketing statutes, the Commission must determine, on the basis of the supporting data and information submitted, whether the rate schedules will provide a sufficient level of revenue to SWPA to recover its annual costs and to repay the federal investment within a reasonable period of time. In addition, the Commission must make a determination as to whether the rates developed by the Administrator are the lowest possible (consistent with sound business principles) and have been drawn with a view to encouraging the widest possible use of the project power and energy.

SWPA Rate Schedules and Support

The SWPA filing includes certain rate schedules and a repayment study which purports to support the rate filing. The repayment study contains an estimate of revenues for the time period for which the approval is being sought. We find the SWPA filing deficient in two important respects: it appears to significantly underestimate the costs of supplying energy and power; and it does not provide critical information to allow us to determine whether the rates are consistent with the statutory standards and the regulations issued by the Assistant Secretary to implement these standards. Specific deficiencies are discussed below.

First, SWPA reduced its estimate of replacement costs for the entire system by 35 percent based on the assumption that the Army Corps of Engineers, the agency responsible for operating SWPA's power plants, has been recovering replacement costs in its charges for ordinary maintenance expenses. This assumption appears to be based on the findings of a special replacement study prepared by the Corps for one project, the Sam Rayburn Dam. However, there is nothing in the Corps' study that justifies applying the 35 percent reduction to other projects in the SWPA system. Based on an estimate supplied by SWPA, it appears that this unusual downward replacement cost adjustment will lead to an annual revenue shortfall of approximately $1.2 million.

Second, the SWPA study underestimates interest charges. A review of the Corps' 1979 Form 1 Annual Report for the Stockton Lake Project shows that the interest expense for that project is underestimated in the SWPA Power Repayment Study (PRS) by $2,719,822. SWPA has also underestimated interest expenses on other projects. In earlier years, SWPA's filing indicates failure to recover all of its annual costs and, as a result, by the end of FY 1977, SWPA had accumulated a deficit of $23,843,597. DOE regulations (R.A. Order No. 6120.2) require that the interest rate used in computing the carrying charges on such deficits be current interest rates applicable in each year (as defined in the regulation) rather than project interest rates (*i.e.*, the interest rate specified in the project authorization or the interest rate applicable at the time construction was initiated). It appears that SWPA ignored this directive. SWPA's use of the generally lower project interest rates in place of current interest rates appears to produce a significant understatement of annual revenue requirements. The application of project interest rates to deficits and the understatement of the Stockton Lake Project interest expenses are estimated to cause an annual shortfall in required revenues of approximately $2.5 million.

Third, in developing its replacement cost estimates, SWPA used an outdated publication, issued by the Bureau of Reclamation in October 1963, rather than a more recent publication, *Replacements—Units of Property and Service Lives* (March 1968). Our analysis indicates that SWPA's use of the outdated publication to estimate future replacement costs will result in an additional annual revenue deficiency of about $400,000.

Fourth, SWPA contends that the proposed rate increase is needed in part because of expected increases in the cost of purchased power. The SWPA filing indicates that the price paid for purchased power will range from an average of 20.3 mills per kilowatt-hour in FY 1979, to 26.1 mills per kilowatt-hour in FY 1982. From a review of current firm power costs in SWPA's service area, it appears that SWPA's price estimates are on the low side. Therefore, unless SWPA provides further information, there is strong reason to doubt that its filed rates will provide sufficient revenues to cover purchased power costs.

Fifth, the SWPA study combines replacements with the original project investment. The non-segregation of replacement costs makes it impossible for us to determine whether replacement costs are being repaid on a timely basis consistent with the statutory standards. This is a reporting deficiency that prevents us from performing our review function. However, it probably does not have a direct revenue impact.

[2] 16 U.S.C. 825s.

[3] *U.S. Secretary of Energy, Bonneville Power Administration*, Docket No. EF80-2011, Order Remanding Rates Without Prejudice, issued November 21, 1980; *U.S. Secretary of Energy, Bonneville Power Administration*, Docket No. E-9663, Order Remanding Rates Without Prejudice, issued December 1, 1980.

When reviewing the rate filings of federal power marketing agenices based upon extended repayment studies, we may overlook minor deficiencies if the level of rates is generally consistent with the mandates of the Flood Control Act. However, we would be remiss in our statutory obligations if we overlooked major deficiencies that lead to significant shortfalls. We estimate that the first three deficiencies in the SWPA filing will result in an annual revenue shortfall of approximately $4.1 million, or about 6 percent of gross revenues. To the extent that these revenues are not collected from SWPA's customers, they will be borne by taxpayers. We are disapproving this filing because we do not believe that Congress intended for us to approve rates that would not be sufficient to reimburse taxpayers for their investment.

Aluminum Contract

One difficult issue remains: how to treat known cost deficiencies for service to a customer that may not be recovered from that customer because of legally binding contract provisions?

In January 1952, Arkansas Power & Light Company (AP&L) and Reynolds Metals Company (Reynolds) entered into a contract with SWPA. The contract obligates SWPA to provide elecricity to AP&L and Reynolds for a thirty-year period beginning January 1, 1954, and ending December 31, 1983. The contract, as supplemented on April 25, 1952, provided for certain maximum rate increases at the end of each five-year period for the duration of the thirty-year contract. On April 28, 1952, the Federal Power Commission confirmed and approved the schedule of rates and charges as filed in the supplemental agreement.

In the instant filing, SWPA has determined that the maximum contract rate is insufficient to meet the repayment requirement and, therefore, seeks to apply to these companies the same rates being charged for similar service to other customers.

AP&L and Reynolds brought action in the United States District Court for the District of Columbia to prevent SWPA from increasing the rate in excess of the maximum increase provided in the contract. By Memorandum Opinion filed October 20, 1980, the District Court ruled that SWPA could not legally increase the rate beyond the contract rate, regardless of whether the rate for service to AP&L and Reynolds would produce revenues sufficient to cover the costs for the service.

As previously noted, the standards of section 5 of the Flood Control Act of 1944 require that the applicable rate schedules provide sufficient revenues for SWPA to recover it annual costs and to repay the federal investment within a reasonable period of time. Accordingly, absent legislative action, the estimated $2.1 million annual revenue deficiency produced by the Aluminum Contract must be recovered in charges to other customers.

The Record on Other Issues

Our decision to disapprove the rate and remand the record in this docket obviates the need to address other issues at this time. However, for purposes of guidance, the Commission will set forth its current views with respect to the adequacy of the existing record as to certain of the issues raised by the intervenors.

Associated Electric Cooperative, Inc. has protested a transmission service charge which is assessed when SWPA provides service off its transmission system. The Cooperative contends that the service charge concept is contrary to the intent of Congress. Since legislation (Pub. L. No. 95–456, 92 Stat. 1230, enacted October 13, 1978) specifically provides for mutually satisfactory contract negotiations to be held between Associated and SWPA, the issue is not appropriate for resolution by the Commission in this rate filing.

Tex-La Electric Cooperative, Inc. asserts that SWPA and the Corps of Engineers have failed to substantiate that an annual revenue increase of approximately $15 million over the next five years is required to fulfill their responsibilities under section 5 of the Flood Control Act. In light of the large increases in O&M expenses incurred for the integrated system in the recent past, it appears that SWPA's estimates of future O&M costs are reasonable and necessary to insure that costs are recovered.

With respect to contract issues other than those posed by the Aluminum Contract and discussed above, the remand provides an opportunity for the Assistant Secretary, if he so desires, to consider allegations that the amount of energy provided and interim rates for customers of SWPA are in violation of any contractual obligations between the parties. As we noted in *Bonneville Power Administration*, Docket No. EF80–2011, order issued November 21, 1980, the Commission is not disposed to inquire into the legal authority of the Assistant Secretary to place rates in effect on an interim basis. The Commission's view is that this is a matter for disposition by the Assistant Secretary in the first instance, subject to appellate court review.[4]

Finally, the Commission believes that the disapproval and remand makes a hearing before the Commission unnecessary and inappropriate at this time. Although the Commission has the authority to institute a hearing whenever necessary, we would expect that necessary due process and hearing requirements generally should be satisfied when the proposed rates are being considered by the Assistant Secretary. As previously noted, the responsibility for developing the rates resides with the Assistant Secretary acting by and through the Administrator of SWPA. Thus, we do not now envision any formal hearings before the Commission.

Conclusions

Upon review of SWPA's filing, we find that the record transmitted by SWPA in this docket contains major deficiencies and is not sufficiently developed to allow a fully reasoned determination as to whether the rates meet the applicable statutory criteria. Therefore, it is necessary to disapprove the rates and to remand the record to the Administrator and Assistant Secretary for purposes of correcting those deficiencies and providing additional explanation.

With respect to the various petitions to intervene, we find that participation in this proceeding by each of the petitioners is in the public interest and that good cause exists to grant the untimely petitions. Accordingly, we shall grant intervenor status to each of the petitioners.

The Commission Orders

(A) The rates and charges developed by the Administrator of the Southwestern Power Administration, and placed in effect on an interim basis by the Assistant Secretary for Resource Applications, are hereby disapproved and remanded for correction of the stated deficiencies and further development of the record in order to demonstrate that the rates and charges submitted are in accord with the applicable statutory standards.

(B) The Assistant Secretary for Conservation and Renewable Energy shall submit substitute rates with adequate support to the Commission within 120 days from the date of this order.

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[4] This issue was recently addressed by the United States District Court for the District of Oregon. *See Pacific Power & Light Co. v. Charles William Duncan, Jr., et al.* (Civil Docket No. 80–82, September 30, 1980).

(C) The petitions to intervene filed by the City of Piggott, Arkansas, Tex-La Electric Cooperative, Inc., Arkansas Power and Light Company, Reynolds Metals Company, Associated Electric Cooperative, Inc., the Committee on Power for the Southwest, Inc., the City of Fulton, Missouri, and the City of Lamar, Missouri are hereby granted subject to the rules and regulations of the Commission; *provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) The Commission, herein specifically provides that Petitions for Reconsideration may be filed with the Commission not later than 30 days from the date of this order.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17341 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4476]

Sierra Pacific Industries; Application for Preliminary Permit

June 4, 1981.

Take notice that Sierra Pacific Industries (Applicant) filed on April 3, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 4476, known as the Grasshopper Power Project located on the Nelson Creek in Shasta County near Big Bend, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. A. Emmerson, President, P.O. Drawer Y, Arcata, California 95521, with a copy to: CH2M Hill, Attention Mr. Neal P. Dixon, P.O. Box 2088, Redding, California 96009.

Project Description—The proposed project would consist of: (1) a new 6-foot high by 25-foot long diversion weir; (2) a 5,500-foot long, 48-inch diameter penstock; (3) a powerhouse to contain one turbine-generating unit with a rated capacity of 3.5 MW; and (4) a 600-foot long transmission line to connect to an existing Pacific Gas and Electric Company transmission line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would study the feasibility of constructing and operating the proposed project.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before, either August 12, 1981 the competing application itself [See 18 C.F.R. § 4.33 (a) and (d) (1980)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than October 13, 1981.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 12, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or 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. 81-17340 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-336-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Application

June 8, 1981.

Take notice that on May 15, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-336-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 2.7 miles of 10-inch pipeline extending from a production platform in Block 257, Eugene Island Area, offshore Louisiana, to the existing 30-inch pipeline in Eugene Island Area Block 278.

It is asserted that the proposed pipeline would enable Applicant to attach 31,500,000 Mcf of dry gas reserves at a rate of 60,000 Mcf per day.

The estimated cost of $3,733,000 for the proposed facilities would be financed initially from Applicant's general funds and/or borrowng under Applicant's revolving credit agreements, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal

Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17355 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-337-000]

Texas Eastern Transmission Corp.; Notice of Application

June 8, 1981.

Take notice that on May 18, 1981, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP81—337–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Public Service Electric and Gas Company (Public Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated May 14, 1981, Applicant proposes to transport up to 50,000 dekatherms (dt) equivalent of natural gas per day, less fuel usage and shrinkage, purchased by Public Service from East Tennessee Natural Gas Company (East Tennessee). Applicant states that it would receive the gas from East Tennessee at the existing point of interconnection between Applicant and East Tennessee located in Giles County, Tennessee, or other mutually agreeable points of receipt and Applicant would transport equivalent quantities to Public Service at the existing point of interconnection between Applicant and Public Service at Meter Station 128 in Union County, New Jersey, or at other mutually agreeable points of delivery for a term ending October 31, 1981.

Applicant proposes to charge Public Service the current TS–1 basic rate of 20.97 cents per dt equivalent under its Rate Schedule TS–1 for delivery by Applicant to Public Service. It is provided, however, that for quantities transported and delivered by Applicant which when added to the quantities delivered to Public Service under Applicant's Rate Schedule TS–1 and SS–II and other transportation agreements exceed the combined total curtailment of natural gas sales to Public Service under all of Applicant's firm sales rate schedules, Applicant would charge Public Service the presently applicable effective TS–1 excess rate of 24.03 cents per dt equivalent such rate being subject to periodic change. It is further stated that Applicant would also retain for fuel use and shrinkage an amount of gas equal to 3.0 percent of the quantities transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the preceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commissions Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17356 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-210-001]

Texas Gas Transmission Corp.; Notice of Amendment to Application

June 8, 1981.

Take notice that on May 20, 1981, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP81–210–001 an amendment to its pending application in the instant docket filed pursuant to Section 7(c) of the Natural Gas Act so as to reflect a change in the location of delivery of gas from Applicant, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its pending application in the instant docket it proposed, *inter alia*, to construct and operate pipeline facilities necessary to receive reserves contracted for in the Tuscaloosa Trend Area of Louisiana. Applicant further submits that it has two long-term transportation contracts with Louisiana Intrastate Gas Corporation (LIG) and Louisiana Resources Company (LRC) concerning the transportation of the subject gas.

Pursuant to a letter agreement dated May 6, 1981, between Applicant and LRC, Applicant proposes herein to make deliveries to LIG on LIG's line in Iberville Parish, Louisiana, for the account of LRC instead of the formerly proposed delivery to LRC in Plaquemine Parish, Louisiana. Applicant states that the proposed new delivery point would be preferable because of the existing operational characteristics of each party's system.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17357 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4473-000]

Township of Harrison, Pa.; Notice of Application for Preliminary Permit

June 4, 1981.

Take notice that Township of Harrison, Pennsylvania (Applicant) filed on April 3, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 4473 to be known as Allegheny L/D #4 Hydro Project located on the Allegheny River in Allegheny & Westmoreland Counties, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William B. Payne, Representative COG, c/o Borough of Cheswick, 1410 Spruce Street, Cheswick, Pennsylvania 15024. 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' Allegheny Lock and Dam No. 4 and would consist of: (1) a headrace; (2) an intake structure integral with (3) a new powerhouse containing generating units having a total rated capacity of 24,000 kW; (4) a tailrace; (5) a new transmission line, approximately 500 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 96,000,000 kWh.

Purpose of Project—Project energy would be sold to the West Penn Power Company and/or other regional utilities; to area townships and to industrial users, depending on studies.

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 $150,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Noah Corporation's application for Project No. 3494 filed on September 23, 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 July 6, 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. 4473. 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 represenative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17342 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-339-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

June 8, 1981.

Take notice that on May 18, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-339-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities to attach new gas supplies in Brazos Area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant proposes herein to construct and operate approximately 3.06 miles of 10-inch pipeline to extend from an existing platform of ANR Production Company (ANR) in Brazos Block 504 to a subsea tie-in with Applicant's 20-inch Block A-1 Brazos lateral on the Central Texas Gathering System. Applicant further proposes to construct metering, regulating and other appurtenant facilities which would be located on the existing platform.

Applicant states that the proposed facilities would provide for the delivery of an estimated 46,720,000 Mcf of natural gas reserves in the Block 504 field with an estimated deliverability of 30,000 Mcf per day.

Applicant proposes to finance the estimated cost of $3,369,300 for the proposed facilities initially through short-term loans and available cash. It is stated that permanent financing would

be undertaken as a part of the overall long-term financing program in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commisson's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17356 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-2-56-000]

Valero Interstate Transmission Co.; Purchased Gas Cost Adjustment Filing

June 4, 1981.

Take notice that on April 30, 1981, Valero Interstate Transmission Company (VITCO) tendered for filing Original Supplement No. 109 (purchased gas cost adjustment) to Rate Schedule 2 superseding previous purchased gas cost adjustments. VITCO stated that Exhibit A to Original Supplement No. 109 reflected the annualized change in purchased gas costs based on the twelve months ended February 28, 1981. VITCO requested waiver of any Commission regulation which would prohibit implementation of Supplement No. 109. The change in rate provided in Exhibit A to Original Supplement No. 109 includes an increase in purchased gas costs of 13.31 cents/Mcf and a surcharge of 6.72 cents/Mcf designed to eliminate the balance in the deferred purchased gas account. It is stated that these rates include no incremental pricing feature because VITCO was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for Original Supplement No. 109 is June 1, 1981. VITCO states that copies of the filing have been served on the only customer served under Rate Schedule 2, Transcontinental Gas Pipe Line Corporation.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 1.10). All such petitions or protests should be filed on or before June 17, 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 Commissin and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17343 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST79-109-001]

Valero Transmission Co.; Extension Report

June 8, 1981.

Take notice that on April 24, 1981, Valero Transmission Company (Valero) formerly Lo-Vaca Gathering Company, P.O. Box 500, San Antonio, Texas 78292, filed in Docket No. ST79-109-001 an extension report pursuant to Section 284.106 of the Commission's Regulations, reporting the extension of transportation of natural gas for an on behalf of El Paso Natural Gas Company (El Paso), all as more fully set forth in the extension report which is on file with the Commission and open for public inspection.

Valero states that the subject transportation services are rendered pursuant to an agreement between it and El Paso whereby Valero receives gas from El Paso at a point on Valero's system in Live Oak County, Texas and redelivers such gas to El Paso at a point in Pecos County, Texas. Valero advises that such transportation arrangement commenced July 26, 1979, and that it is obligated on a best efforts basis to transport a maximum daily quantity up to 7.5 billion Btu for El Paso.

According to Valero, the transportation rate for gas transported and redelivered is 16.5 cents per million Btu for the first year of the initial extension (July 26, 1981 to July 26, 1982) and 17.5 cents per million Btu for the second year of the extension (July 26, 1982 to July 26, 1983).

It is stated that the extension shall commence at 1:00 A.M. on July 26, 1981 for a term of two years thereafter, and that during such initial extended term, Valero agrees to file an application pursuant to Section 284.122(b)(2) of the Commission's Regulations for approval of the transportation of gas for El Paso for a term contemporaneous with the Gas Purchase Agreement between El Paso and Lovelady, *et al.*, dated October 22, 1979.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before June 25, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17339 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 1888-003]

York Haven Power Co.; Application for Approval of Exhibit R

June 4, 1981.

Take notice that an application was filed on March 18, 1981, under the Federal Power Act, 16 U.S.C. § 791(a)-825(r), by the York Haven Power

Company, Licensee for the York Haven Project No. 1888, for approval of its recreation use plan, Exhibit R. The project is located on the Susquehanna River in Dauphin, Lancaster and York Counties, Pennsylvania. This filing was made in response to Article 32 of the FERC Order Issuing New Major license of August 14, 1980. Correspondence with the Licensee should be directed to: Mr. R. C. Richert, GPU Service Corporation, P.O. Box 1018, Reading, Pennsylvania 19603.

Existing recreation facilities at the project include 6 picnic areas, a nature trail, an undeveloped area, 9 boat launching areas, a fishing area, 3 visitor facilities, 7 cottage sites and an island landing site.

Facilities planned for development by the Fall of 1984 include picnic, sanitary and public parking facilities, quoit pits, and courts for tennis and vollyball, all located near the project powerhouse, a canoe portage trail on the western bank near the powerhouse, and a boat launching area on the eastern shore about one-third of a mile upsteam of the project's secondary concrete overflow dam.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 22, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17344 Filed 6-10-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51266; TS-H-FRL-1850-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of eight PMN's and provides a summary of each.

DATES: Written comments by: PMN 81-219, 81-220 and 81-221, July 4, 1981. 81-231, 81-232, 81-233, 81-234 and 81-235, July 11, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51266] and the specific PMN number, should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on PMN's received by the EPA:

PMN 81-219

Close of Review Period. August 3, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. N-[2-(4-Aminophenyl)ethyl]-methanesulfonamide.

Use. The manufacturer states that the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	30	80
2d year	0	80
3d year	30	80

Physical/Chemical Properties

Solubilities—Water—<0.1%, Octanol—<0.1%.
Melting point—97°C.

Toxicity Data

Acute oral LD_{50}—>2,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slightly irritating.
Eye irritation—Strongly irritating, prompt washing is palliative.
Skin sensitization potential—Not a sensitizer.
Ames *Salmonella* mutagenicity test, with and without metabolic activation—Negative.

Exposure. The manufacturer states that three workers manufacturing and using the new chemical will have skin and inhalation exposure for 0.3 to 0.5 hr/da, 0.5 to 1.5 da/yr, at an average concentration of 0 to 10 mg/m³ and a peak concentration of 1 to 100 mg/m³ during the transfer of the substance to drying equipment and storage containers.

Environmental Release/Disposal. The manufacturer states that there will be negligible amounts of the new chemical released into the air and none into the land and water. Vapors will be scrubbed before release, combustible liquid and solid wastes will be incinerated, and wastewater will be treated in a wastewater treatment system.

PMN 81-220

Close of Review Period. August 3, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Trisubstitutedbenzisoquinoline.

Use. Claimed confidential business information. Generic use information provided: A minor constituent in a commercial article with minimal potential for human contact.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	300	500
2d year	300	500
3d year	300	500

Physical/Chemical Properties

Solubilities—Water—<0.1%.
Octanol—<0.1%.
Melting point—243°C.

Toxicity Data

Acute oral LD_{50}—>3,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slightly irritating.
Eye irritation—Slightly irritating.
Skin sensitization potential—Low.

Exposure. The manufacturer states that at 2 sites, 10 manufacturing and processing workers will have skin and inhalation exposure for 0.3 to 2.5 hr/da, 3 to 30 da/yr, at an average concentration of 0 to 10 mg/m³ and a peak concentration of 1 to 100 mg/m³ during the transfer of the new chemical to drying equipment and storage and blending containers.

Environmental Release/Disposal. The manufacturer states that at two sites, there will be negligible amounts of the new substance released into the air and land and none into the water. Vapors will be scrubbed before release, combustible liquid and solid wastes will be incinerated, and wastewater will be treated in a wastewater treatment system.

PMN 81-221

Close of Review Period. August 3, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstitutedheteropolycyclic salt.

Use. The manufacturer states that the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	0.1	0.3
2d year	0	0.3
3d year	0	0.3

Physical/Chemical Properties

Melting range—215-224°C with decompostion.
Solubility—9 ppm in acetonitrile.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that two workers manufacturing and using the new chemical will have skin and inhalation exposure for 0.1 to 0.3 hr/da, 1 to 2 da/yr every 3 years, at average and peak concentrations of 0 to 1 mg/m³ during the transfer of the substance to drying equipment and storage and reaction containers.

Environmental Release/Disposal. The manufacturer states that none of the new substance will be released into the air, land, or water. Vapors will be scrubbed before release, combustible liquid and solid wastes will be incinerated, and wastewater will be treated in a wastewater treatment system.

PMN 81-231

Close of Review Period. August 10, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided: Annual sales—In excess of $500 million.
Manufacturing site—Northeast U.S.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: [([2-(Methylsubstituted)-ethyl]substituted)heterocyclic]benzene.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that use of the PMN substance may release more than 50 but less than 5,000 kg per year into the environment with potential skin exposure for chemical industry employees. End-use will involve incorporating the new chemical into an article.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	10,000
2d year	1,000	10,000
3d year	1,000	10,000

Physical/Chemical Properties

Melting point—>100°C.
Water solubility in weight % at 24°F—0.0027.

Toxicity Data. No date were submitted.

Exposure. The manufacturer states that at 2 sites, a total of 162 workers manufacturing, processing, mixing, and coating with the new chemical could have inhalation and skin exposure for 24 hr/da, 250 to 322 da/yr, at average and peak concentrations of 0 to 1 mg/m³.

Environmental Release/Disposal. The manufacturer states that at two sites, less 20 kg/yr will be released into the air, up to 1,100 kg/yr into the land, and less than 110 kg/yr into the water of a publicly owned treatment works (POTW). Wastes other than those approved for disposal into a POTW, will be drummed for destruction in a licensed thermal oxidizer, disposal in an approved landfill, or for treatment or recovery.

PMN 81-232

Close of Review Period. August 10, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substitutedalkanoic acid derivative.

Use. The manufacturer states that the PMN substance will be used in a site-limited use as a chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	50	100
2d year	100	200
3d year	200	400

Physical/Chemical Properties

Solubilities—Water—<0.1%.
Octanol—0.1-1.0%.
Melting point—60°C.

Toxicity Data

Acute oral LD_{50}—>3,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Strongly irritating.

Exposure. The manufacturer states that four workers using and manufacturing the new chemical will have skin and inhalation exposure for 0.5 to 1.5 hr/da, 1 to 3 da/yr, at average concentration of 0 to 10 mg/m³ and peak concentration of 1 to 100 mg/m³ during transfer operations.

Environmental Release/Disposal. The manufacturer states that negligible amounts of the new substance will be released into the air and none into the land and water. Vapors will be passed through a scrubber, spills will be collected for incineration and processing in a wastewater treatment system, and combustible solid and liquid waste will be incinerated.

PMN 81-223

Close of Review Period. August 10, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted alkanoic acid.

Use. The manufacturer states that the PMN substance will be used in a site-limited use as a chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	50	100
2d year	100	200
3d year	200	400

Physical/Chemical Properties

Solubilities—Water—<0.1%.
Octanol—0.1-1.0%.
Melting point—91°C.

Toxicity Data

Acute oral LD_{50}—>2,000 mg/kg.
Acute dermal LD_{50}>1,000 mg/kg.
Skin irritation—Slightly irritating.

Exposure. The manufacturer states that six workers using and manufacturing the new chemical will have skin and inhalation exposure for 0.3 to 2.5 hr/da, 2 to 5 da/yr, at average concentration of 0 to 100 mg/m³ and peak concentration of 1 to 100 mg/m³ during transfer operations.

Environmental Release/Disposal. The manufacturer states that negligible amounts of the new substance will be released into the air and none into the land and water. Vapors will be passed through a scrubber, spills will be collected for incineration and processing in a wastewater treatment system, and combustible solid and liquid wastes will be incinerated.

PMN 81-234

Close of Review Period. August 10, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstituted-alkanamide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be a minor constituent in a commercial article, contained in such a manner as to afford a very low potential for exposure.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	50	100
2d year	100	150
3d year	150	300

Physical/Chemical Properties

Solubilities—Water—<0.1%.
Octanol—0.1-1.0%.
Melting point—107°C.

Toxicity Data

Acute oral LD_{50}—<3,000 mg/kg.
Acute dermal LD_{50}—<1,000 mg/kg.
Skin irritation—slightly irritating.

Exposure. The manufacturer states that eight manufacturing and processing workers will have skin and inhalation exposure to the new substance for 0.1 to 2.5 hr/da, 5 to 6 da/yr, at average concentration of 0 tp 10 mg/m³ and peak concentration of 1 to 100 mg/m³ during cleaning and transfer operations.

Environmental Release/disposal. The manufacturer states that negligible amounts of the new substance will be released into the air and water and none into the land. Vapors will be passed through a scrubber, wastewater will be collected for treatment, and combustible solid and liquid wastes will be incinerated.

PMN 81.235

Close of Review Period. August 10, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: disubstituted-alkanamide.

Use. The manufactuere states that the PMN substance will be used in a site-limited use as a chemical intermedicate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	50	100
2d year	100	250
3d year	250	500

Physical/Chemical Properties

Solubilities—Water—<0.1%.
Octanol—<0.1%.
Melting point—83°C.

Toxicity Data

Acute oral LD_{50}—>3,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slightly irritating.

Exposure. The manufacturer states that five workers manufacturing and using the new chemical will have skin and inhalation exposure for 0.5 to 1.5 hr/da, 3 to 4 da/yr, at average concentration of 0 to 10 mg/m³ and peak concentration of 1 to 100 mg/m³ during cleaning and transfer operations.

Environmental Release/Disposal. The manufacturer states that negligible amounts of the new substance will be released into the air and water and none into the land. Vapors will be passed through a scrubber, wastewater will be collected for treatment, and combustible solid and liquid wastes will be incinerated.

Dated: June 3, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-17274 Filed 6-10-81; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51208A; TS-H-FRL-1850-5]

Certain Premanufacture Notices; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA)..

ACTION: Notice.

SUMMARY: EPA is extending the review period for three premanufacture notices (PMN's) for which the review period commenced on March 5, 1981, under section 5 of Toxic Substances Control Act (TSCA). The PMN's are P-80-356, P-80-357, and P-81-110. The PMN's described chemical substances that would be manufactured as dyes in Japan and imported into the U.S. for use in fiber. The submitter of the three PMN's is Marubeni America Corporation, New York, New York. Each PMN substance will have a maximum third year production volume of 20,000 kilograms.

DATE: The review period has been extended to July 18, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Green, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E208, 401 M Street SW., Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA any person who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA prior to commencement of manufacture or import. In general, section 5 provides that EPA must complete its review of a PMN within 90 days of its receipt by the Agency. However, under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt.

EPA issued proposed rules to implement the premanufacture notification program published in the **Federal Register** of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed regulation addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good

cause to extend the notice period. Although EPA has not yet promulgated these rules, the example in the proposal that would apply in this case is that:

EPA has received the notice and has determined that there is a significant possibility that the chemical will be regulated under section 5(e) or section 5(f) of the Act, but the Agency is unable to initiate regulatory action within the initial 90-day period (44 FR 2273).

Chemical Identity

P-80-356—benzoic acid, 2-[[2-amino-5-hydroxy-6-[[-6[[4'-[[1-hydroxy-8[[(4-methylphenyl]sulfonyl]amino]-3,6-disulfo-2-naphthalenyl]azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-7-sulfo-1-naphthalenyl]azo]-5-nitro,-trisodium salt

P-80-357—benzoic acid, 2-[[2-amino-6-[4'-[[5-[2,5-disulfophenyl]azo]-1-hydroxy-6-(phenylamino)-3-sulfo-2-naphthalenyl]azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-5-hydroxy-7-sulfo-1-naphthalenyl]azo]-5-nitro-tetrasodium salt

P-81-110—acetamide, N-(2-((2-chloro-4,6-dinitrophenyl)azo-5-(diethylamino)-4-(2-methoxy)ethoxyphenyl)

Review to Date

EPA's initial evaluation of the subject PMN substances entailed review of information that the manufacturer supplied in the PMN's and in subsequent submissions to EPA. EPA also conducted literature searches on the PMN substances and on structurally similar substances, i.e., structural analogues.

Using the information, EPA assessed seven major areas of potential concern: process chemistry, uses, worker and consumer exposures, environmental releases, health effects, environmental fate, and ecological effects. The Agency also considered other factors, such as economics and impacts on technological innovation, that are not directly associated with the assessment of the risks that the PMN substances may present to human health and the environment. When EPA completed this initial screening of the substances, the Agency concluded that it needed to conduct a more thorough review of certain aspects to focus on specific areas of concern. Therefore, EPA has entered the PMN's into another series of analyses, the Detailed Review Process. During the Detailed Review, Agency staff is conducting further evaluations and assessments of the following: (1) The exposure associated with the processing, use, and disposal of the PMN substances and (2) the degree to which the subject substances may cause effects of concern to human health and the environment.

Extension of the Notice Review Period

The results of the reviews alluded to are summarized below:

(1) EPA is concerned about potential risks that the substances may pose to humans. EPA is concerned that the three PMN substances may exhibit carcinogenic potential. The manufacturer supplied no information in the PMN's or in subsequent submissions that would comment or bear any light on these substances' potential for carcinogenic activity. In addition, EPA is concerned that the chemical substance in P-81-110 may exhibit a skin sensitization potential which may lead to occular effects, and may be highly toxic to fish.

(2) EPA can predict that some workers in processing operations will come into contact with the substances. Such contact will involve both dermal and inhalation exposure routes. At this time, worker exposure appears to present a concern, and the extent of the concern to consumers and the aquatic environment is still being determined. The lack of toxicity information on the PMN substances themselves, the health concerns expressed for analogs to the subject chemicals, and the known exposure of workers to these types of substances gives rise to the significant possibility that the chemicals will be regulated under section 5 of the Act.

On the basis of the cited concerns raised during EPA's evaluation of the PMN substances, the significant possibility of further regulation under section 5, and because of the limited time before the end of the review period for the substances (which closes on June 3, 1981), EPA has determined that good cause exists to extend the notice period for an additional 45 days, until July 18, 1981.

EPA needs additional time to assess these chemical substances to determine if regulatory controls are appropriate. During the additional 45 days EPA will: (1) evaluate the need for additional data on the PMN substances, (2) determine the need for regulatory control in light of EPA's concerns about PMN substances, and (3) examine possible control options. Extension of the notice period preserves EPA's authority to initiate a regulatory action under section 5 of TSCA if the Agency concludes that such an action is appropriate.

The PMN's and other written material are available for public inspection in Rm. E107, at the EPA Headquarters address given above. The public record is available from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. All information that the manufacturer has claimed to be confidential has been deleted from the documents in the public record.

Dated: June 2, 1981.

Edwin H. Clark II,

Acting Assistant Administrator for Toxic Substances.

[FR Doc. 81-17275 Filed 6-10-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80-339; Transmittal Nos. 2258, 2259, 2260, 4610, 4611, 4613, 4614, 4615, 4616, 909, 910, 911, 1430, 1431, 224, 69, and 77]

ITT World Communications Inc., et al.; Revisions to tariffs; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Investigation; extension of reply comment period.

SUMMARY: Based on a request by RCA Global Communications, Inc., the period of time for filing responses to Trans-Lux Corporations reply case in the investigation of tariff revisions for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service, 45 FR 58680 (Sept. 4, 1980), is extended to June 5, 1981.

DATES: Responses June 5, 1981.

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

FOR FURTHER INFORMATION CONTACT: Marjorie S. Bertman, Common Carrier Bureau (202) 632-6917.

SUPPLEMENTARY INFORMATION:

Adopted: May 29, 1981.

Released: June 2, 1981.

By the Acting Chief, Common Carrier Bureau.

1. Before the Bureau is a motion filed by RCA Global Communications, Inc. (RCA Globcom) requesting an extension of time until June 12, 1981, to file its response to the reply case submitted by Trans-Lux Corporation (Trans-Lux) in the above-captioned investigation. Responses are now due on or before May 29, 1981. Also before the Bureau is an opposition to RCA Globcom's motion filed by Trans-Lux.

2. RCA Globcom states that it requires the additional time to complete the necessary financial analysis of Trans-Lux's reply case. On the other hand, Trans-Lux points to the extensive delays that have already occurred in this investigation, and argues that it will

suffer injury from a further postponement.

3. Based on the pleadings before us, we find that a one-week extension would allow the parties ample time to prepare their responses while not unduly delaying this proceeding. Therefore, responses will be due on June 5, 1981.

4. Accordingly, it is ordered, That pursuant to authority delegated under Section 0.291 of the Commission's Rules, 47 CFR § 0.291, the request for extension of time filed by RCA Global Communications, Inc. is granted to the extent indicated and is otherwise denied.

5. It is further ordered, That a copy of this Order be published in the **Federal Register.**

6. It is further ordered, That this Order is effective upon adoption.

Federal Communications Commission.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-17239 Filed 6-10-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-3974]

Lease Agreement Between Toledo-Lucas County Port Authority and Toledo World Operators, Inc.; Notice of Availability of Finding of no Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-3974 will not constitute a major Federal action significantly affecting the quality of the human invironment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environemental impact statement is not rerquired. Agreement No. T-3974 is a lease agreement between Toledo-Lucas County Port Authority (Toledo) and Toledo World Operators, Inc. The lease provides for the operation, maintenance and renewal of approximately 100 acres of Toledo property including eight berths, buildings and improvements located on the leased premises (Toledo's Facility No.1). The premises shall be used for unloading, storing and loading waterborne cargoes.

This Finding of No Significant Impact (FONSI) will become final within 10 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Fedeal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Joseph C. Polking,

Acting Secretary.

[FR Doc 81-17240 Filed 6-10-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 81-37]

Melamine Chemicals, Inc. and Atlantic Cargo Services, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Melamine Chemicals, Inc. against Atlantic Cargo Services, et al. was served June 4, 1981. Complainant alleges that respondents have maintained inbound ocean freight rates from Northern Europe on "Melamine" in violation of sections 15, 16 First, 17, 18 (b)(5) and 18 (c)(1) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-17379 Filed 6-10-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

June 8, 1981.

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application.

Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 1, 1981.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; California): to engage *de novo* through a new subsidiary, UniMortgage Corporation of California, in the origination, sale and servicing of first and second mortgage loans; the sale of credit life and credit health and accident insurance offered in connection with extensions of credit. These activities would be conducted at an office in Walnut, California, serving an area of roughly twenty-five miles radius extending into the counties of Los Angeles, Orange, Riverside, and San Bernardino, California.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, London, England (lease financing activities in Tennessee): to engage through their subsidiary, BarclaysAmerican/Leasing, Inc., in lease financing of personal property by means of leases that meet the standards of Section 225.4(a)(6) of Regulation Y. These activities would be conducted from an office at 3200 West End Avenue,

Suite 405, Nashville, Tennessee 27203, serving Tennessee, the southern portion of Kentucky, and the south/central United States.

2. Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, London, England (secured business lending, primarily real estate—North Carolina, Idaho, and South Carolina): to engage through their subsidiary, Barclays-AmericaCorporation ("BAC") and its subsidiary, Barclays-America/Credit, Inc. and BarclaysAmerica/Financial, Inc., in making business loans to small businesses or individuals borrowing for business purposes, primarily secured by first and second mortgages on real estate. This activity would be conducted from BAC's existing consumer finace offices located in North Carolina, Idaho, and South Carolina, serving customers throughout those states.

3. Barclays Bank Limited, London, England, and its subsidiary, Barclays Bank International Limited, London, England (consumer finance and insurance activities; Kentucky, North Carolina, Virginia): to engage, through their indirect subsidiaries, Barclays American/Credit, Inc., ("BA/Credit") from an office in Charlotte, North Carolina, and Barclays American/Mortgage, Inc., from an office in Louisville, Kentucky, in making mortgage loans and selling, as agent, related credit life, credit accident and health, and credit property insurance; and to engage, through BA/Credit, from an office in Virginia Beach, Virginia, in indirect installment lending, retail sales financing, and selling, as agent, related credit life, credit accident and health, and credit property insurance. Each office would conduct the activities described for the office, serving customers in and throughout the area surrounding the city in which the office is located.

4. Chase Manhattan Corporation, New York, New York (insurance activities; California): to engage, through its subsidiary, Chase Manhattan Financial Services, Inc., in the sale of credit property insurance directly related to its lending and servicing activities. These activities will be conducted from an office in Newport Beach, California, serving all of California. Comments on this application must be received not later than June 26, 1981.

5. Citicorp, New York, New York (consumer finance and insurance activities; Texas): to open a *de novo* office of its subsidiary, Citicorp Acceptance Company, Inc., in San Antonio, Texas, to engage *de novo* in the following proposed activities: the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. The proposed service area of the office would comprise the entire state of Texas for all the aforementioned activities.

6. Citicorp, New York, New York (consumer finance, insurance and industrial loan company activities; Washington): This notice corrects a previous Federal Register Document (FR Doc. 81-15872) published at page 28743 of the issue for Thursday, May 28, 1981. The list of proposed activities was incomplete. The additional activities that applicant proposes to engage in are as follows: the sale at retail of money orders, travelers checks, U.S. savings bonds and consumer oriented financial management courses. These activities would be conducted from offices in Lacey, Washington, and Federal Way, Washington, and servicing the entire state of Washington.

7. Lincoln First Banks, Inc., Rochester, New York (investment advisory activities; Southern Florida): to engage through its subsidiary, Lincoln First of Florida, Inc., in acting as investment or financial advisor to the extent of providing portfolio investment advice to any person other than a Florida bank or trust company, and furnishing general economic information and advice, general economic statistical forecasting services and industry studies. These activities would be conducted from offices in Boca Raton, Florida, serving the county of Palm Beach, Florida.

C. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

NCNB Corporation, Charlotte, North Carolina (commercial finance activities; Florida): to engage, through its subsidiary, NCNB Financial Services, Inc., in making or acquiring loans and other extensions of credit, such as would be made by a factoring and commercial finance company, and servicing such loans and extensions of credit. These activities would be conducted from an office in Orlando, Florida, serving the state of Florida. Comments in this application must be received no later than June 26, 1981.

D. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

First Kentucky National Corporation, Louisville, Kentucky (item processing activity; Arkansas, Arizona, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, and Utah): to engage through its subsidiary, NPC of Arizona, Inc., in the processing of bank card sales slips, airline tickets, third party remittances and other documents. These activities would be conducted from a data processing center located in Phoenix, Arizona, serving Arkansas, Arizona, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, and Utah. Comments on this application must be received not later than June 23, 1981.

E. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Commercial Bankshares, Inc., Grand Island, Nebraska (industrial banking and insurance activities; Nebraska): to engage, through its subsidiary, Commercial Savings Company of Grand Island, in operating an industrial bank as authorized by Nebraska law, including accepting time and savings deposits; making and acquiring loans and other extensions of credit such as would be made by an industrial bank; and selling life, accident and health, and physical damage insurance directly related to its extensions of credit from auxiliary offices at 1616 South Locust, and Highway 281 and Thirteenth Street in Grand Island, Nebraska, serving the City of Grand Island and its trade territory.

F. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

U.S. Bancorp, Portland, Oregon (financing and insurance activities; Oregon): to engage, through its subsidiary, U.S. Creditcorp, in making, acquiring and servicing loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including the purchasing of contracts as evidences of debt, making commercial and business loans, and acting as insurance agent with regard to credit life and disability insurance, solely in connection with extensions of credit by Creditcorp. These activities would be conducted from an office in Vancouver, Washington, serving Clark County, Washington.

G. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17305 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 1, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

Barclays Bank Limited and Barclays Bank International Limited, both of London, England (financing activities; New York): to engage through their subsidiary, BarclaysAmerican/Commercial, Inc., in factoring and commercial finance activities and making other commercial loans. These activities would be conducted from an office in New York, New York serving New York and the northeastern United States.

Chemical New York Corporation, New York, New York (investment advising and real estate appraisal activities); Ohio, Georgia, South Carolina, Texas, Indiana, Tennessee and Pennsylvania: to engage through its subsidiary, Chemical Mortgage Company, in the activities of providing portfolio investment advice (real estate) to any person; furnishing general economic information and advice; providing financial advice to the state and local governments with respect to issuance of their securities; performing real estate appraisals. The expanded activities will be performed in offices in Akron, Cincinnati, Cleveland, Columbus, and Dayton, Ohio; as well as in Atlanta, Georgia; Columbia, South Carolina; Houston, Texas; Indianapolis, Indiana; Nashville, Tennessee; and Pittsburgh, Pennsylvania. The service area for each office is the entire city in which such office is located, as well as the immediately surrounding towns.

B. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

El Paso National Corporation, El Paso, Texas (insurance activities; Texas): to engage, through a subsidiary, Surety General Agency, in the sale of any insurance for the holding company and its subsidiaries and in the sale of any insurance directly related to extensions of credit made or acquired by subsidiaries of the holding company including insurance on property taken as collateral. These activities will be conducted from offices of the holding company's subsidiaries, serving the State of Texas. Comments on this application must be received not later than June 27, 1981.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Missouri, the city of East St. Louis, Illinois and the following counties in Illinois: Bond, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Perry, Randolph, St. Clair, and Washington): to engage through it indirect subsidiaries, FinanceAmerica Corporation of Missouri, a Missouri corporation, and FinanceAmerica Credit Corporation, a Delaware corporation, in the activities of making or acquiring for their own accounts loans and other extensions of credit such as would be made or acquired by a finance company; servicing such loans and other extensions of credit; and offering credit-related property insurance. The activities of FinanceAmerica Corporation of Missouri will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property. The activities of FinanceAmerica Credit Corporation will include, but not be limited to, making first mortgage residential real estate loans in excess of $2,500. Both corporations will offer credit-related life, accident, and health and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation of Missouri and FinanceAmerica Credit Corporation.

These activities will be conducted from a *de novo* office located in Florissant, Missouri, serving the entire state of Missouri, the city of East St. Louis, Illinois, and the above-mentioned Illinois counties.

U.S. Bancorp, Portland, Oregon (financing, servicing, investment, and insurance activities; Washington): to engage, through its indirect subsidiary, U.S. Creditcorp Industrial Loan Company ("CILC"), in the activities of making, acquiring and servicing loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to, consumer loans; installment sales contracts and other forms of receivables; making investments as permitted by Revised Code of Washington, Division of Banking, Chapter 31.04 Industrial Loan Companies; and acting as insurance agent with regard to credit life and disability insurance, property and casualty insurance, solely in connection with extensions of credit by CILC. These activities will be conducted from an office located in Vancouver, Washington, serving Clark County, Washington.

Western Bancorporation (WBC), Los Angeles, California (industrial banking, financing and insurance agency activities; Colorado): to engage *de novo* through its subsidiary, First Interstate Industrial Bank of Fort Collins, in operating an industrial bank as authorized by Colorado law, including the acceptance of time and savings deposits, making, acquiring and servicing loans; and other extensions of credit; and acting as agent or broker with respect to credit life and credit

accident and health insurance, directly related to extensions of credit or the provision of other financial services by Western Bancorporation or its affiliates. These activities will be conducted from an office to be located in Fort Collins, Colorado, serving the Fort Collins Standard Metropolitan Statistical Area.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 29, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17311 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Bokchito Bancshares, Inc.; Formation of Bank Holding Company

June 5, 1981.

Bokchito Bancshares, Inc., Bokchito, 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 80 percent or more of the voting shares of The First State Bank, Bokchito, 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17320 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Boone Bancshares, Inc.; Formation of Bank Holding Company

June 5, 1981.

Boone Bancshares, Inc., Alexandria, Kentucky, 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 61.6 per cent or more of the voting shares of The Dixie State Bank, Walton, Kentucky. 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 Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17321 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Carbondale Investment Corp.; Formation of Bank Holding Company

The Carbondale Investment Corporation, Carbondale, Illinois, 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 Bank of Carbondale, Carbondale, Illinois. 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 July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17312 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Centennial Bancshares, Inc.; Formation of Bank Holding Company

Centennial Bancshares, Inc. Overland, 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 80 percent or more of the voting shares of Centennial Bank and Trust, Mission, 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 July 3, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17322 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, 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, less directors' qualifying shares, of The Clear Creek Valley Banking Company, Amando, Ohio. 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 Cleveland. 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 July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17313 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Chemical Bank International-North America; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Chemical Bank International-North America (formerly Chemcial Bank International of Miami), Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Chicago, Illinois, Los Angels and San Francisco, California; Houston, Texas; Boston, Massachusette; Cleveland, Ohio; and Atlanta, Georgia. Chemcial Bank International-North America operates as a subsidiary of Chemcial Bank, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17314 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Commerce Southwest, Inc.; Acquisition of Bank

Commerce Southwest, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of Carrollton First National Bank, Carrollton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17315 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Conway Bancshares, Inc.; Formation of Bank Company

Conway Bancshares, Inc., Little Rock, Arkansas, 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 90 per cent or more of the voting shares of First State Bank & Trust Company, Conway, Arkansas. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17323 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Copperas Cove Bancshares, Inc.; Formation of Bank Holding Company

Copperas Cove Bancshares, Inc., Copperas Cove, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Cove State Bank, Copperas, Cove, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17324 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Gunnison Bank Holding Corp.; Formation of Bank Holding Company

Gunnsion Bank Holding Corporation, Gunnison, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Gunnison Bank and Trust Company, Gunnison, Colorado. 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 June 30, 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, June 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17316 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Industrial Overseas Investments, Ltd.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25 (a) of the Federal Reserve Act ("Edge Corporation"), to be known as Industrial Overseas Investments, Ltd., Providence, Rhode Island. Industrial Overseas Investments, Ltd. would operate as a subsidiary of Industrial National Bank of Rhode Island, Providence, Rhode Island. The factors that are considered in acting on the 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 Boston. Any person wishing to comment on the application should submit views in writing to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 30, 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, June 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17317 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Jefferson County Bancorp., Inc.; Acquisition of Bank

Jefferson County Bancorp., Inc., Hillsboro, Missouri, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Century Bancshares Corporation, St. Louis, Missouri. 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 the Federal Reserve Bank of St. Louis. 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 July 3, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17304 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

K.B.J. Enterprises, Inc.; Correction

This notice corrects a previous Federal Register Document, FR Doc. 81-16387 at page 29540 of the issue for June 2, 1981. The applicants name was incorrectly listed. The correct name is K.B.J. Enterprises, Inc.

Board of Governors of the Federal Reserve System, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17325 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Mathes Bancshares, Inc.; Formation of Bank Holding Company

Mathes Bancshares, Inc., Ellington, Missouri, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers State Bank of Ellington, Missouri. 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)).

Mathes Bancshares, Inc., Ellington, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit made by Farmers State Bank of Ellington. These activities would be performed from offices in Ellington, Missouri, and the geographic area to be served is an area within a 15-mile radius of Ellington, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve of St. Louis.

Any views or requests for hearing should be submitted in writting and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 2, 1981.

Board of Governors of the Federal Reserve System, June 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17318 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Moultrie Bancorp, Inc.; Formation of Bank Holding Company

Moultrie Bancorp, Inc., Lovington, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Hardware State Bank, Lovington, Illinois. 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 July 3, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17328 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Orbanco Financial Services Corp.; Acquisition of Bank

Orbanco Financial Services Corporation, Portland, Oregon, 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 per cent of the voting shares of Oregon State Bank, Carvallis, Oregon, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 24, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17327 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Rio Grande City Bancshares; Formation of Bank Holding Company

Rio Grande City Bancshares, Rio Grande City, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of First National Bank of Rio Grande City, Rio Grande City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17328 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

Union Holding Co.; Formation of Bank Holding Company

Union Holding Company, Halliday, North Dakota, 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 86.5 per cent or more of the voting shares of The Union Bank, Halliday, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 3, 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, June 4, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17329 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

United Bank Corp.; Acquisition of Bank

United Bank Corporation, 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 the successor by merger to Island State Bank, Patchoque, New York. The factors that are considered in action 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 New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 1, 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, June 2, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17319 Filed 6-10-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Public Hearing on Maximum Allowable Cost Determinations, Cancellation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: This notice cancels the public hearing before the Pharmaceutical Reimbursement Board (PRB) originally announced in the **Federal Register** On March 31,1981 (46 FR 19603), and scheduled for June 11, 1981.

The end of the period for submitting requests to appear at the hearing was May 22,1981. Because no requests were received by the PRB by the close of that period, a decision has been made to cancel this public hearing.

FOR FURTHER INFORMATION, CONTACT: Joel Schaer, 301–594–9777.

Dated: June 4, 1981.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 81-17381 Filed 6-10-81; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

Statement of Delegation of Authority

This notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human

Services, Office of Human Development Services (OHDS) (45 FR 64253) for provision of Federal Payments for Foster Care of Dependent Children under the Aid to Families with Dependent Children program (AFDC), Title IV, part A of the Social Security Act, as amended, and for recommendation, approval and administration of research and demonstration projects relating to foster care under sections 1110 and 1115 of the Social Security Act, as amended, except as provided under section 1120 of the Social Security Act. This delegation is effective when signed by the Secretary.

The delegation of authority to the Social Security Administration (42 FR 13262) to administer AFDC-Foster Care is withdrawn except as indicated in this notice.

Part D, OHDS, Section D.30, Delegations of Authority is amended by adding paragraph 20 to read as follows:

20. The authority vested in the Secretary by the Social Security Act, as amended, to administer the foster care program under Title IV, part A, providing for payments under section 403 pursuant to requirements of section 402 (a)(20) for States to provide aid to families with dependent children in the form of foster care as specified by section 408, *except* that, to aid in the orderly transfer of this program, the Commissioner of Social Security retains authority:

(1) To determine the allowability of the following State claims for expenditures;

a. Those currently under consideration by the Regional Commissioner, Social Security Administration, in consultation with the Associate Commissioner for Family Assistance, Social Security Administration,

b. Those disallowed by the Regional Commissioner, Social Security Administration, and on which the State's request for reconsideration by the Commissioner of Social Security is pending,

c. Those disallowed and with respect to which reconsideration was requested prior to March 6, 1978, and which are awaiting the final administrative decision by the Commissioner of Social Security pursuant to 45 CFR 201.14.

SSA retains authority for these claims until it reaches its final decision; and

(2) To adjust financial accounts relating to the foster care program as necessary to effectuate this delegation with the advice and direction of the Assistant Secretary for Management and Budget.

This delegation ratifies any action taken by OHDS with respect to the administration of AFDC-Foster Care (Title IV–A) prior to the effective date of the delegation.

All regulations and statements of policy and interpretation with respect to the administration of AFDC-Foster Care heretofore issued and in effect prior to the date of this delegation are continued in full force and effect.

This delegation is based on Section 6 of Reorganization Plan No. 1 of 1953 (5 U.S.C. appendix); and is subject to the reservation of authority to the Secretary as set forth in Part A, Chapter AA of the Department Organization Manual.

Dated: June 5, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-17383 Filed 6-10-81; 8:45 am]

BILLING CODE 4110-92-M

Social Security Administration

Income Maintenance Research and Demonstrations; Community Work Experience Projects; Availability of Grants

The Commissioner of Social Security gives notice of availability of fiscal year 1981 funds for income maintenance demonstration (R&D) grants related to Title IV–A of the Social Security Act. The grants are authorized under Section 1115(a) and Section 1110 of the Social Security Act. The closing date for receipt of all applications is July 31, 1981.

Program Purpose

The Research and Demonstration activities are intended to add to existing knowledge and for improvement of methods and techniques for the management, administration, and effectiveness of public assistance programs.

Program Goals

In general, the Social Security Administration (SSA) will support the following types of projects:

(1) Those which develop and demonstrate new financing mechanisms, administrative procedures, and technological innovations for improving the effectiveness of public assistance programs at the State and local level.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out income maintenance.

Community Work Experience Projects (CWEP)

The Department of Health and Human Services has included requirements for mandatory, State administered Community Work Experience Programs (CWEP) for Aid to Families With Dependent Children (AFDC) recipients in the proposed "Social Welfare Amendments of 1981." The purpose of CWEP is to provide work experience and training for recipients of AFDC in order to assist them to move into regular employment. States will have broad flexibility to design and operate CWEP approaches in their own States.

To encourage States to experiment and test new ways to carry out CSWP programs, the Social Security Administration announces the following two types of projects:

A. Community Work Experience Project Demonstrations—SSA–001

These Section 1115 demonstration projects will enhance the operation of the Community Work Experience Program (CWEP) for AFDC recipients. The purpose is to initiate CWEP at the earliest possible time and to assess the various approaches for CWEP. States will select their own approaches to CWEP to reflect their circumstances.

All projects must meet the purpose and requirements specified in the proposed Community Work Experience Program legislation. The provision of Section 1115(a)(1) of the Social Security Act will be used to allow for waiver of specified Section 402(a) State plan requirements and implementing regulations. Waivers may be requested as needed for the conduct of the project. The provision of Section 1115(a)(2) of the Act will be used to allow Federal matching under the AFDC State plan for the costs of the project which would not otherwise be authorized as expenditures under Section 403 of the Act. There will be no special Federal Project Funds available for the projects. The Social Security Administration anticipates that these projects will be up to 3 years in duration. The initial grant awards will be for 12 months and successive 12-month grants will be awarded depending upon satisfactory performance.

B. Analysis of Models of Strategies and Procedures for Implementing Community Work Experience Projects—SSA–002

In this Section 1110 project the grantee will be: (1) Designing models of strategies and procedures for implementing CWEP approaches which can be applied in selected States to

determine their relative effectiveness in accomplishing the purposes of the CWEP program; (2) establishing these implementation models within 4–6 selected States by working with the State to tailor these models to the unique conditions existing in the States; (3) designing the data collection and establishing and administering the data collection efforts for a within-State and between-State assessment of the legal, regulatory, organizational, administrative, and socioeconomic issues and other problems encountered in attempting to implement CWEP approaches and what overall models of implementing those approaches worked best in which types of settings; (4) conducting an analysis and report on these data; and, (5) providing briefings to and consultations with State and local agencies on the results of this grant as it bears on their CWEP plans. The final product is expected to be an assessment of the "best practices" for CWEP in various settings. Such practices should provide States information on the best arrangements for CWEP.

It is anticipated that one (1) grant will be awarded up to three years in duration. The initial grant award will be funded for 12 months and successive 12-month grants will be funded depending upon the availability of funds and satisfactory performance.

Other Project Areas

Applicants may also submit a proposal for a project not specifically identified in this announcement but which is relevant to the above listed SSA program goals. These applications will be designated as nonpriority but will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects.

Eligible Applicants

Section 1110 Grants. Any State, public, or non-profit organization or agency may apply for a grant under the Section 1110 authority.

Section 1115(a) Grants. Only Title IV–A State agencies may apply for grants under the Section 1115(a) authority.

The Application Process

1. *Availability of application forms.* Application Kits which contain the prescribed application forms and supplemental descriptive project development information are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, Room 1206, Annex, 6401 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–0284, Lawrence H. Pullen, Chief, Grants Management Branch.

When requesting an Application Kit, the applicant should specify the type of project, Section 1110 or Section 1115(a), to insure receipt of the proper application.

2. *Additional information.* For questions concerning project development, please contact Mr. Michael Carozza, Office of Family Assistance, Social Security Administration, Washington, D.C., Telephone (202) 245–2137.

3. *Application submission.* To be considered for Section 1110 or Section 1115(a), all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency or organization and to assume for the agency or organization the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the application Form SSA–96, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (SSA–001, etc.) for which the application is to compete.

4. *Grantee share of the project.* Grant recipients receiving financial assistance to conduct Section 1110 projects are expected to contribute some portion of the project costs for each year funding is requested. Generally, five (5) percent is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

5. *Application consideration.* Applications are initially screened for relevance to the interests of SSA. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by review panel of not less than three experts. Written assessment of each application is made.

6. *Application approval.* Following approval of the applications selected for funding, financial assistance awards will be issued within limits of Federal funds available. The grant awards will be issued in September 1981. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the terms and conditions of the award, the budget period for which support is given, the total project period for which support is contemplated, and the total grantee participation.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria:

1. *Research or Demonstration Design.* Understanding the scope of the work statement and the proposed technical approach to the requirement. This includes clarity of goals and objectives (15 points).

2. *Knowledge.* Knowledge of the field, literature, and background presentation material. Assurance of timely and acceptable performance (20 points).

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Is the man-hour effort and propriety of types of manpower reasonable? (10 points).

4. *Experience.* Prior experience and/or new approaches or ideas in the branch of technology or field involved (20 points).

5. *Relevance.* Relevance of proposal to HHS priorities and goals; to SSA Work Plan; and to grant advertised in the **Federal Register** (15 points).

6. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. Specificity and adequacy of the budget. Are costs reasonable considering the anticipated results? Availability of necessary facilities, equipment, convenient location, etc. (10 points).

7. *Utilization.* Provision of progress and final reports. Quality of evaluation effort. Probability of implementation possibilities—national, State, etc. (10 points).

Projects which require waivers of Section 402 of the Social Security Act must list the required waivers by subsection of the Social Security Act, discuss the implications of granting the waivers and state the effect on beneficiaries participating in the project. Projects which do not identify needed waivers or which identify incorrect waivers will be scored lower.

Other provisions of the Application Kit should be adhered to.

Closing Dates and Times

The closing date for receipt of applications in response to this announcement will be Friday, July 31, 1981.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, Room 1206 Annex, 6401 Security Boulevard, Baltimore, Maryland 21235.

Applications must be received by the Divison of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday. An application will be considered to be received on time if the application is sent by registered or certified mail not later than the closing date, as evidenced by the U.S. Postal Service stamp.

A-95 Notification Process. These programs are not covered by the requirements of OMB Circular A-95.

Funding. Total Federal funding under Section 1110 of the Social Security Act in fiscal year 1981 will be up to $600,000.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research)

Dated: June 8, 1981.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 81-17463 Filed 6-10-81: 8:45 am]

BILLING CODE 4110-07-M

Statement of Delegation of Authority

This notice amends Part S, Chapter SF, of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, Social Security Administration (SSA) (44 FR 17223) with respect to the AFDC program and SSA's Redelegations of Authority (43 FR 33823) for the provision of Federal payments for foster care of dependent children under the Aid to Families with Dependent Children Program (AFDC), Title IV-A of the Social Security Act as amended. These delegation amendments are effective when signed by the Secretary.

The delegation of authority to the Social Security Administration (42 FR 13262, March 9, 1977) to administer AFDC-Foster Care (AFDC-FC) under Title IV, part A, providing for payments under Section 403 pursuant to requirements of Section 402(a)(20) for States to provide aid to families with dependent children in the form of foster care as specified by Section 408 is withdrawn and hereby delegated to the Office of Human Development Services except with respect to claims identified below that are pending within SSA and the authority to adjust financial accounts relating to the foster care program as necessary to effectuate the transfer.

In order to effect this change Chapter SF (44 FR 17223, March 21, 1979) is amended at SF .00, line 12 and after ". . . program." is revised to add the following:

All function descriptions in Chapter SF exclude responsibility for AFDC foster care.

And 43 FR 33824 (August 1, 1978) line 7 after ". . . redelegations." reads as follows:

• The redelegations do not include authority to administer foster care under Title IV-A of the Act except with respect to the authority to:

(1) Determine the allowability of the following State claims for expenditures:

a. Currently under consideration by the Regional Commissioner in consultation with the Associate Commissioner.

b. Disallowed by the Regional Commissioner and the State's request for review by the Commission is pending.

c. Disallowed and with respect to which reconsideration was requested prior to March 6, 1978, and are awaiting the final administrative decision by the Commissioner pursuant to 45 CFR 201.14.

SSA retains authority for these claims until it issues its final decision; and

(2) adjust financial accounts relating to the foster care program as necessary to effectuate this delegation with the advice and direction of the Assistant Secretary for Management and Budget.

Dated: June 5, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-17382 Filed 6-10-81: 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Lessees for Implementation of Net Profit Share Accounting for Outer Continental Shelf (OCS) Oil and Gas Leases

AGENCY: Geological Survey, Interior.

ACTION: Notice to lessees.

SUMMARY: By publication in the **Federal Register**, May 30, 1980, pages 36784 through 36807, the Department of Energy (DOE) provided final rulemaking for the accounting and the determination of net profit share lease (NPSL) payments. Such payments become due in lieu of poduction royalty payments for those OCS leases set apart by the lease terms as requiring net profit share payments.

The regulation 10 CFR 376.110, as amended, states for given select tracts that bidding shall be by "cash bonus bid with a fixed share of the net profits of no less than 30 percentum to be derived from the production of oil and gas from the lease area and a fixed annual rental." The regulation in 10 CFR 390 provides the accounting procedure for determining net profit share payments for OCS oil and gas leases. Both regulations were promulgated on May 14, 1980, and became available for use in any lease sale 120 days thereafter.

The Director of the Geological Survey is responsible for administering postlease regulations for oil and gas operations under the OCS Lands Act, as amended, by delegation of authority from the Secretary. The redelegation of authority from the Director to the appropriate Deputy Conservation Manager for implementation of the regulation contained in 10 CFR 390 is now being processed.

EFFECTIVE DATE: The Notice becomes effective June 11, 1981. A comment period is unnecessary because the entire accounting process for net profit share payments has been through the rulemaking process.

PRINCIPAL AUTHORS: Price McDonald and Mark Fleury, U.S. Department of the Interior, Geological Survey, Conservation Division, Mail Stop 640, Reston, Virginia 22092, telephone (703) 860-6831.

FOR FURTHER INFORMATION CONTACT: Price McDonald, U.S. Department of the Interior, Geological Survey, Conservation Division, Mail Stop 640, Reston, Virginia 22092, telephone (703) 860-6831.

SUPPLEMENTARY INFORMATION: The Department of Energy regulations in 10 CFR 390 shall be used for determining NPSL payments.

Notice to Lessees for Implementation of Net Profit Share Accounting for Outer Continental Shelf Oil and Gas Leases

1. *Who files; When and Where:* The designated operator of any given lease with terms requiring net profit share payment in lieu of royalty payment shall comply with the reporting requirements of 10 CFR 390.031 for all lease interest holders.

In accordance with 10 CFR 390.031(a), each operator shall file an annual report within 60 days after the anniversary date of the lease until production commences. Thereafter, a monthly report shall be filed and payment made in accordance with 10 CFR 390.031 (b) and (c) respectively. Inventory reports shall be submitted as required by 10 CFR 390.031(d).

Each operator shall be responsible for making NPSL payments.

All filings shall be provided in duplicate and shall be appropriately stamped if considered proprietary.

Such filing of reports and payments

shall continue until cessation of production and a final report (together with appropriate NPSL payments) in accordance with 10 CFR 390.031(e).

All filings required by this Notice shall be submitted to the Deputy Conservation Manager, Royalty Accounting, of the Regional responsible for the Administration of that lease.

2. *Layout of Information:* Reports shall be submitted by lease, clearly showing costs by appropriate headings, i.e., rental, labor, material, etc., as outlined under 10 CFR 390.011. No form is being prescribed at this time.

The NPSL capital account reflecting the balance forward shall follow the format of the examples given on pages 36797 through 36799 of the **Federal Register** issue of May 30, 1980.

All cost information entered in the capital account format must be derived from and must be traceable to the more detailed information required under the aforementioned headings.

3. *Certification:* Each report shall be certified as to its authenticity through the statement as follows and signed by a responsible official:

I certify that, to the best of my knowledge and belief, the data submitted in this report is accurate, complete, current, and in conformance with the limitations and requirements set forth in the terms of the lease and in 10 CFR 390.011.

4. *Reasonableness:* The Deputy Conservation Manager shall determine that costs submitted are reasonable and that net profit share payments are correct. Support information may be required to substantiate a cost item, the revenues shown, or the accounting usage.

Inventories shall be conducted in accordance with 10 CFR 390.032 by the operator.

Audits shall be conducted in accordance with 10 CFR 390.033 by the Deputy Conservation Manager.

Dated: June 2, 1981.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation Conservation Division.

[FR Doc. 81-17233 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Kerr-McGee Corporation, Unit Operator of the Ship Shoal Block 28 Federal Unit Agreement No. 14-08-001-2947, submitted on May 14, 1981, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Ship Shoal Block 28 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Bvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised ruls governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1981

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-17244 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0593C, Block 198, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local government, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-17245 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[AA-12422, AA-12423, AA-12424, AA-12425, AA-12426, AA-12427, AA-12428, AA-12429, AA-19423, AA-19424, and AA-19425]

Alaska Native Claims Selections; Notice for Publication

On September 29, 1976 and September 18, 1978, Bristol Bay Native Corporation filed selection applications AA-12422, AA-12423, AA-12424, AA-12425, AA-12426, AA-12427, AA-12428, AA-12429, AA-19423, AA-19424, and AA-19425 under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 705; 43 U.S.C. 1601, 1613(h)(8) (1976)) (ANCSA), for the surface and subsurface estates of certain lands in the Bristol Bay Region (Portage Creek area).

On November 14, 1978, the State of Alaska filed general purposes grant selection application AA-21813, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958. (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)), for certain lands in the Bristol Bay Region.

The following described lands have been properly selected by Bristol Bay Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated,* and *unreserved* public lands in Alaska.

Therefore, the following State selection application is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21813

T. 17 S., R. 53 W.,
Secs. 1, 2, and 3, all;
Secs. 10 to 15, inclusive, all;
Secs. 22 to 27, inclusive, all;
Secs. 34 and 35, all;
Sec. 36 (fractional), all.
Containing approximately 11,460 acres.

Further action on the the subject State selection application as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications submitted by Bristol Bay Native Corporation are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 14(h)(8) of ANCSA, aggregating approximately 56,168 acres, are considered proper for acquisition by Bristol Bay Native Corporation and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA:

Seward Meridian, Alaska (unsurveyed)

T. 16 S., R. 50 W.,
Secs. 29, 30, and 31, all;
Sec. 32 (fractional), all.
Containing approximately 2,537 acres.
T. 16 S., R. 51 W.,
Secs. 1 to 36, inclusive, all.
Containing approximately 23,012 acres.
T. 17 S., R. 51 W.,
Secs. 2, 3, and 4 (fractional), all;
Secs. 5 and 6, all;
Secs. 7, 8, 9, and 18 (fractional), all.
Containing approximately 3,068 acres.
T. 17 S., R. 52 W.,
Secs. 1 to 12, inclusive, all;
Sec. 13 (fractional), all;
Secs. 14 to 21, inclusive, all;
Secs. 22, 23, and 24 (fractional), all;
Secs. 27, 28, and 29 (fractional), all;
Sec. 30, all;
Secs. 31 and 32 (fractional), all.
Containing approximately 16,091 acres.
T. 17 S., R. 53 W.,
Secs. 1, 2, and 3, all;
Secs. 10 to 15, inclusive, all;
Secs. 22 to 27, inclusive, all;
Secs. 34 and 35, all;
Sec. 36 (fractional), all.
Containing approximately 11,460 acres.
Aggregating approximately 56,168 acres.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

The Bristol Bay Native Corporation is entitled to conveyance of a minimum of 72,317 acres of land selected pursuant to Sec. 14(h)(8) of the Alaska Native Claims Settlement Act. To date, approximately 56,168 acres of the 14(h)(8) allocation have been approved for conveyance. The remaining entitlement of approximately 16,149 acres will be conveyed at a later date.

There were no inland water bodies considered to be navigable within the above-described lands.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 13, 1981 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 81-17277 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

[CA 7146 WR, CA 7247 WR]

California; Revocation of Small Tract Classification Nos. 20 and 461

June 3, 1981.

Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), the following orders classifying lands under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, which thereby segregated the lands from appropriation under all other public land laws, including location under the United States mining laws (30 U.S.C. Chap. 2), are hereby revoked in their entirety:

1. *California Small Tract Classification No. 20 of May 29, 1942,* as amended, published in **Federal Register** Vol. 7, No. 110, at page 4283, June 5, 1942:

San Bernardino Meridian, California

T. 11 S., R. 3 E.,
Sec. 22, Lots 5, 6, 7, and 8 (formerly Lot 1).
The area described contains 20.27 acres in San Diego County, California.

2. *California Small Tract Classification No. 461 of November 9, 1955,* as amended, published in **Federal**

Register Vol. 20, No. 228, at page 8642, November 23, 1955:

San Bernardino Meridian, California

T. 16½ S., R. 10 E.,
Sec. 6, Tracts 11 thru 20 inclusive, NW¼SW¼NE¼.

The area described contains 53.81 acres in Imperial County, California.

3. Of the lands described in paragraphs 1 and 2, the following remain in Federal ownership:

San Bernardino Meridian, California

T. 11 S., R. 3 E.,
Sec. 22, Lot 6.

The area described contains 5.83 acres in San Diego County, California.

T. 16½ S., R. 10 E.,
Sec. 6, Tracts 11 through 14 and 16 through 20 inclusive, NW¼SW¼NE¼.

The area described contains 48.81 acres in Imperial County, California.

4. The Small Tract Act of 1938 was repealed by Section 702 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2789); the classifications, therefore, serve no useful purpose.

5. At 10:00 a.m. on July 13, 1981, the public lands affected by this order shall be open to operation of the public land laws, generally, including location under the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws.

6. Several small tracts of land scattered throughout the legal subdivisions described in paragraphs 1 and 2 have been patented pursuant to the Small Tract Act under which the mineral estates have been reserved to the United States. The minerals on these *nonpublic* lands are *not open to entry.* Until appropriate rules and regulations are issued by the Secretary, the lands will not be subject to location under the United States mining laws.

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

James B. Ruch,

State Director.

[FR Doc. 81-17231 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Worland District Advisory Board; Addition to Agenda for August 12, 1981

June 3, 1981.

The agenda for the Wednesday, August 12, 1981 Bureau of Land Management District Advisory Council meeting (46 FR 29991; June 4, 1981) is hereby amended to include Annual Work Plan Priorities.

John A. Kwiatkowski,

District Manager.

[FR Doc. 81-17232 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Phoenix District, Bureau of Land Management, District Advisory Council Meeting

A meeting of the Phoenix District, BLM, District Advisory Council will be held July 17, 1981. The meeting will be held at the district office, 2929 West Clarendon Avenue, Phoenix, Arizona, between 8:00 a.m. and 5:00 p.m.

The Council has been established by, and is managed according to, the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes the following:

1. Discussion of Council functions and role.
2. Discussion of planning criteria and issues identified in the Lower Gila South planning area.
3. Discussion of range improvement vandalism in Kingman Resource Area.
4. Discussion of Council member attendance at meetings.
5. Briefing on recent visit to Phoenix of BLM Director Burford.
6. Briefing on squatter problem in the Apache Junction and Mesa areas.
7. Status report on wilderness study areas and the timetable for their study.

The meeting is open to the public. Interested people may make oral statements to the Council from 1:00 p.m. to 1:30 p.m., or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by July 10, 1981. Depending on the number of people wishing to make oral statements, a time limit may be established for each speaker.

Summary minutes of the meeting will be maintained at the district office and will be available for public inspection and reproduction during regular business hours (7:30 a.m. to 4:15 p.m., Mountain Standard Time, weekdays) within 30 days following the meeting.

For further information, contact Jack de Golia, district public information officer, at (602) 241-2908.

Date: June 5, 1981.

W. K. Barker,

District Manager.

[FR Doc. 81-17279 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

[M 51023]

Montana; Invitation; Coal Exploration License Application

June 3, 1981.

Members of the public are hereby invited to participate with Peabody Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rosebud County, Montana:

T. 1 S., R. 42 E., P.M.M.,
Sec. 10: all;
Sec. 14: N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 20: N½NE¼, SE¼NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 22: NE¼, N½NW¼, SE¼NW¼, S½;
Sec. 24: All;
Sec. 26: NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 28: All;
Sec. 30: Lots 1,2,3,4, E½, E½W½;
Sec. 32: All;
Sec. 34: All.
T. 2 S., R. 42 E., P.M.M.,
Sec. 2: Lots 1,2,3,4, S½N½, N½S½;
Sec. 4: Lots 1,2,3,4, S½N½, S½;
Sec. 6: Lots 1,2,3,4,5,6,7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 1 S., R. 43 E., P.M.M.,
Sec. 22: NE¼, S½;
Sec. 26: All;
Sec. 28: All;
Sec. 32: All;
Sec. 34: NE¼, NE¼NW¼, S½NW¼, S½.
T. 2 S., R. 43 E., P.M.M.,
Sec. 2: Lots 1,2,3,4, S½N½, S½;
Sec. 4: Lots 1,2,3,4, S½N½, N½SW¼, SE¼SW¼, SE¼.

12,107.33 acres.

Any party electing to participate in this exploration program should be aware of an agreement entered into on October 30, 1980, by Peabody Coal Company, The Northern Cheyenne Tribe and the Secretary of the Interior wherein the Secretary agrees to issue to Peabody noncompetitive Federal coal leases on lands included in this application under certain conditions. This agreement is a part of this application and is available for public information.

Should any party elect to participate in this exploration program, notification must be made, *in writing*, to both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Peabody Coal Company, Rocky Mountain Division, 1901 Energy Court, Suite 200, Gillette, Wyoming 82716. Such written notice must refer to serial number M 51023 and be received no later than July 13, 1981, or 10 calendar days after the last publication of this Notice in the Forsyth Independent, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32d Street, Billings, Montana.

Edward H. Croteau,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-17282 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Oregon, Eastside Salem Timber Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will prepare an Environmental Impact Statement (EIS) on the proposed timber management plan for the Clackamas-Molalla and Santiam Sustained Yield Units (SYUs) in the Salem District of western Oregon. The final statement is to be completed by July 13, 1982. Decisionmaking will take place over a period of several months following completion of the final statement. A public meeting will be held during the decisionmaking process.

This statement will analyze the environmental effects of a proposed 10-year timber management plan and alternatives to the proposal for 159,898 acres of public land in the SYUs. The SYUs are within Clackamas, Linn, Marion and Multnomah counties. The proposed timber management plan has evolved from coordinated land use allocations for all resources developed through the Bureau's land use planning system. A proposed sustained yield timber harvest level for the next decade has been identified along with management practices required to achieve this level of harvest. Harvest would be predominately by clearcutting with some shelterwood cutting. Single tree selection would be used in salvage situations. Additional management practices to be employed include slash disposal, artificial reforestation (some with genetically improved stock), animal damage control, road construction, thinning, fertilization and vegetation control (both to release conifers from competing vegetation and to convert some brush and hardwood stands to conifers) with herbicides as well as manual and mechanical methods.

Discussion of an alternative of no change from present harvest level and practices is required and will be included in the EIS. Additional types of alternatives to the proposal which might be discussed in the statement include:

1. Variations in land use allocation in which more or less land is designated for intensive timber production.

2. Different acreages, cycles or types of intensive timber management practices.

Each alternative included in the statement is expected to have a different annual harvest level.

The EIS will identify the impacts that can be expected from implementation of any alternative, including the proposed action. The statement will be an analytical tool used to assist in making final decisions for managing timber resources in the SYUs. The final decisions are expected to guide the operations in the SYUs for a 10-year period beginning in October 1982.

A public scoping meeting to identify significant issues and to obtain public comments on the formulation of specific alternatives will be held. Significant environmental issues are those considered to be of particular importance for in-depth analysis in the EIS. The principal meeting will take place at the Salem BLM District Office, 1717 Fabry Road in Salem, Oregon, on July 14, 1981, at 7:00 p.m. Informal meetings as requested by groups or agencies may take place prior to July 14, 1981, on an arranged basis.

Further information may be obtained from the following individual: Bob Saunders, Planning Coordinator, Bureau of Land Management, 1717 Fabry Road, P.O. Box 3227, Salem, Oregon 97302, Telephone (503) 399-5634.

Dated: June 6, 1981.

Philip C. Hamilton,

Chief, Division of Planning and Environmental Coordination, Oregon State Office.

[FR Doc. 81-17284 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

[U-31065]

Utah; Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application filed by the Bureau of Land Management, Department of Interior, U-31065, for withdrawal and reservation of lands was published in **Federal Register** on October 28, 1975, page number 50115. The Bureau of Land Management has canceled its application involving the following described lands:

Salt Lake Meridian, Utah

T. 9 S., R. 22 E.,
Sec. 12, NE¼NW¼, E½NW¼NW¼.
Containing 60 acres in Uintah County.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2-1 such lands will be relieved of the segregative effect of the above-mentioned application at 10:00 a.m. on July 16, 1981.

Dated: June 4, 1981.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-17281 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

[UT-910]

Utah; Dirty Devil Wilderness Decision Affirmed by IBLA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Interior Board of Land Appeals (IBLA) has affirmed the Utah State Director's decision on the Dirty Devil River Wilderness Study Area (WSA) UT-050-236. This decision is, therefore, final as originally published in the February 15, 1980, **Federal Register**, vol. 45, No. 33, page 10462. In that decision, two WSA's were identified: UT-050-236A (approximately 61,000 acres) and UT-050-236B (approximately 25,000 acres) which meet the wilderness criteria of Sec. 2(c) of the Wilderness Act of 1964. Both areas total 86,000 acres and are identified as WSA's, and will remain under management restrictions imposed by Section 603 of Pub. L. 94-579. The remainder of the unit (not identifed as a WSA) will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM Wilderness Coordinator, (801) 524-5326.

Dated: June 4, 1981.

Dean Stepanek,

Acting State Director.

[FR Doc. 81-17285 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

[Designation Order UT-050-8102]

Utah Interim Off-Road Vehicle Designations

June 5, 1981.

AGENCY: Bureau of Land Management, Richfield District, Interior.

ACTION: Notice of Interim Off-Road Vehicle Use Designation Decision, Deep Creek Mountains.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority

and requirements of Executive Order 11644 (37 CFR 2877 as amended February 9, 1972) and 11989, and regulations contained in 43 CFR Part 8340. The following described lands, under administration of the Bureau of Land Management, are designated as closed or limited to off-road motorized vehicle use.

The designations cover some 95,669 acres of land within the Deep Creek Mountain Range of western Juab County, Utah. The designations are a result of public participation by individuals and groups and subsequent analysis in accordance with the Interim Designation Process section of the BLM draft 8340 Manual, "Off-Road Vehicle Management".

Closed

The areas of the Deep Creek Mountains which are designated as closed are (30,700 acres):

All public lands within that portion of the Deep Creek Wilderness Study Area (WSA) in Juab County are to be closed to ORV use except for the trails in Granite and Trout Creek Canyons. The closure is necessary to protect significant natural and environmental features within the study area.

Limited

The areas of the Deep Creek Mountains which are designated as limited to existing roads and/or trails are (64,969 acres):

1. The benchlands along the eastern slopes, the foothills south of the range, and the higher elevations in Toms Creek and Middle Canyons and the trails in Granite and Trout Creek Canyons.

2. In Trout Creek Canyon, ORV use will be limited to the existing trail year-round.

3. As an additional restriction, Granite Canyon Trail will be open to motorized vehicle use during the period from approximately June through November. Exact dates would be determined by weather and trail conditions. The trail will be closed during the winter months and periods when weather creates muddy trail conditions.

The closed and limited ORV designations are necessary to protect important natural and environmental features within the area.

An environmental assessment describing the impacts of these designations and mitigation measures to minimize impacts is available for inspection at the offices listed below.

The interim designations will be in force until a comprehensive review and update is made in conjunction with the BLM planning system. The Resource Management Plan for the House Range Resource Area, which includes the Juab County portion of the Deep Creek Mountains, is scheduled for completion in 1985. In the interim, BLM will monitor the use of off-road vehicles in the Deep Creek Mountains area. On the basis of the information so obtained, the interim designations may be amended, revised, revoked, or other actions taken based on BLM's regulations for ORV use on the public lands.

A map showing the affected public lands and information concerning these designations is available from the following offices:

Richfield District Office, 150 East 900 North, P.O. Box 768, Richfield, Utah 84701.

House Range Resource Area, 15 East 500 North, P.O. Box 778, Fillmore, Utah 84631.

Donald L. Pendelton,

District Manager.

[FR Doc. 81-17286 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Wycoalgas Environmental Impact Statement Project Cooperating Agencies

June 4, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Amending List of Cooperating Agencies.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, is preparing an environmental impact statement on a proposed coal gasification plant, the Rochelle coal mine and related facilities including water well fields, product and water pipelines, railroad and power lines among others.

The following agencies have indicated the desire to be recognized as cooperating agencies in this EIS undertaking:

Office of Surface Mining, Reclamation and Enforcement, Region V

Forest Service, Medicine Bow National Forest

Federal Energy Regulatory Commission

Department of Energy

Army Corps of Engineers, Omaha District

Environmental Protection Agency, Region VIII

Fish and Wildlife Service

Geological Survey

F. William Eikenberry,

Associate State Director.

[FR Doc. 81-17283 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: July 21, 1981, 9:30 a.m.

ADDRESS: Desert Room, Best Western of Las Cruces, 901 Avenida de Mesilla, Las Cruces, New Mexico.

FOR FURTHER INFORMATION CONTACT:

Daniel C. B. Rathbun, District Manager Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004. Phone: (505) 523-5571.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of Minutes.
2. Southern Rio Grande Draft Environmental Impact Statement.
3. Report on Status of Monitoring.
4. Las Cruces/Lordsburg Inventory (Range Sites and Monitoring).
5. Fiscal Year 1982 8100 Program.
6. Public Comment Period, 2:00 p.m.

Donnie R. Sparks,

Assistant District Manager.

June 5, 1981.

[FR Doc. 81-17303 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: July 22, 1981, 9:30 a.m.

ADDRESS: Desert Room, Best Western of Las Cruces, 901 Avenida de Mesilla, Las Cruces, New Mexico.

FOR FURTHER INFORMATION CONTACT:

Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004. Phone: (505) 523-5571.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of Minutes.
2. Southern Rio Grande Management Framework Plan Step 2 Recommendations.
3. Las Cruces/Lordsburg Resource Management Plan (Issues and Criteria) Booklet 2.

4. Public Comment Period, 2:00 p.m.

Donnie R. Sparks,

Assistant District Manager.

June 5, 1981.

[FR Doc. 81-17302 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

Call for Nominations for District Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for district advisory councils.

SUMMARY: The Bureau of Land Management of the U.S. Department of the Interior intends to appoint members to the second generation of District Advisory Councils in 53 of the Bureau's 55 administrative districts in the Western States. This action is in accordance with the Federal Land Policy and Management Act of 1976, as amended, and the Federal Advisory Committee Act.

The purpose of this notice is to call for nominations from the public for membership on the 53 District Advisory Councils (nomination periods have previously been announced and have long since closed for the Bakersfield and California Desert District Advisory Councils, both in California).

As currently envisioned, each Council will be comprised of 10 members. To provide a total membership that is balanced in terms of points of view represented and functions to be performed, there shall be one or more persons qualified to provide advice on each of the following categories of expertise:

Elected General Purpose Government
Renewable Resources (Livestock, Forestry, Agriculture)
Non-Renewable Resources (Mining, Oil and Gas, Extractive Industries)
Recreation
Transportation/Rights-of-Way
Wildlife
Environmental Protection
Public-at-Large

Terms of service will be at least two years. At the discretion of the Secretary or his designee, members may be appointed to additional terms. All Council members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Each Council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals to serve on a District Advisory Council should send the nominee's name, address, profession, and other biographic data to the appropriate District Manager of the Bureau of Land Management.

DATE: All nominations should be received no later than July 15, 1981.

ADDRESSES: The mailing address of each Bureau District Manager is as follows:

Alaska

Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.
Fairbanks District Office, N. Post of Fort Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707.

Arizona

Arizona Strip District Office, 196 E. Tabernacle, P.O. Box 250, St. George, Utah 84770.
Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.
Safford District Office, 1707 W. Thatcher Boulevard, Safford, Arizona 85546.
Yuma District Office, 2450 Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364.

California

Redding District Office, 2460 Athens Avenue, Redding, California 96001.
Susanville District Office, 705 Hall Street, P.O. Box 1090, Susanville, California 96130.
Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482.

Colorado

Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212.
Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625.
Grand Junction District Office, 764 Horizon Drive, Grand Junction, Colorado 81502.
Montrose District Office, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401.

Idaho

Boise District Office, 230 Collins Road, Boise, Idaho 83702.
Burley District Office, Route 3, Box 1, Burley, Idaho 83318.
Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814
Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.
Salmon District Office, P.O. Box 430, Salmon, Idaho 83467.
Shoshone District Office, 400 West F Street, P.O. Box 2B, Shoshone, Idaho 83352.

Montana

Butte District Office, 220 North Alaska, P.O. Box 308, Butte, Montana 59701.
Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.
Dickinson District Office, Pulver Hall, P.O. 1229, Dickinson, North Dakota 58601.
Lewistown District Office, Bank Electric Building, Drawer 1160, Lewistown Montana 59457.

Nevada

Battle Mountain District Office, P.O. Box 194, Battle Mountain, Nevada. 89820.
Carson City District Office, 1050 East Williams Street, Carson City, Nevada 89701.
Elko District Office, 2002 Idaho Street, Elko, Nevada 89801.
Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301.
Las Vegas District Office, P.O. Box 5400, 4765 Vegas Drive, Las Vegas, Nevada 89102.
Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445.

New Mexico

Albuquerque District Office, 3550 Pan American Freeway, NE., P.O. Box 6770, Albuquerque, New Mexico 87107.
Las Cruces District Office, 1705 N. Vally Drive, P.O. Box 1420, Las Cruces, New Mexico 88001.
Roswell District Office, 1717 West Second Street, Featherstone Farms Building, P.O. Box 1397, Roswell, New Mexico 88201.
Socorro District Office, P.O. Box 1217, Socorro, New Mexico 87801.

Oregon

Baker District Office, Federal Building, P.O. Box 987, Baker, Oregon 97814.
Burns District Office, 74 S. Alvord Street, Burns, Oregon 97814.
Coos Bay District Office, 333 South 4th Street, Coos Bay, Oregon 97420.
Eugene District Office, 1255 Pearl Street, P.O. Box 10226, Eugene, Oregon 97401.
Lakeview District Office, 357 North L Street, P.O. Box 151, Lakeview, Oregon 97630.
Medford District Office, 310 West 6th Street, Medford, Oregon 97510
Prineville District Office, 185 East 4th Street, P.O. Box 350, Prineville, Oregon 97754.
Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470.
Salem District Office, 3550 Liberty Road South, P.O. Box 3227, Salem, Oregon 97302.

Spokane District Office, West 920 Riverside, Spokane, Washington 99201.
Vale District Office, 365 A Street West, P.O. Box 700, Vale, Oregon 97918.

Utah

Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.
Cedar City District Office, 1579 N. Main Street, P.O. Box 729, Cedar City, Utah 84720.
Richfield District Office, 150 E. 900 N., P.O. Box 768, Richfield, Utah 84701.
Moab District Office, P.O. Box 970, Moab, Utah 84532.
Vernal District Office, P.O. Box F, Vernal, Utah 84078.

Wyoming

Casper District Office, 951 Union Boulevard, Casper, Wyoming 82601.
Rawlins District Office, P.O. Box 670, 1300 3rd Street, Rawlins, Wyoming 82301.
Rock Springs District Office, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.
Worland District Office, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Nominations for the Bakesfield and California Desert District Advisory Councils (California) have already been solicited and received. Therefore, no further nominations will be accepted for these Councils.

FOR FURTHER INFORMATION CONTACT: The respective District Managers.

Joellyn K. Murphy,

Deputy Director.

[FR Doc. 81-17200 Filed 6-10-81; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The U.S. Advisory Commission on Public Diplomacy will meet on June 16, 1981 to discuss the audit and inspection programs of the International Communication Agency. For time and place, and because of limited space, please call Mrs. Carole Vogel if you are interested in attending the meeting (724–0792).

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 81-17380 Filed 6-10-81; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 411]

Complaints Filed Under Section 229 of the Staggers Rail Act of 1980

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The processing and taking of evidence in these proceedings will not be postponed pending final action in Ex Parte No. 320 (Sub-No. 2), *Market Dominance Determinations and Consideration of Product Competition.* Uniformly-expanded procedural schedule not found appropriate. Discovery is available to all parties, to the extent justified on a case-by-case basis under the Commission's General Rules of Practice (49 CFR Part 1100). Complaints to proceed in two stages—market dominance and reasonableness. Parties may agree as to timing of presentation of evidence within each stage.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: We have received two responses to our April 28 notice (published at 46 FR 24740, May 1, 1981). The Nation's railroads seek the following modifications: (1) postponement pending Ex Parte No. 320 (Sub-No. 2), (45 FR 83342, December 18, 1980) *supra;* (2) a uniform schedule governing discovery rights of each side; and (3) a new, intermediate evidentiary stage (between market dominance and reasonableness proofs) to assess overall revenue impact if existing complaints are successful. Thirty-two complainants seek bifurcation of the market dominance issue in order that the question of the presence or absence of effective competition may be decided before a decision on our 160 percent of variable cost jurisdictional threshold. They believe that failure to do so will result in duplicative or unnecessary filings of cost evidence, one for jurisdictional purposes and another when rate reasonableness is addressed.

1. Deferral

We believe that the proper dispatch of the Commission's business will be best served by moving forward with the complaints. The railroads; request in this respect will thus be denied.

To begin with, there are no grounds to conclude that revisions in our approach to market dominance will significantly affect the proof in these proceedings. In our notice we proposed to eliminate the numerous presumptions contained in our existing market dominance regulations. However, as a practical matter, each determination rests primarily on individualized facts. See 353 I.C.C. 874, 928 (1976). As some shippers have observed, the notice is available as a guideline for presentation of evidence, as it is our latest statement of views on the subject. We do not believe it appropriate or necessary to defer this substantial number of proceedings.

2. The 160% Issue

We believe that it is preferable to resolve the jurisdictional issue first but to leave to the parties the precise manner in which that issue is presented for decision. As a consequence, we will deny the complainants' request that we expressly exclude in the first stage of the proceeding (i.e., market dominance) all evidence dealing with the revenue-variable cost percentage. As discussed above, we believe resolution of the market dominance issue first is a logical approach designed to minimize the cost of this litigation. Furthermore, it does not prejudice any party.

We point out that the inclusion of evidence dealing with the revenue-variable cost percentage at the market dominance stage need not result in duplication of evidence in the second stage in which reasonableness will be determined. While the variable cost evidence is clearly relevant to reasonableness as well, it need not be the sole criterion. If future relief is sought, evidence of fully allocated costs would be appropriate. Even if variable cost evidence is all that is used to prove unreasonableness, duplicate filings are not necessary, as the record will already contain this evidence. At the same time, if the parties agree, the cost issues may be placed in evidence separately, after the qualitative market dominance presentation.

3. Discovery and Consolidation

We will not adopt a uniform schedule for discovery and taking of evidence. In the answers to the complaints and complainants' comments, suggestions in these areas may be made. We specifically reject the railroads' implicit position that complainants have no right to discovery on the market dominance issue. For example, crucial cost evidence may be in the railroads' possession. We leave the question of the need for and timing of discovery to be resolved on a case-by-case basis.

Finally, the railroads seek to have all the complaints in which market dominance is found consolidated at that point in order to assess the potential revenue impact on a carrier and

industry-wide basis. This analysis would be considered when we evaluate the reasonableness of the challenged rates. We do not minimize the potential effect of these complaint proceedings. However, we see little to be gained by proceeding in the manner the railroads suggest. Each railroad may submit, in connection with each reasonableness submission, evidence of its overall revenue position and an overview of the potential effects of adverse findings in all of the complaints in which it is a defendant. We will consider this evidence to the extent appropriate. We note that in Ex Parte No. 347 (Sub-No. 1), *Coal Rate Guidelines—Nationwide*, served November 18, 1980, (45 FR 80370, December 4, 1980), we indicated our tentative conclusion that maximum reasonable rates set at fully allocated cost (using the ton/ton-mile basis) including the current cost of capital represented the correct balance between railroad revenue needs and the public interest.

This decision does not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321, Section 229, Pub. L. 96–448)

Dated: May 29, 1981.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17330 Filed 6-10-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 410]

Loading and Unloading Study

AGENCY: Interstate Commerce Commission.

ACTION: Notice of request for comments.

SUMMARY: The Commission is studying loading and unloading practices in the property motor carrier industry. The study is required by Section 15(e) of the Motor Carrier Act of 1980, Pub. L. 96–296.

DATES: Comments must be received on or before July 15, 1981. Reply statements must be received on or before August 15, 1981.

ADDDRESS: An origin and 15 copies, if possible, should be sent to: Ex Parte No. 410, Room 7417, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Lewis R. Teeple, (202) 275–7612
John W. Fristoe, (202) 275–6493 or 7868
James W. Boyd, (202) 275–7818

SUPPLEMENTARY INFORMATION: Section 15(e) of the Motor Carrier Act of 1980 (Pub. L. 96–296) requires that:

> The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

Section 15 (49 U.S.C. 11109 (a) and (b) was enacted to eliminate extortionate loading and unloading practices in both the regulated and exempt segments of the property motor carrier industry. It provides that, if a shipper or receiver requires a trucker to be assisted in loading and unloading freight, then the shipper or receiver must either furnish or pay for the assistance. This section also makes it illegal for anyone to coerce a driver either to load or unload a vehicle or to be coerced to pay someone else to do so.

This law was passed after extensive congressional hearings on loading and unloading abuses in the property motor carrier industry. These practices, known as "lumping," were found to be generally confined to the perishable food industry. Illegal lumping was prevalent both in exempt fresh fruit and vegetable transportation and in the transportation of regulated commodities such as meat and meat products.

Congress found that carriers and their drivers were forced to pay loading and unloading fees at docks, produce markets, meat packing houses, and large grocery stores. If the fees were not paid, the drivers encountered various problems, such as long delays in getting their trucks unloaded, slashed tires, and even violent treatment. Usually, the lumpers required that payment be made in cash. Frequently, the individuals used false identification, and it is assumed that cash payments were not reported for income tax or social security tax purposes.

Lumper fees were required even when the driver was ready and willing to do the loading and unloading unaided. The fee was standard and frequently had no relationship to effort or time spent in actual work. The lumpers charged the same fee even if goods were on pallets and could be loaded and unloaded quickly by forklifts. Often, fees were required even when a regulated carrier's tariff provided for consignor loading and consignee unloading.

Lumpers can be employees of the consignee. Usually, however, lumpers are individuals who allegedly work at the loading and unloading facility but are not employees. Thus, the consignor and the consignee get the services of the lumpers without the usual employer responsibilities. Some of these responsibilities are paying wages, withholding income taxes and social security payments, and providing for worker's compensation insurance. In many instances, the facilities did more than merely tolerate the presence of lumpers; they provided lumpers with clean uniforms on a periodic basis, gave them entrance badges, and furnished minor medical treatment. Often, the lumpers are required to sign various agreements disavowing that they were eployees and holding the facility harmless from any negligence suit.

Lumpers are considered the drivers' employees for income tax and social security withholding purposes. Carriers and drivers have testified that attempts to meet this requirement were frustrated by lack of correct names and addresses of the lumpers. In other instances, payments made by truckers were held not to be legitimate business expenses and not deductible from their income taxes.

To help in developing its report to Congress, the Commission is interested in an open and far-reaching discussion of all aspects of loading and unloading practices. We invite comments from the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, and motor carrier industry, shippers, receivers, consumers, and other interested persons. Responses should address, but not be limited to, the following areas:

(1) Has the anti-lumping provisions contained in Section 15 of the Motor Carrier Act of 1980 been successful in deterring loading and unloading abuses? If not, why?

(2) Are there specific facilities or locations to which owner-operators and/or carriers are reluctant to transport loads due to known difficulty in unloading practices? Please identify these locations along with commodities involved and the type of problems encountered.

(3) How many instances of threat of bodily harm or actual vehicle damage have occurred in your operation during the past 12 months as a result of unloading disputes? Specify and describe.

(4) What other specific problems do you encounter in loading and unloading property by motor vehicle? What are your recommended solutions?

(5) Do motor carriers have difficulty retaining owner-operators because of lumper charges which the owner-operators must absorb?

(6) Do owner-operators continue to have problems documenting loading and unloading assistance charges for social security and income tax purposes?

(7) What are specific charges for loading and unloading by commodity and location?

(8) Are there special charges other than for the direct service of loading or unloading, such as parking fees and gate entry fees? Please describe the charges and locations.

(9) Where unloading difficulties are encountered, what steps are taken by carriers to correct the problems? Do carriers normally absorb any "extra" fees, e.g., entry fees, gate fees, or unloading fees associated with unloading operations?

(10) Has the assessment of special charges been reduced or eliminated since the passage on July 1, 1980, of the Motor Carrier Act of 1980?

(11) Should loading and unloading charges be stated separately in tariffs for regulated traffic and, if issued, on bills of lading for exempt traffic?

(12) Where lumper services are not purchased, is there more use of subtle coercive tactics such as unnecessary delay in unloading or required use of unneeded pallets, forklifts, or other equipment?

(13) What special problems, if any, are there in loading and unloading exempt commodities?

(14) Has the rule in Ex Parte No. MC-43 (Sub-No. 11) been effective in deterring loading and unloading abuses against owner-operators? [1]

(15) Should the shipper be required to load and the receiver to unload, except where there is a written contract or tariff provision to the contrary? Please explain.

(16) For both the regulated and exempt transportation of property by motor carrier, what are current loading and unloading practices in the industry? Please give a detailed explanation by commodity groups.

Responses should cite the questions being addressed.

Interested parties should notify the Commission within 30 days of this notice of their intention to participate. If requested, the source of comments will be kept confidential. The Commission will distribute a service list. Comments must be filed with the Commission and all participating parties by July 1, 1981. Reply statements are due by August 1, 1981.

This proposed action does not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10321; Section 15(e) of the Motor Carrier Act of 1980, Pub. L. 96-296; 5 U.S.C. 553)

Dated: June 5, 1981.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17389 Filed 6-10-81; 8:45 am]

BILLING CODE 7035-01-M

[1] The rule requires that motor carrier equipment leases clearly specify who is responsible for loading and unloading property onto and from the motor vehicle and the compensation, if any, to be paid for this service. This proceeding currently is pending before the Commission.

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 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 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.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. No. OP1-168

Decided: June 5, 1981.

MC 36900 (Sub-18), filed May 22, 1981. Applicant: CONTAINERS IN TRANSIT, INC., P.O. Box 9615, Alexandria, VA 22304. Representative: Martin R. Martino, 333 So. Glebe Road, Arlington, VA 22204, (703) 979-1627. 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), and (2) *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 67270 (Sub-5), filed May 27, 1981. Applicant: GLEASON BROTHERS INC., 7 Pearl St., Northampton, MA 01060. Representative: Patrick T. Gleason, 160 Main St., Northampton, MA 01060 (413) 584-9509. Transporting (1) for or behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 145201 (Sub-1), filed May 27, 1981. Applicant: JOHN MESZAROS, d.b.a. MID-JERSEY TRUCK RENTAL, 65 Loring Ave., Edison, NJ 08817. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156031, filed May 18, 1981. Applicant: A TO Z CARTAGE CO. 11010 East State Fair, Detroit, MI 48234. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. As a *broker* of *general commodities* (except household goods) between points in the U.S. condition: the person or persons who appear to be engaged in common control of another regulated carrier must either 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 1, Room 6358.

MC 156090, filed May 21, 1981. Applicant: DANIEL T. MURRAY JR., d.b.a. MURRAY TRUCKING, 11 Park Ave., Hudson, NH 03051. Representative: Robert D. Hansen, P.O. Box 625, Framingham, MA 01701, (800) 225-9490. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156130, filed May 22, 1981. Applicant: DANIEL P. ALLEN, d.b.a. ALLEN TRANSPORT COMPANY, 1713 Summit Ave., Union City, NJ 07087. Representative: Daniel P. Allen (same address as applicant), (201) 865-8351. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156181, filed May 22, 1981. Applicant: KNOTTS TRUCK LINES, R. R. No. 1, Box No. 175, Mount Olive, IL 62069. Representative: James O. Knotts (same address as applicant), (217) 999-7808. Transporting *food and other edible products and byproducts intended for human consumption,* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers,* and *other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Vol. No. OPY-2-097

Decided: June 5, 1981.

MC 148913 (Sub-1), filed May 21, 1981. Applicant: GOVERNMENT CONTRACT SERVICES, INC., 2624 Point Lookout Cove, Annapolis, MD 21401. Representative: Frederick C. Metz Jr. (same address as applicant), (303) 266-0977 (301) 789-9530. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 151283 (Sub-3), filed June 2, 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, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155913, filed June 1, 1981. Applicant: SELDEN & SPENCER, INC., Rte. 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, 804-282-3809. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156082, filed May 21, 1981. Applicant: GARY R. QUINTALINO, d.b.a. QUINTALINO TRUCKING, 35 Turnpike Rd., Southborough, MA 01745. Representative: Robert D. Hansen, P.O. Box 625, Framingham, MA 01701, 800-225-9490. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156163, filed May 28, 1981. Applicant: C & A ENTERPRISES, INC., P.O. Box 54, Griffithville, AR 72060. Representative: Robert J. Gallagher, 1000 Connecticut Ave, NW, Suite 1200, Washington, DC 20036, 202-463-6044. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 156173, filed May 27, 1981. Applicant: CONTRACT FREIGHT BROKERS, INC., 5724 New Peachtree Rd. Chamblee, GA 30341. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326, 404-262-7855. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 156182, filed May 21, 1981. Applicant: ALBERT J. HOWES, d.b.a. HOWES TRUCKING, 35 Turnpike Rd., Southborough, MA 01745. Representative: Robert D. Hansen, P.O. Box 625, Framingham, MA 01701, 800-225-9490. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

[FR Doc. 81-17388 Filed 6-10-81; 8:45 am]
BILLING CODE 7035-01-M

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 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".

Vol. No. OPY–2–098

Decided: June 5, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 123922 (Sub-23), filed June 1, 1981. Applicant: AMTRUK TRANSPORT, INC., P.O. Box 4327, Bergen Station, Jersey City, NJ 07304. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW., Washington, DC 20005, (202) 347–7332. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 138512 (Sub-42), filed June 1, 1981. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 656, Cudahy, WI 53110. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI, 53095, (414) 677–2586. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Heublein, Inc., of Farmington, CT.

MC 144732 (Sub-4), filed June 1, 1981. Applicant: S & S TRUCKING, INC., Colony, WY (mailing address: Alzada Star Route, Belle Fourche, SD 57717). Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *petroleum, natural gas and their products,* between points in WY, on the one hand, and, on the other, points in MT, ND, SD, and WY. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of hazardous commodities it shall be limited to a period expiring 5 years from its date of issuance.

MC 147712 (Sub-25), filed June 1, 1981. Applicant: MID-WESTERN TRANSPORT, INC., 14625 Carmenita Rd., Norwalk, CA 90650. Representative: Joseph Fazio (same address as applicant), (213) 921–7474. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with CBS, Inc., of Fullerton, CA.

MC 147943 (Sub-4), filed June 2, 1981. Applicant: E.W.K. CARTAGE, INC., 4855 South Leamington, Chicago, IL 60638. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in WI, IA, OH, IL, MI, IN, KY, and MO.

MC 153323 (Sub-5), filed June 2, 1981. Applicant: IOWA-TEXAS EXPRESS, LTD., P.O. Box 283, Denison, IA 51102. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, 515–243–7911. Transporting *food and related products* (1) between points in Crawford, Hardin, Carroll, Cherokee, Polk, Webster, and Woodbury Counties, IA, and Saline, Douglas, and Lancaster Counties, NE, on the one hand, and, on the other, those points in the U.S., in and west of WI, IL, MO, AR, and LA, (2) between points in Green County, TX, on the one hand, and, on the other, points in CT, DE, IA, IL, IN, MA, MD, ME, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, and (3) between the facilities of Dubuque Packing Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 155003 (Sub-1), filed May 29, 1981. Applicant: FREIGHT MASTERS, INC., P.O. Box 6855, Jackson, MS 39212. Representative: Charles L. Moseley (same address as applicant), 601–944–0021. Transporting (1) *rubber and plastic products,* (2) *metal products,* (3) *textile mill products,* and (4) *miscellaneous products of manufacturing,* between Hazlehurst, MS, on the one hand, and, on the other, points in CA, CO, GA, LA, MA, NJ, NY, PA, VT, and WA.

MC 156253, filed June 2, 1981. Applicant: ABLE TRANSIT, INC., 600 W. Church St., Newark, OH 43055. Representative: Vic Fink (same address as applicant), 614–345–4051. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH.

Vol. No. OPY–4–183

Decided: June 5, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143776 (Sub-23), filed April 29, 1981, and previously in the Federal Register issue of May 13, 1981, and republished this issue. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 489–5724. Transporting *food and related products,* (1) between points in Kenosha County, WI, Berrien County, MI, and Lake and Cook Counties, IL, and (2) between points in Kenosha County, WI, Berrien County, MI, and Lake and Cook Counties, IL, on the one hand, and, on the other, points in AR, KS, MS, MO, NM, OK, TN, TX, MN, ND, and SD.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 156176, filed May 28, 1981. Applicant: JERALD S. LEVINE, 1712 Norwood House Rd., Downingtown, PA 19335. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006, (201) 575–7700.

Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with State Salvage Co., Inc., of Camden, NJ.

Vol. No. OP1–167

Decided: June 5, 1981.

By the Commission, Reivew Board No. 1, Members Parker, Chandler, and Fortier.

MC 13900 (Sub-32), filed May 27, 1981. Applicant: MIDWEST HAULERS, INC., 228 Superior St., Toledo, OH 43604. Representative: T. C. Laney, (same address as applicant), (419) 243–8221. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with National Carrier Service, Inc., of Los Angeles, CA.

MC 21040 (Sub-6), filed May 27, 1981. Applicant: ARTHUR JOHNSON CO., a corporation, 3230 West 38th St., Chicago, IL 60632. Representative: David W. Johnson (same address as applicant), (312) 523–7600. Transporting *general commodities* (except classes A and B explosives), between points in IL. Condition: Issuance of a certificate in this proceeding its subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–21040, Sub-3.

MC 35320 (Sub-657), filed May 11, 1981. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant), (806) 745–7263. Transporting *general commodities* (except classes A and B explosives), serving points in Somerset County, PA, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 35320 (Sub-660), filed May 18, 1981. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant), (806) 745–7263. Transporting *general commodities* (except classes A and B explosives), between points in Lincoln County, OH, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack the above requested authority with its existing regular-route operations.

MC 39420 (Sub-9), filed May 27, 1981. Applicant: LEROY AND GARY PRINS, d.b.a. PRINS TRUCKING, Rushmore, MN 56168. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *chemicals and related products*, between points in Crawford County, IA, on the one hand, and, on the other, points in Minnehaha County, SD, and Rock County, MN.

MC 61231 (Sub-186), filed May 27, 1981. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309 (515) 282–3525. Transporting *general commodities* (except classes A and B explosives), between points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, ND, NM, OH, OK, OR, SK, TN, TX, UT, WA, WI and WY.

MC 111651 (Sub-19), filed May 18, 1981. Applicant: MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott Ave., St. Louis, MO 63747. Representative: Tom B. Kretsinger, 20 East Franklin, PO Box 258, Liberty, MO 64068. Over *regular routes*, transporting *general commodities*, (except classes A and B explosives), (1) between Topeka, KS and Great Bend, KS, from Topeka over Interstate Hwy 70 to junction KS Hwy 156, then over KS Hwy 156 to junction US Hwy 56, then over US Hwy 56 to Great Bend, and return over the same route; (2) between Topeka, KS and Ft. Riley, KS, over US Hwy 24; (3) between McPherson, KS and Junction Interstate Hwys 70 and 135, over US Hwy 81 and Interstate Hwy 135; (4) between McPherson, KS and Great Bend, KS, over US Hwy 56; (5) between Junction US Hwy 81 and KS Hwy 4, and Hoisington, KS, over KS Hwy 4; (6) between Great Bend, KS and Hoisington, KS, over US Hwy 281; and (7) between Lyons, KS and Hutchinson, KS, from Lyons over KS Hwy 14 to Junction KS Hwy 96, then over KS Hwy 96 to Hutchinson, and return over the same route, serving all intermediate points in routes (1) through (7) above.

MC 115730 (Sub-93), filed May 21, 1981. Applicant: THE MICKOW CORP., PO Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243–4191. Transporting (1) *clay, concrete, glass or stone products*, (2) *pulp, paper and related products*, (3) *building materials*, (4) *chemicals and related products*, and (5) *rubber and plastic products*, between the facilities of Georgia-Pacific Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 120910 (Sub-54), filed May 27, 1981. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 512 Massey Bldg., Birmingham, AL 35203, (205) 254–3880. Transporting *general commodities* (except classes A and B explosives), between points in Tuscaloosa County, AL, on the one hand, and, on the other, points in the U.S.

MC 125951 (Sub-74), filed May 27, 1981. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 3035 South 72nd St., Omaha, NE 68124. Representative: Robert M. Cimino (same address as applicant), (402) 393–5005. Transporting *general commodities* (except classes A and B explosives), between Kansas City, MO, and points in NE and IA, on the one hand, and, on the other, points in the U.S.

MC 138861 (Sub-32), filed May 22, 1981. Applicant: C–LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street NW., 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 Linvure Company, Inc. of Somerville, MA.

MC 141951 (Sub-4), filed May 27, 1981. Applicant: MARY DICK AND HOLLIS A. DICK, d.b.a. H. O. DICK TRANSFER, P.O. Box 307, Bethany, IL 61914. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *food and related products*, and *such commodities* as are dealt in by food business houses, between points in the U.S.

MC 143521 (Sub-3), filed May 18, 1981. Applicant: TWEHOUS EXCAVATING COMPANY, INC., Route 3, Jefferson City, MO 65101. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102, (314) 635–7166. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, (1) between points in MO and IL, and (2) between points in MO and IL, on the one hand, and, on the other, points in the U.S.

MC 144420 (Sub-2), filed May 27, 1981. Applicant: MALIBU BEACH BOAT SALES & SERVICE CO., INC., Rt. 1, Box 261, Osage Beach, MO 65065. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *boats*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 145150 (Sub-22), filed May 27, 1981. Applicant: HAYNES TRANSPORT CO., INC., R.R. 2, Box 9, Salina, KS 67401. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233–9629. Transporting *petroleum, natural gas and their products*, (1) between points in Scott County, KS, on the one hand, and, on the other, points

in OK and Tarrant County, TX, and (2) between points in Tarrant County, TX, on the one hand, and, on the other, points in Stephens County, OK.

MC 146111 (Sub-8), filed May 28, 1981. Applicant: INDUSTRIAL TRANSPORT, INC., 11910 Harvard Ave., P.O. Box 04177, Cleveland, OH 44105. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411–D Backlick Road, Springfield, VA 22151, (703) 941–8200. Transporting *aluminum and aluminum products, and refractories and refractory products,* between points in the U.S.

MC 152521 (Sub-1), filed May 27, 1981. Applicant: FORTRANS, INC., 2892 Foothill Blvd., Oroville, CA 95965. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701 (702) 882–5649. Transporting *machinery,* between points in the U.S., under continuing contract(s) with Ditch Witch Equipment Co., Inc., of Sacramento, CA.

MC 152620 (Sub-5), filed May 20, 1981. Applicant: CUSTOMIZED TRANSPORTATION, INC., 999 North Main Street, Glen Ellyn, IL 60137. Representative: Dennis J. Kupchik, 1105 N. Market St., 15th Floor, Wilmington, DE 19801, (215) 985–6853. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The B.F. Goodrich Company of Akron, OH.

MC 153661, filed May 28, 1981. Applicant: HAROLD D. SEACHORD, d.b.a. SEACHORD TRUCKING, 312 West Irving St., Blue Springs, NE 68318. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114 (402) 397–9900. Transporting *machinery and metal products,* between points in Douglas County, NE, on the one hand, and, on the other, points in KS, TX, OK, CO, SD, IA, and MO.

MC 154780 (Sub-3), filed May 27, 1981. Applicant: ATLANTIC TRANSPORT SERVICE, INC., 1300 South French Ave., Box 257, Sanford, FL 32771. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives), between points in AL, on the one hand, and, on the other, points in the U.S. Condition: 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 applications for common control to team 1 Room 6354.

MC 154970, filed May 27, 1981. Applicant: HASBROUCK ENTERPRISES, P.O. Box 328, Crookston, MN 56716. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Ten South Fifth St., Minneapolis, MN 55402, (612) 340–0808. Transporting (1) *food and related products,* between St. Louis, MO, Milwaukee, WI, points in La Crosse County, WI, and Stutsman County, ND, on the one hand, and, on the other, points in Polk County, MN, and (2) *concrete and concrete products,* (a) between points in Douglas County, WI, on the one hand, and, on the other, points in ND and MN, and (b) between Duluth, MN, on the one hand, and, on the other, points in ND.

MC 156071, filed May 20, 1981. Applicant: RONALD GROSS, R. D. #2, Cabot, PA 16023. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *metal products,* between points in Butler County, PA, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–17390 Filed 6–10–81; 8:45 am]

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[Permanent Authority Decisions Volume No. 98]

Restriction Removals; Decision-Notice

Decided: June 8, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

FF–392 (Sub-3)X, filed June 2, 1981. Applicant: AIRBORNE FORWARDING CORPORATION, 190 Queen Anne Avenue, North, P.O. Box 662, Seattle, WA 98111. Representative: Louis P. Haffer, 173 Rhode Island Avenue, NW., Washington, DC 20036. Applicants seeks to remove restrictions in FF–392 by deleting the restriction limiting transportation of shipments having an immediately prior or subsequent movement by air, in its authority to transport general commodities (with exceptions).

MC 5857 (Sub-1)X, filed May 21, 1981. Applicant: DAVID TREBUS AND CHARLES L. JOHNSON, d.b.a. RIVER FALLS TRANSFER, 520 South Wasson Lane, River Falls, WI 54022. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity descriptions from livestock and agricultural commodities to "farm products, machinery, chemicals and lumber and wood products", and general commodities, with exceptions to "general commodities (except classes A and B explosives)"; (2) expand city to county-wide authority from River Falls, Martell, Trimbelle, Clifton, and Ellsworth to Pierce County, WI: Troy, Pleasant Valley and Kinniskinnic to St. Croix County, WI; and Minneapolis, St. Paul, South St. Paul and Newport, MN, to Hennepin, Ramsey, Anoka, Washington, Dakota, Scott and Carver Counties, MN, and St. Croix and Pierce Counties, WI; and expand one-way to radial authority between (a) points in Pierce and St. Croix Counties, WI, and points in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott and Carver Counties, MN, and St. Croix and Pierce Counties, WI; and (b) Pierce County, WI, and points in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott and Carver Counties, MN, and St. Croix and Pierce Counties, WI; and (3) remove the restriction limiting shipments being returned which initially have been handled in outbound transportation.

MC 43165 (Sub-16)X, filed May 13, 1981. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, VA 22075. Representative: Dean N. Wolfe, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its MC–43165 and Sub-No. 5 certificates and MC–142205 and Sub-Nos. 8F and 10F permits to (1) broaden the commodity description from (a) general commodities (with exceptions) to general commodities (except classes A and B explosives) in the lead and Sub-No. 5 certificates (b) from various commodities in the lead certificate such as milk and cream, fresh meat and hog by-products, fresh fruits, apples, and eggs to "food and related products"; from livestock to "farm products"; from fertilizer, feed, seed, and farm machinery to "farm products, and food and related products"; "chemicals and related products, and machinery"; from plumbing, heating and electrical supplies and fixtures, electrical appliances, furniture, and hardware to "rubber and plastic products, metal products, machinery, and furniture or fixtures"; from lime to "chemicals and related products", and from empty milk and egg containers, building materials, groceries, and fresh meats to "building materials," food and related products, and shipping containers, carriers, or devices, (c) in Sub-No. 5 certificate from livestock, agricultural commodities (not including manufactured products thereof), feeds, fertilizer, agricultural implements, agricultural machinery, and building materials to "farm products, food and related products, chemicals and related products, machinery and building materials,"; from livestock, apples, peaches, grain, and seed to "farm products and food and related products"; from fertilizer, seed, feed, and machinery to "chemicals and related products, food and related products, farm products, machinery and metal products"; from livestock to "farm products"; from lumber and cement to "lumber or wood products and clay, concrete, glass or stone products"; from fertilizer and lime to "chemicals and related products"; from fresh meat and hog by-products, fruit on sheet 3, poultry, meats, meat products, and meat by-products on sheet 6 to "food and related products"; from seed, feed, fertilizer, and farm implements to "chemicals and related products, food and related products, farm products, machinery and metal products"; from plumbing and heating supplies to "metal products, machinery, rubber and plastic products, and clay, concrete, glass or stone products"; from lime to "chemicals and related products"; from agricultural commodities, feed, seed, fertilizer, farm implements and machinery, paint, lime, brick and cement to "farm products, food and related products, chemicals and related products, metal products, machinery, and clay, concrete, glass or stone products"; from farm machinery to "machinery and transportation equipment," from livestock, wool hides, and junk to "farm products, textile mill products, food and related products, and waste or scrap materials not identified by industry producing," from crushed stone, sand and gravel and cinders to "clay, concrete, glass or stone products," (d) in Sub-No. 4 permit from custom molded expandable polystyrene packaging to "rubber and plastics products and chemicals and related products,"; (e) in Sub-No. 8 permit from expanded polystyrene foam, expandable polystyrene resin, and equipment and supplies used in the manufacture and packaging of expanded polystyrene foam (except commodities in bulk) to "rubber and plastic products, chemicals and related products and equipment and supplies used in the manufacture and packaging of expanded polystyrene foam" and (f) in Sub-No. 10 permit from prepared animal and poultry feed (except in bulk) to "food and related products" (2) broaden the territorial description to "between points in the U.S. under continuing contract(s) with named shippers in the lead and Sub-Nos. 8 and 10 permits, (3) change city to county-wide authority (a) in the lead certificate from Bluemont, Round Hill, Leesburg, Hamilton and Purcellville, VA to Loudoun County, VA; from Verona and Churchville to Augusta County, VA; from Stephens City, VA to Frederick County, VA; from Tenth Legion and Timberville, VA, to Rockingham County, VA; from Strasburg, VA, to Shenondoah County, VA; from Berryville, VA, to Clarke County, VA; and, from Charles Town, WV, to Jefferson County, WV, and (b) in Sub-No. 5 certificate from Riverton, WV, to Jefferson County, WV; from Harrisburg, PA, to Dauphin County, PA; from Purcellville, VA, to Loudoun County, VA; from Charles Town, Piedmont, Millville, and Bakerton, WV, to Jefferson County, WV; from Cumberland, MD to Alleghany County, MD; from Ellicott City, MD to Howard County, MD; from Brunswick, MD to Frederick County, MD and from Lancaster, Hanover, Greecastle, and Camp Hill, PA to Lancaster, York, Franklin and Cumberland Counties, PA.

MC 59317 (Sub-19), filed February 19, 1981 and noticed in the **Federal Register** of March 5, 1981, republish as corrected this issue. Applicant: BISON TRUCK LINE, INC., 725 First Street North, Newton, IA 50208. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Applicant seeks to remove restrictions in its lead and Sub-No. 11F certificates which were not included in the Sub-No. 19X certificate served on April 20, 1981 as follows: (1) broaden the commodity description from livestock to "farm products" in the lead; and from garbage disposal units, laundry dryers to "machinery" in Sub-No. 11F; (2) authorize service at all intermediate points in connection with regular route operations in the lead; (3) authorize radial operations in place of one way service between Newton County (Newton) IA and Iowa County, (Amana) IA in Sub-No. 11F.

MC 77482 (Sub-24)X, filed May 20, 1981. Applicant: THE PETER H. MORTENSEN-VINCI CO., 1004 Newfield St., Middletown, CT 06457. Representative: William P. Sullivan, 818 Connecticut Ave., NW., Washington, DC 20006. Applicant seeks to remove restrictions in its lead certificate (a) to broaden the commodity descriptions from crushed stone, granite and brownstone quarry blocks and slabs to "clay, concrete, glass and stone products", from concrete pipe and pipe forms to "pipe", from liquid bituminous products, in bulk to "chemicals and related products and petroleum, natural gas and their products", from road and building contractors' machinery and equipment, boilers, engines and plows to "commodities which because of their size or weight, require special handling and machinery", and from tobacco and empty containers to "tobacco and tobacco products", (b) to broaden the territorial scope by replacing one way with radial authority, and by replacing city-wide with county-wide authority as follows: Westfield, Springfield, East Long Meadow and Holyoke with Hampden County, MA; Newington and Hartford with Hartford County, CT; Stamford and Norwalk with Fairfield County, CT; New Haven with New Haven County, CT; Norwich with New London County, CT; Providence and East Providence with Providence County, RI; Glendale with Kings County, NY; White Plains with Westchester County, NY; Kenilworth with Union County, NJ; CT points within 25 miles of Hartford with points in Hartford, Tolland, and Middlesex Counties, CT; and MA points within 75 miles of Hartford with points in Berkshire, Hampshire, and Hampden Counties, MA.

MC 79434 (Sub-1)X, filed June 1, 1981. Applicant: BENNETT TRUCK LINE, INC., 200 East Walnut, Paragould, AR 72450. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg. Suite 909, Memphis, TN 38103. Applicant seeks to remove restrictions in its lead certificate to authorize service to all intermediate points along described regular routes between AR and TN, in its authority to transport general commodities.

MC 109373 (Sub-5)X, filed May 29, 1981. Applicant: NATIONAL TRUCKING, INC., P.O. Box 16081, Houston, TX 77022. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from oilfield equipment to "mercer commodities"; and (2) change one-way to radial authority between points in Houston, TX, and, oilfield locations in Texas.

MC 112070 (Sub-24)X, filed May 29, 1981. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl St., Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200 Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 22F certificate to broaden its commodity description from household goods, to "household goods, and furniture and fixtures".

MC 112617 (Sub-479)X, filed May 15, 1981. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, DC 20036. Applicant seeks to remove restrictions from its Sub-Nos. 318G, 451 and 471 certificates, E letter notices E-20, E-37, E-108 and E-109 to (1) broaden the commodity description to "commodities in bulk" from chemicals and petroleum products, in bulk in Sub-Nos. 451, part of 318G, 471 and E letter notices E20, E108, and E109; from chemicals, in bulk in E37 and liquefied petroleum gas, in bulk, in part of Sub-No. 318G, (2) change city to county-wide authority (a) in Sub-No. 451 and 471 from Doe Run, Calvert City and Owensboro, KY to Meade, Daviess and Marshall Counties, KY, and (b) in E37 from Calvert City, KY and points within 5 miles thereof to Marshall County, KY, (3) remove the restriction against transportation to or from points in IN located within the Louisville, KY, commercial zone in E20, E108, and E109, (4) remove the "in tank vehicle" restriction in all Subs and E letter notices, and (5) change one-way to radial authority between (a) Louisville, KY, and described portions of IN, WV, MI, OH, TN and 2 IL counties in Sub-No. 318G, (b) Louisville, KY and 3 KY counties, and, 9 States and the District of Columbia in Sub-No. 451, (c) 2 KY counties and Louisville, KY, and, 7 States in Sub-No. 471, (d) Louisville, KY, and, 1 OH county in E20, (e) 1 KY county, and, 6 WV counties in E37, (f) Louisville, KY, and, a described portion of MI in E108, and (g) Louisville, KY, and, 3 IN counties in E109.

MC 119908 (Sub-51)X, filed May 15, 1981. Applicant: WESTERN LINES, INC., 3525 North McCarty, Houston, TX 77001. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-Nos. 44F 45F, 46F, and 47F certificates to (1) broaden the commodity descriptions (a) in its lead from steel articles (part 1), iron and steel articles (part 8), iron and steel articles and non-ferrous metal articles (part 20), iron and steel articles, and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles (part 26), and in Sub-No. 45, iron and steel articles, to "metal products"; (b) in its lead, from lumber (parts 3, 16, 18, 27, 28, 29 and 30), rough and dressed lumber (parts 5, 7, 34, and 35), finished lumber (parts 6, 31, 32, and 33), lumber and lumber products (part 13), particleboard (parts 12, 17, and 23), lumber and particleboard (parts 12, 17, and 23), lumber and particleboard (part 10), lumber, lumber products and particleboard (part 14), treated poles, treated pilings, treated fence parts, and treated lumber (part 25), and in Sub-No. 47 lumber and lumber products, to "lumber and wood products"; (c) from wooden farm implements in its lead (part 4) to "machinery and lumber and wood products"; (d) from wood shavings and sawdust in its lead (part 11) to "waste or scrap materials not identified by industry producing"; (e) from plastic pipe in its lead (part 15) to "rubber and plastic products"; (f) from cross ties (part 19) and railroad cross ties (part 22) in its lead, to "metal products, lumber and wood products, and clay, concrete, glass or stone products"; (g) from iron and steel articles, aluminum articles, iron and steel tanks, aluminum tanks, and parts, attachments and accessories therefor in its lead (part 21), to "metal products and commodities which by reason of size or weight require the use of special equipment"; (h) from roofing materials, composition shingles, rolled roofing and roofing compounds and accessories in its lead (part 24) and Sub-No. 46 to ":metal products, rubber and plastic products, petroleum, natural gas and their products, clay, concrete, glass or stone products, textile mill products, and pulp, paper and related products"; (i) and in Sub-No. 44, from composition board, to "rubber and plastic products, clay concrete glass or stone products, pulp, paper and related products, and lumber and wood products"; (2) in its lead, remove an exception of "cement, rock, sand, and gravel"; remove an oil field pipe exception; (3) replace city-wide or facilities authority with county-wide authority as follows: Fort Bend, Harris, and Montgomery Counties, TX, for Houston, TX; Bienville Parish, Louisiana, for Arcadia, LA; Shelby County, TN, for Memphis, TN; Bienville, Webster, and Winn Parishes, LA, for Ada, Heflin, Danville, and Hunt, LA; Washington, Adams, and Warren Counties, MS for Greenville, Natchez, and Vicksburg, MS; Harris County, TX, for Baytown, TX; Union County, AR, for Huttig, AK, and Union and Winn Parishes, LA, for Lillie and Winnfield, LA; Lincoln Parish, LA, for facilities at Simsboro, LA; Amite, Winston, and Smith Counties, MS, for Gloster, Louisville, and Taylorsville, MS; Orleans Parish, LA, for New Orleans, LA; For Bend County, TX, for facilities at Houston, TX; Monroe County, AL, for facilities at Monroevile, AL; Hancock County, MS, for Port Bienville, MS; Liberty County, TX, for facilities in Liberty County, TX, Sabine Parish, LA, for facilities at Many, LA; Quachita County, AR for facilities at Stephens, Arkansas; Winn Parish, LA, for facilities at Winnfield, LA; Liberty County, TX, for facilities in Liberty County, TX; Mobile County, AL, for facilities at Mobile, AL; Harris and Jefferson Counties, TX, for facilities in Harris and Jefferson Counties, TX; (4) remove restrictions limiting service to transportation of shipments originating at and/or destined to named points in the lead certificate, Parts 21 and 26; (5) authorize radial authority to replace one-way service between cities and counties in various combinations of states throughout the U.S. in the lead certificate, Parts (1), (2), (3), (4), (5), (6), (7), (9), (10), (11), (12), (15), (16), (17), (19), (20), (21), (22), (23), (24), (25), (26), (28), (29), (30), (31), (32), (33), (34), and (35), and Sub-No. 44 and (6) remove restrictions requiring a prior or subsequent movement by water in its lead.

MC 121600 (Sub-16)X, filed June 1, 1981. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Applicant seeks to remove restrictions in its Sub-Nos. 8F, 10F and 12F certificates to (1) remove all exceptions except classes A and B explosives from its general commodities authority, (2) allow service at all

intermediate points between Nashville and Memphis, TN, in Sub-No. 8F, Chattanooga, TN, and Atlanta, GA, in Sub-No. 10F, and Knoxville and Chattanooga, TN, in Sub-No. 12F; (3) remove the joinder only restrictions; and (4) remove the restriction against the transportation of traffic originating at, or destined to or interlined at Nashville or Knoxville, TN, in Sub-No. 10F.

MC 124170 (Sub-167)X, filed May 21, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, P.C., 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions in its Sub-No. 140F certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) authorize county-wide and radial authority to replace existing city-wide and one-way authority: between points in Essex County, NY (for Willsboro, NY), MA and VT, and points in AL, AR, CO, FL, GA, IL, IN, KY, LA, MI, MN, MO, MS, NC, OH, OK, SC, TN, TX and WI; and (3) eliminate the restriction limiting service to the transportation of traffic originating at named facilities.

MC 127840 (Sub-174)X, filed May 21, 1981. Applicant: MONTGOMERY TANK LINES, INC., 7745 W. 59th St. Summit, Illinois 60501. Representative: William H. Towle, 180 N. LaSalle Street, Chicago, Illinois 60601. Applicant seeks to remove restrictions in its lead and Sub-Nos. 24, 29, 34, 38, 42, 44, 52, 53, 55, 59, 62F, 63F, 64F, 65F, 66F, 68F, 69F, 72F, 73F, 75F, 76F, 77F, 79F, 82F, 85F, 87F, 88F, 89F, 92F, 94F, 95F, 97F, 98F, 102F, 103F, 107F, 109F, 114F, 115F, 121F, 128F, 135F, 137F, 140F, 141F, 143F, 157F, 159F, 160F, 162F, and, 163F certificates to (1) broaden the commodity description from (a) animal fats, animal oils, vegetable oils, including products and blends of said commodities, but not including fatty acids to "food and related products" and dried beans to "farm products" in the lead certificate; (b) vegetable oil to "food and related products" in Sub-Nos. 24, 76F, 89F, 97F, and 163F; (c) animal tallow, greases, animal fats and oils, lard and lard compounds to "food and related products" in Sub-No. 29; (d) petroleum oil, petroleum lubricating oil, petroleum naptha, petroleum transformer oil, petroleum oil, petroleum or parafin wax, and petroleum products as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (except petroelum chemicals as described in Appendix XV to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209), and liquid wax to "petroleum and coal products", cleaning, scouring and washing compounds, witch hazel, and sodium lauryl sulphate to "chemicals and related products," and juices and beverages, fruit and citrus juices and concentrates thereof, oleo oil and oleo stock, edible oils, milk and milk products, and liquid inedible grease to "food and related products" in Sub-No. 34; (e) animal fats, animal oils, vegetable oils and blends and products of animal fats, animal oils and vegetable oils to "food and related products" in Sub-Nos. 38, 62F, 92F, 95F, 102F, 107F, and 140F; (f) meat products, meat by-products, and articles distributed by meat packinghouses to "food and related products and chemicals and related products," in Sub-No. 42; (g) products of corn to "food and related products" in Sub-Nos. 44 and 87F; (h) animal fats and oils to "food and related products" in Sub-Nos. 52, 79F, and 82F, (i) liquid corn products and tallow to "food and related products" in Sub-No. 53; (j) liquid cleaning compounds to "chemicals and related products" in Sub-No. 55; (k) petroleum and petroleum products, vehicle body sealer, and sound deadener compound to "chemicals and related products and petroleum and coal products" in Sub-Nos. 59 and 88F; (l) inedible animal fats to "food and related products" in Sub-No. 63F; (m) fruit and citrus juices and concentrates to "food and related products" in Sub-Nos. 64F and 69F; (n) soybean oil to "food and related products" in Sub-No. 65F; (o) inedible animal fats and animal oils, inedible vegetable oils and fatty acid to "chemicals and related products" in Sub-No. 66F; (p) synthetic plastic liquid resins to "chemicals and related products" in Sub-No. 72F; (q) diethylene glycol, dipropylene glycol and recovered glycols to "chemicals and related products" in Sub-No. 73F; (r) inedible grease to "food and related products" in Sub-No. 75F; (s) chemicals to "chemicals and related products" in Sub-Nos. 77F, 94F and 137F; (t) animal fats, animal oils and vegetable oils and products and blends of animal fats, animal oils and vegetable oils and materials and supplies used in the manufacture and distribution of animal fats, animal oils and vegetable oils to "food and related products and chemicals and related products" in Sub-No. 85F; (u) plastic pellets to "chemicals and related products in Sub-No. 98F; 9v) acids and chemicals to "chemicals and related products" in Sub-No. 114F; (w) tallow and animal grease to "food and related products" in Sub-No. 115F; (x) tallow to "food and related products in Sub-Nos. 121F and 157F; (y) petroleum, petroleum products and chemicals to "chemicals and related products and petroleum and coal products" in Sub-No. 128F; (z) packinghouse products to "food and related products and chemicals and related products" in Sub-No. 141F; (aa) vegetable oils and vegetable oil products to "food and related products and chemicals and related products" in Sub-No. 143F; (bb) calcium bromide to "chemicals and related products" in Sub-No. 160F; and (cc) vegetable oils and vegetable oil products to "food and related products and chemicals and related products" in Sub-No. 162F; (2) remove the restrictions in bulk, in tank or hopper-type vehicles, except hides, skins, or pieces thereof, in liquid form, and except corn oil, wherever they appear; (3) eliminate the facilities limitations in Sub-Nos. 29, 34, 42, 44, 65F, 66F, 77F, 85F, 88F, 95F, 97F, 107F, 115F, 121F, 137F, 141F, 157F, 160F, 162F and 163F; (4) replace city with county-wide authority as follows: (a) Kankakee County, IL, for Bradley, IL, in its lead certificate; (b) Henry County, IL, for Joslin, IL, in Sub-No. 29; (c) McKean, Venango, Butler, Beaver and Warren Counties, PA, for Bradford, Emleton, Farmers Valley, Franklin, Freedom, Karns City, Oil City, Petrolia, Reno, Rouseville and Warren PA; Kawaha and Pleasants Counties, WV, for Falling Rock and St. Marys, WV, in paragraph one of Sub-No. 34; (d) Lake County, OH, and Stephenson County, IL, for Painesville, OH, and Freeport, IL in paragraph two of Sub-No. 34; (e) Middlesex County, CT, for Essex, CT, in paragraph three of Sub-No. 34; (f) Hernando, Polk and Hillsborough Counties, FL, for Brooksville and Lakeland FL, in paragraph five of Sub-No. 34; (g) Passaic and Bergen Counties, NJ, for Paterson, NJ, in paragraph six of Sub-No. 34; (h) Middlesex County, MA, for Woburn, MA, and Tippecanoe, Vigo, Elkhart, and Lake Counties, IN, for Lafayette, Terre Haute, Elkhart and Whiting, IN, in paragraph eleven to Sub-No. 34; (i) Delaware County, PA, for Marcus Hook, PA, in paragraph twelve of Sub-No. 34; (j) Johnson County, IA, for Iowa City, IA, and Clark County, IN, for Jeffersonville, IN, in paragraph thirteen of Sub-No. 34; (k) Clay County, IA, for Spencer, IA, in Sub-No. 42; (l) Jefferson County, NE, for Fairbury, NE, in Sub-No. 52; (m) Marion County, TN, for Jasper, TN, in Sub-No. 59; (n) Louisa County, IA, for Columbus Junction, IA, in Sub-No. 62F; (o) Dallas and Scott Counties, IA, for Perry and Davenport, IA, in Sub-No. 63F; (p) Polk County, FL, for Frostproof, FL, and Marshall County, IN, for Plymouth, IN, in Sub-No. 64F; (q) Shelby

County, OH, for Sidney, OH, in Sub-No. 65F; (r) Cowley County, KS, for Arkansas City, KS, in Sub-No. 68F; (s) Polk County, FL, for Frostproof, FL, in Sub-No. 69F; (t) Madison Parish, LA, for Tallulah, LA, in Sub-No. 73F; (u) LaSalle County, IL, for Mendota, IL, in Sub-No. 75F; (v) Morgan County, CO, for Ft. Morgan, CO, in Sub-No. 82F; (w) Kankakee County, IL, for Bradley, IL, in Sub-No. 85F; (x) Lee County, IA, for Keokuk, IA, in Sub-No. 87F; (y) St. Landry Parish, LA, for Opelousas, LA, in Sub-No. 89F; (z) Grayson County, TX, for Denison, TX, in Sub-No. 92F; (aa) Morgan County, IL, for Meredosia, IL, in Sub-No. 94F; (bb) Jefferson Parish, LA, for Harvey, LA, in Sub-No. 97F; (cc) Mower County, MN, for Austin, MN, and Webster, Scott and Wapello Counties, IA, for Davenport, Fort Dodge and Ottumwa, IA, in Sub-No. 107F; (dd) Dakota and Cuming Counties, NE, for Dakota City and West Point, NE, Crawford and Webster Counties, IA, for Denison and Ft. Dodge, IA, Lyon County, KS, for Emporia, KS, and Rock County, MN, for luverne, MN, in Sub-No. 121F; (ee) Texas County, OK, for Guymon, OK, and Curry County, NM, for Clovis, NM, in Sub-No. 140F; (ff) Hancock County, IA, for Britt, IA, in Sub-No. 141F; (gg) Finney County, KS, for Holcomb, KS, in Sub-No. 157F; (hh) Bossier Parish, LA, for Shreveport, LA, in Sub-No. 159F; Cass County, ND, for Riverside, ND, in Sub-No. 162F; and Carroll County, IA, for Manning, IA, in Sub-No. 163F; and (5) remove the restrictions (a) against service to AK and HI in Sub-Nos. 44, 76F, 77F, 79F, 82F, 85F, 89F, 95F, 97F, 107F, 128F, 137F and 162F; (b) originating at and destined to Sub-Nos. 29, 38, 42, 66F, 77F, 85F, 88F, 121F and 137F; and (c) limiting service to traffic moving in foreign commerce in Sub-No. 121F.

MC 128427 (Sub-3)X, filed June 2, 1981. Applicant: COOK MOVING SYSTEMS, INC., 1845 Dale Road, Buffalo, NY 14225. Representative: Robert J. Gallagher, 1000 Connecticut Ave, NW., Suite 1200, Washington, DC 20036. Applicant seeks to expand it commodity authority in its Sub-No. 2 certificate, from household goods, as defined by the Commission to "household goods and furniture and fixtures".

MC 129788 (Sub-21)X, filed May 22, 1981. Applicant: NASS TRUCK LINES, INC., P.O. Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Applicant seeks to remove restricitons in its lead and Sub-Nos. 2, 6, and 17 certificates to (1) broaden its commodity descriptions from malt beverages and related advertising materials, to "food and related products", in the lead and Sub-Nos. 2 and 6; (2) replace cities with county-wide authority: in the lead and Sub-No. 6, Newport, KY, with Campbell and Kenton Counties, KY, and Hamilton County, OH; in the lead, South Bend, IN with Elkhart and St. Joseph Counties, IN, and Berrien and Cass Counties, MI; Sheboygan, WI with Shehboygan County, WI; in the lead Sub-No. 6, Peoria, IL with Peoria, Tazewell and Woodford Counties, IL; in Sub-No. 2, Galesburg, IL with Knox and Warren Counties, IL; Macomb, IL with McDonough County, IL; Rock Island, IL with Rock Island County, IL and Scott County, IA; in the lead Sub-Nos. 2 and 6, Rockford, IL with Boone, Ogle, and Winnebago Counties, IL; and Bloomington, IL with McLean County, IL; in the lead Sub-No. 17, Milwaukee, WI with Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties, WI; and Detroit, MI with Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI; and in Sub-No. 6, Evansville, IN with Posey, Vanderburgh, and Warren Counties, IN, and Henderson County, KY; and (3) change its one-way to radial authority between points in the above-named counties and specified cities in WI, IL, IN, MI, KY, and MO, in the lead and Sub-Nos. 2 and 6.

MC 133085 (Sub-19)X, filed May 20, 1981. Applicant: TRENCO, INC., 2109 Marydale Avenue, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Applicant seeks to remove restrictions in its MC–135234 Sub-No. 10 permit to (a) broaden the commodity description from electric cables and aluminum articles and materials, equipment and supplies used in their manufacture and distribution (except commodities in bulk) to "metal products"; (b) expand the territorial description to "between points in the United States," under continuing contract(s) with a named shipper.

MC 134870 (Sub-4)X, filed May 20, 1981. Applicant: NASHVILLE-CLARKSVILLE EXPRESS, INC., P.O. Box 607, St. Bethleham, TN 37155. Representative: Robert L. Baker, Sixth Floor, United American Bank, Nashville, TN 37219. Applicant seeks to remove restrictions in its Sub-No. 3F certificate to (a) broaden the commodity description by removing all of the exceptions to general commodities, except classes A and B explosives; (b) remove restrictions against service at all intermediate points on its regular routes between Clarksville, TN, and Memphis, Shelby County, TN; and (c) remove the restriction against transportation of traffic originating at, destined to or interchanged at Nashville, TN, and its commerical zone in connection with authroized service between Clarksville, TN, and Memphis, Shelby County, TN.

MC 135614 (Sub-4)X, filed May 20, 1981. Applicant: ESKELIN, INC., 4604 Wornal Road, Kansas City, MO 64112. Representative: Max G. Morgan, 1503 East 19th Street, Edmond, OK 73034. Applicant seeks to remove restrictions from its Sub-Nos. 1 and 2F permits to: (1) broaden the commodity description in Sub-No. 1 from such commodities as are manufactured and dealt in by chemical companies, and materials and supplies used in the manufacture and distribution of such commodities (except in bulk), to "such commodities as are dealt in or used by manufacturers and distributors of chemicals"; and (2) broaden the territorial description in both Sub-No. 1 and 2F, to "between points in the U.S. under continuing contract(s) with a named shipper."

MC 138861 (Sub-28)X, filed May 12, 1981. Applicant: C-LINE, INC., 303 Jefferson Blvd., Center Warwick, RI 02888. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036. Applicant seeks to remove restrictions in its No. MC-128343, Sub-Nos. 1, 2, 5, 6, 7, 9, 11, 12, 13, 15, 16, 17, 19, 22, 28, 29, 30, 33, 34, 37, 38F, 39F, 41F, 42F, 43F, 44F, 45F, 46F, 47F, 48F, 49F, 50F, 51F, 52F, 53F, 54F, 56F, 57, 58, 59F, 60, 61F, 62, 63, 64, 65, 66F, 67F, 68 and 69F permits, and its No. MC-138861 and Sub-Nos. 3, 4, 8F, 9F, 10F, 11F, 12F, 14F, 15F, 16F, 17F, 18F, 19F and 20F certificates to (l) in its permits (a) broaden the commodity descriptions from electrical goods, appliances, equipment, parts, and related accessory items used in the manufacture and distribution thereof, in Sub-Nos. 1, 6, 7, 12, 13, 30, 33 and 38 to "machinery"; from scrap metal to "waste or scrap material not identified by industry producing" in Sub-No. 1; from plastic materials, plastic products, and supplies used in the production of plastic materials and plastic products in Sub-Nos. 2, 5, 9, 16, 19, 22, 28, 34, 42, and 50, and plastic granules and plastic materials and plastic products in Sub-Nos. 27, 43, and 44; to "rubber and plastic products"; from nails and materials, equipment, and supplies used in the manufacture and distribution of nails in Sub-No. 11, bolts, nuts, washers and fasteners and materials, equipment and supplies used in the manufacture and distribution thereof in Sub-Nos. 29, and 51, aluminum wire and cable in Sub-

Nos. 27, 43 and 44, copper rod and cathodes and materials, equipment and supplies used in the manufacture and distribution thereof in Sub-No. 47, iron and steel articles and materials, equipment and supplies used in the manufacture and distribution thereof in Sub-No. 48F, flat wire, and steel articles and materials, equipment, and supplies used in the manufacture and distribution thereof in Sub-No. 49, to "metal articles"; from plastic pots, crushed pine cones, ground shale, and plant foods in Sub-Nos. 37 and 45 to "rubber and plastic products, forest products, ores and minerals, clay, concrete, glass or stone products, and chemicals and related products"; from games and toys, school supplies, and hobby supplies to "miscellaneous products of manufacturing, and pulp, paper and related products" in Sub-No. 41F; insulated wire and materials, equipment and supplies used in the manufacture and distribution thereof in Sub-Nos. 27, 43, and 44 to "building materials"; from stapling machines, stitching machines, hand tools, hardware, files, staples, nails, and wire in Sub-No. 46 to "metal products and machinery"; and remove exceptions to general commodities (except classes A and B explosives) in Sub-Nos. 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, and 69; (b) remove the "in bulk" and/or "in tank vehicles" restrictions in Sub-Nos. 1, 6, 7, 13, 15, 30, 38F, 2, 5, 9, 16, 28, 42F, 17, 23, 39F, and 41F; (c) remove the "cinder blocks and plastic pipe" restrictions in Sub-Nos. 33 and 34; (d) remove the restriction specifying the Canadian origin and destination to be served in Sub-No. 2; and (e) broaden the territorial description to between points in the U.S. under continuing contract(s) with named shippers in all named permits; (2) in its certificates, (a) broaden the commodity description from cinder blocks to "building materials" in its lead; from plastic pipe to "rubber and plastic products" in Sub-No. 3; from chemicals to "chemicals and related products" in Sub-No. 9F; from steel bolts, and materials, equipment and supplies used in the manufacture and distribution of steel bolts to "metal products" in Sub-No. 12F; (3) replace one-way authority with two-way authority in Sub-Nos. (lead), 3, 9F, 12F, 14F, 16F, and 19F; (4) remove the commodities "in bulk" restriction in Sub-Nos. 9F, 12F and 14F; (5) remove the restriction requiring a prior or subsequent movement by rail in Sub-Nos. 17F and 20F; (6) remove the restriction limiting service to the transportation of traffic moving on bills of lading of freight forwarders in Sub-Nos. 4, 11F and 18F; (7) remove the restriction limiting service to the transportation of traffic moving on bills of lading of shippers' associations in Sub-No. 10F; (8) remove the restriction precluding the transportation of shipments to or from the facilities of named shippers in its lead and Sub-No. 3; (9) remove the restriction limiting service to the transportation of shipments originating at or destined to named plantsites in its lead and Sub-No. 14F broaden the territory description by removing facilities or railroad ramp limitations and replacing points with counties: Warwick, RI, with Kent, Providence, Washington, Newport and Bristol Counties, RI, and Bristol County, MA in its lead; Cranston, RI, with Kent and Providence Counties, RI, and Bristol County, MA, in Sub-Nos. 3, 8F, 9F, 10F, 15F and 19F; Fall River, MA, with Bristol County MA, and Bristol and Newport Counties, RI in Sub-No. 12F; Bradley, IL with Kankakee County, IL in Sub-No. 14F; from East Providence, RI, with Kent and Providence Counties, RI and Bristol County, MA in Sub-No. 16F; Cincinnati, OH with Butler, Clermont, and Hamilton Counties, OH, and Boone, Campbell and Kenton Counties, KY, in Sub-No. 19F; Wilmington, DE with New Castle County, DE, Salem and Gloucester Counties, NJ, and Delaware and Chester Counties, PA in Sub-No. 4; New York, NY, in Sub-Nos. 4 and 11F; Alexandria, VA, in Sub-Nos. 4, 11F and 20; Baltimore, MD, in Sub-Nos. 4 and 11F; the District of Columbia in Sub-Nos. 4 and 11F; Bridgeport, CT, with Fairfield and New Haven Counties, CT, in Sub-Nos. 17F and 20F; North Haven, CT, with New Haven County, CT, in Sub-Nos. 17F and 20F; Plainfield, CT, with New London and Windham Counties, CT, in Sub-Nos. 17F and 20F; Boston, MA, with Bristol, Essex, Middlesex, Norfolk, Plymouth and Suffolk Counties, MA, in Sub-Nos. 17F and 20F; Worcester, MA, with Worcester County, MA, in Sub-Nos. 17F and 20F; Pawtucket, RI, with and Providence Counties, RI and Bristol County, MA, in Sub-Nos. 17F and 20F; Providence, RI, with Kent and Providence Counties, RI, and Bristol County, MA, in Sub-Nos. 17F and 20F; and Springfield, MA, with Hampden County, MA, in Sub-No. 20F.

MC 139994 (Sub-3)X, filed June 1, 1981. Applicant: JIM and BOB STENCEL d.b.a. STENCEL TRUCKING, Box 321, Minnesota Lake, MN 56068. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., 10 South Fifth Street, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its Sub-No. 2 certificate to (1) broaden the commodity description from materials and supplies used in the construction of custom homes and garages, and parts, floor coverings, appliances, and accessories, installed at the time of construction to "building materials, lumber and wood products, and machinery"; (2) remove the "except commodities in bulk, in tank vehicles" restriction; and (3) replace city with county-wide authority from Minnesota Lake to Fairbault and Blue Earth Counties, MN; and authorize radial for one-way authority between Fairbault and Blue Earth Counties, MN, and, points in 12 named States.

MC 145569 (Sub-6)X filed June 2, 1981. Applicant: M & M EQUIPMENT CO., INC., 24400 E. Alameda Ave., Aurora, CO 80011. Representative: Jack B. Wolfe, 1600 Sherman St. No. 665, Denver, CO 80203. Applicant seeks to remove restrictions in its Sub-No. 5F permit to (1) broaden the commodity description from meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 to "food and related products"; (2) remove the restriction "except hides and commodities in bulk"; and (3) expand the territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 145915 (Sub-6)X, filed May 22, 1981. Applicant: EAGLE TRANSPORT, INC., P.O. Box 189, Montpelier, ID 83254. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Applicant seeks to remove restrictions in its Sub-Nos. 2, 4F and 5F certificates to (1) broaden the commodity description from oil drilling mud compounds to "mercer commodities" in all certificates; (2) replace facilities or city-wide authority with county-wide authority: (a) in Sub-No. 2, Montpelier, ID with Bear Lake County, ID; and (b) in Sub-No. 4F, facilities at Montpelier, ID and Lovell, WY with Bear Lake County, ID and Big Horn County, WY; and (3) expand its one-way authority to radial authority between various combinations of specified counties in ID, MT, NV, UT and WY, in Sub-Nos. 2 part (b), 4F and 5F part (2).

MC 146050 (Sub-5)X, filed May 18, 1981. Applicant: ALPHA & OMEGA TRANSPORT, INC., P.O. Box 19309, Airport Station, Charlotte, NC 28219. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW, Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-No. 2F certificates to (1) broaden the commodity description from hospital supplies, drugs, and health care

products, and materials and suplies used in the manufacture of the commodities above (except in bulk), to "chemicals and related products, and medical, dental, hospital, and health care products, supplies, equipment, instruments and furnishings"; (2) remove facilities limitations at Rocky Mount, NC, Altavista, VA, and North Chicago, IL and replace with Edgecombe County, NC, Campbell County, VA, and Lake County, IL, and (3) remove the restriction against transportation to AK and HI in its radial authority between the above points and points in the U.S.

MC 147424 (Sub-3)X, filed May 26, 1981. Applicant: FAZE II, LTD., 303 East Ohio Street, Chicago, IL 60611. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description to "machinery" from internal combustion engines and components of internal combustion engines; (2) remove the restriction limiting service to the transportation of traffic destined to named facilities; and, (3) authorize radial, county-wide authority to replace existing one-way, city-wide service between points in Wayne, Macomb, and Oakland Counties, MI (for Detroit, MI) and points in Cook County, IL (for Elmhurst, IL), and Waukesha County, WI (for Pewaukee, WI).

MC 147632 (Sub-8)X, filed June 1, 1981. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Applicant seeks to remove restrictions in its Sub-Nos. 3F, 4F and 5F certificates to (1) broaden the commodity description from fluorescent lighting fixtures and parts and accessories to "such commodities as are used by or dealt in by manufactures, processors and distributors of electrical equipment" in each certificate; (2) eliminate the facilities limitations in Sub-Nos. 4F and 5F; (3) replace city with county-wide authority from Kingston to Ulster County, NY, in Sub-Nos. 4F and 5F; and (4) expand one-way to radial authority between (a) points in Bucks and Philadelphia Counties, PA, and, points in 11 States in Sub-No. 3F; (b) points in Ulster County, NY, and points in 11 States in Sub-No. 4F; and (c) points in Ulster County, NY, and Philadelphia and Bucks Counties, PA, and, points in FL, TX, and MS; and points in MS, and, Ulster County, NY, and Philadelphia and Bucks Counties, PA, in Sub-No. 5F.

MC 148457 (Sub-3)X, filed May 22, 1981. Applicant: INTERIOR TRANSPORT, LTD., P.O. Box 7, Group 200, R.R. 2, Winnipeg, Manitoba Canada R3C 2E6. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, North Dakota 58108. Applicant seeks to remove restrictions in its Sub-No. 2F permit to (1) broaden the commodity description from stone products to "clay, concrete, glass or stone products", and (2) broaden the territory description to "between points in the U.S.", under continuing contract(s) with a named shipper.

MC 150434 (Sub-5)X, filed June 2, 1981. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Representative: David M. Shepherd (same as above). Applicant seeks to remove restrictions in MC-138941 Sub-Nos. 32 and 33F permits to (1) broaden the commodity description from (a) foodstuffs (not frozen), in containers, in vehicles equipped with mechanical refrigeration in Sub-No. 32 to "food and related products" and (b) wrapping paper in Sub-No. 33F to "pulp, paper, and related products"; and (2) expand its territorial descriptions to between points in the United States under continuing contract(s) with the named shippers.

MC 152229 (Sub-8)X, filed June 1, 1981. Applicant: SALINAS TRUCK BROKERS, INC., P.O. Box 128, Salinas, CA 93902. Representative: Ben Ryburn (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) delete plantsite restriction and broaden cities to counties: Valdosta and Bainbridge, GA, with Lowndes and Decatur Counties, GA, and Mexico, MO with Audrain County, MO.

[FR Doc. 81-17393 Filed 6-10-81; 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 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 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.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPY–3–086

Decided: June 3, 1981.

MC 145995 (Sub-1), filed May 22, 1981. Applicant: FRANK KEELER, 4717 164th SW, Lynnwood, WA 98036. Representative: Kenneth R. Mitchell, 2317 Milwaukee Way, Tacoma, WA 98421 (206) 922–0110. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 155905, filed May 12, 1981. Applicant: SUCESS TRANSPORTATION, INC., P.O. Box 530, Alexander, AR 72002. Representative: Darrell Bailey (same address as applicant) (501) 455–3333. Transporting *general commodities* (except classes A and B explosives), between Primrose and Luthersville, GA, Cardwell, Arbyard, Hornersville, Edna, Lewistown, Hurdland and Ewing, MO, McHenry, ND, Narcisso, Russellville, Roaring Springs, Carandall, Kaufman, Kemp, Mabank, Reklaw, Mobeetie, Briscoe, and Allison, TX, Raymond, Oakley, Adams and Myles, MS, Snyder and Hamburg, AR, Holly Springs and Stokedale, NC, Radcliff, Aurora, Ellsworth and Lawn Hill, IA, Henery and Clark, SD, Esmond, Astoria, Teheran, Biggs, Easton and Richmond, IL, Shell Lake, Cumberland, Gillett, Green Valley, Lake Geneva and Genoa City, WI, Elgin, NE, Benton, Barlow, La Center, Oak Ridge, Philpot, Deansfield, Thompsonville, Masonville, Edgoten and Lewisburg, KY, Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansville, Ashland City, Scottsboro, Jordonia and Riverside, TN, Reydon, Cheyenne, Strong City, Hammon and Butler, OK, McDonald, OH and Paris and Paris Crossing, IN, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitue motor carrier for abandoned rail carrier service.

MC 156134, filed May 26, 1981. Applicant: MARTIN H. SCHONBERGER d.b.a. SCHONBERGER TRAFFIC CONSULTANTS, 11 Dana Circle, Edison, NJ 08820. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 156135, filed May 26, 1981. Applicant: GALBRAITH INTERNATIONAL, INC., 1025 Royal Lane, Foreign Trade Zone, Dallas Fort Worth Airport, TX 75261. Representative: Carl Hecht, P.O. Box 61247, Dallas, TX 75261 (214) 574–6010. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY–4–185

Decided: June 4, 1981.

MC 141187 (Sub-21), filed May 27, 1981. Applicant: BLUFF CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: Clarence R. Haar (same address as applicant) (901) 396–2201. 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.

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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 unoppoed 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 be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPY–3–084

Decided: June 3, 1981.

MC 1385 (Sub-1), filed May 14, 1981. Applicant: GARTON'S EXPRESS, INC., 3366 North Mill Rd., Vineland, NJ 08360. Representative: John D. Quinn, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036 (202)–783–8131. Transporting *general commodities* (except classes A and B explosives), between points in NJ, NY, PA, DE, MD, RI, MA, CT and DC.

MC 13134 (Sub-103), filed May 18, 1981. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting *metal products,* between points in Peoria County, IL, Jackson County, MO, and Georgetown County, SC, on the one hand, and, on the other, points in Fairfield County, OH.

MC 16334 (Sub-12), filed May 15, 1981. Applicant: DEBRICK TRUCK LINE COMPANY, R.R. 2, Paola, KS 66071. Representative: Arnold E. Debrick (same address as applicant) (913) 849–3336. Transporting *hides,* between points in the U.S.

MC 17095 (Sub-1), filed May 18, 1981. Applicant: DARNALL TRUCK SERVICE, INC., P.O. Drawer 1346, Great Bend, KS 67530. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transporting *Mercer commodities,* (a) between points in that part of TX on and north of Interstate Hwy 40, and that portion of CO on and east of U.S. Hwy 87, and NE, and (b) between points in KS and OK, on the one hand, and, on the other, points in that part of TX on and north of Interstate Hwy 40, and that portion of CO on and east of U.S. Hwy 87, and NE.

MC 25954 (Sub-5), filed May 21, 1981. Applicant: CRESSONA TRUCKING COMPANY, Cressona, PA 17929. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101 (717)–236–9318. Transporting *coal and coal products,* between points in Berks, Carbon, Dauphin, Lackawanna, Luzerne, Northumberland and Schuylkill Counties, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, VA, CT and MA.

MC 32144 (Sub-4), filed May 21, 1981. Applicant: A. J. LIMONE, INC., 892 Palisade Avenue, Teaneck, NJ 07666. Representative: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *building materials,* between the facilities of Owens-Corning Fiberglas Corporation at points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 48315 (Sub-8), filed May 19, 1981. Applicant: HOPKINS MOTOR COACH, INC., 127 N. State Street, Dover, DE 19901. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101 (703) 893–4924. Transporting *passengers and their baggage,* in charter operations, beginning or ending at points in Kent and Sussex Counties, DE, Talbot, Caroline, Dorchester, Wicomico, Somerset and Worcester Counties, MD, and Accomack County, VA, and extending to points in the U.S.

MC 65475 (Sub-47), filed May 15, 1981. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101 (703) 893–3050. Transporting (1) *machinery;* and (2) *metal products,* between points in the U.S.

MC 65475 (Sub-48), filed May 15, 1981. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101 (703) 893–3050. Transporting *lumber and wood products,* between points in Carroll County, MD, on the one hand, and, on the other, points in the U.S.

MC 95045 (Sub-5), filed May 18, 1981. Applicant: DOUGLAS EXPRESS, INC., 9 Pheasant Lane, Norwalk, CT 06854. Representative: Irving Klein, 371 Seventh Ave., New York, NY 10001 (212) 279–3050. Transporting *general commodities* (except classes A and B explosives), between points in NY, NJ, PA, CT, MA, RI and NH.

MC 97255 (Sub-9), filed May 22, 1981. Applicant: SOUTH WHITLEY TRUCKING CO., INC., 606 E. Front St., South Whitley, IN 46787. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204 (317) 638–1301. Transporting *metal products,* between points in Blackford and Whitley Counties, IN, on the one hand, and, on the other, points in IL, IN, KY, MI, and OH.

MC 107934 (Sub-46), filed May 21, 1981. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street, N.W., Washington, DC 20004 (202) 737–1030. Transporting *pulp, paper and related products,* between points in NC and VA.

MC 107934 (Sub-47), filed May 21, 1981. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street, N.W., Washington, DC 20004 (202) 737–1030. Transporting *lumber and wood products,* between points in GA, FL, NC, SC, and VA.

MC 110624 (Sub-4), filed May 22, 1981. Applicant: FALK TRANSPORTATION CO., INC., 10 Ewing Ave., Spring Valley, NY 10977. Representative: George A. Olsen, P.O.Box 357, Gladstone, NJ 07934 (201) 435–7140. Transporting *general commodities* (except classes A and B explosives), between points in CT, MA, NJ, NY, PA, and RI.

MC 111045 (Sub-194), filed May 15, 1981. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant) (813) 621–2046. Transporting *general commodities* (except classes A and B explosives), between points in AL, on the one hand, and, on the other, points in the U.S.

MC 114284 (Sub-103), filed May 19, 1981. Applicant: FOX–SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601 (913) 234–0565. Transporting *food and related products,* between points in MO, on the one hand, and, on the other, points in IA, KS, MN, NE, OK and SD.

MC 123124 (Sub-8), filed May 20, 1981. Applicant: BOOTH DELIVERY SERVICE, INC., P.O. Box 1364, Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126 (701) 235–4487. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses, between points in IL, IA, MN, MT, NE, ND, SD, and WI.

MC 121705 (Sub-1), filed May 21, 1981. Applicant: METRO DISTRIBUTION, INC., P.O. Box 452, Geneva, IL 60134. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602 (312) 726–6525. Transporting *general commodities* (except classes A and B explosives), (a) between points in Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, Boone, Winnebago, LaSallo, Ogle, Lee, Bureau and Will Counties, IL; and (b) between points in Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, Boone, Winnebago, LaSalle, Ogle, Lee, Bureau and Will Counties, IL, on the one hand, and on the other, points in IL. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing Certificate of Registration in

No. MC-121705, at applicant's written request.

MC 125535 (Sub-29), filed May 22, 1981. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, 2275 Schuetz Rd., St. Louis, MO 63141. Representative: Donald S. Helm (same address as applicant) (314) 569-1161. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with World Wide Transportation Services, Inc., of Romulus, MI.

MC 133604 (Sub-13), filed May 18, 1981. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th Street, Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501 (515) 682-8154. Transporting *food and related products*, between points in Seward County, KS, on the one hand, and, on the other, points in the U.S.

MC 135015 (Sub-6), filed May 22, 1981. Applicant: SOUTHERN TRANSIT COMPANY, INC., 1211 South 9th St., P.O. Box 3586, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902 (501) 782-1001. Transporting *general commodities* (except classes A and B explosives), between points in Crawford, Polk, Scott, Sebastian and Sevier Counties, AR, and LeFlore, McCurtain and Sequoyah Counties, OK, on the one hand, and, on the other, points in the U.S.

MC 136315 (Sub-144), filed May 20, 1981. Applicant: OLEN BURRAGE TRUCKING, INC., P.O. Box 706, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205 (601) 355-3543. Transporting *metal products*, between Jefferson and Orleans Parishes, LA, on the one hand, and, on the other, points in the U.S.

MC 140484 (Sub-96), filed May 18, 1981. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant) (813) 334-4517. Transporting *such merchandise* as is dealt in by food business houses, (1) between points in OH and SC on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OH, OK, SC, TN and TX, and (2) between points in CA, GA, MD, NJ, NY, and PA on the one hand, and, on the other, points in FL.

Volume No. OPY-3-085

Decided: June 3, 1981.

MC 2934 (Sub-107), filed May 26, 1981. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN. Representative: W. G. Lowry, (same address as applicant) (317) 875-1142. Transporting *engineered exhaust systems*, between Mayville, WI, on the one hand, and, on the other, points in the U.S.

MC 27754 (Sub-22), filed May 21, 1981. Applicant: FRANK J. KUBLY TRANSFER, INC., P.O. Box 135, Monroe, WI 53566. Representative: Rolfe E. Hanson, 121 West Doty St., Madison, WI 53703 (608) 256-0606. Transporting *food and related products*, between points in WI, MN, IA, IL, IN, MI, MO, OH, and ND.

MC 114725 (Sub-116), filed May 20, 1981. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106 (402) 392-1220. Transporting *commodites in bulk*, between points in LA, AR, IL, WI, MO, MN, IA, ND, SD, NE, KS, OK, TX, NM, CO, and WY.

MC 117765 (Sub-320), filed May 27, 1981. Applicant: HAHN TRUCK LINE, INC., 1100 S. McArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan, (same address as applicant) (405)-943-8533. Transporting *petroleum, natural gas and their products*, between points in Sedqwick County, KS, on the one hand, and, on the other, points in AR, CO, LA, NM, OK, TX and WY.

MC 128035 (Sub-46), filed May 21, 1981. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205 (601) 948-8820. Transporting *furniture and fixtures*, between points in Polk County, GA, Muscatine County, IA, Daviess County, KY, Erie County, PA, and Chesterfield County, VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 142064 (Sub-5), filed May 27, 1981. Applicant: CAROLINA CARPET CARRIERS, INC., P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606 (803) 288-6000. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Chef Francisco, of Eugene, OR.

MC 142145 (Sub-10), filed May 15, 1981. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501 (402) 475-6761. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Lindsay Manufacturing Co., Inc., of Lindsay, NE.

MC 142245 (Sub-9), filed May 20, 1981. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Blvd., Grand Rapids, MI 49503 (616) 459-6121. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Chef Pierre, Inc., of Traverse City, MI.

MC 142575 (Sub-6), filed May 26, 1981. Applicant: UNDERWOOD TRUCK LINES, INC., 303 Murphy Street, Brazil, IN 47834. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846-6655. Transporting *printed matter*, between points in the U.S. under continuing contract(s) with National Printing Converters, Inc., of Brazil, IN.

MC 144054 (Sub-19), filed May 18, 1981. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Rd., Medford, OR 97501. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244-2329. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ralston Purina Company and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 144694 (Sub-1), filed May 18, 1981. Applicant: RIVERSIDE TRUCKING, INC., P.O. Box 351, Pell City, AL 35125. Representative: T. A. Flemming, Sr. (same address as applicant) (205) 884-2471. Transporting (1) *metal products*, and (2) *machinery*, between points in the U.S., under continuing contract(s) with Southwire Company, of Carrollton, GA.

MC 145544 (Sub-12), filed May 21, 1980. Applicant: W & M, INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602 (312) 236-8225. Transporting *material handling and construction machinery, tractor attachments and parts*, between points in the U.S., under continuing contract(s) with Pettibone Corporation, Chicago, IL.

MC 145664 (Sub-32), filed May 22, 1981. Applicant: STALBERGER, INC., 223 So. 50th Ave. West, Duluth, MN 55807. Representative: Joyce L. Donaldson, P.O. Box 6749, Duluth, MN 55807 (218) 624-3641. Transporting *pulp, paper and related products*, between points in Morrison County, MN, on the

one hand, and, on the other, points in the U.S.

MC 145765 (Sub-12), filed May 20, 1981. Applicant: WIEST TRUCKLINE, INC., Route #2, Jamestown, ND 58401. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402 (612) 340-0808. Transporting *machinery and metal products*, between points in the U.S. under continuing contract(s) with Steiger Tractor, Inc., of Fargo, ND.

MC 148785 (Sub-3), filed May 14, 1981. Applicant: SUDDEN MOVING & STORAGE, INC. d.b.a. SUDDEN TRUCKING COMPANY, 5154 Kennedy Avenue, Cincinnati, OH 43213. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215 (614) 464-4103. Transporting *general commodities* (except classes A and B explosives), between Peoria, IL and points in OH and KY, on the one hand, and, on the other, points in IL, IN, KY, MO, TN, OH, GA, SC, NC, VA, AL, DE, PA, WV, NJ, NY, CT, FL, MA, MI, CA, CO, WA, MN and DC.

MC 149195 (Sub-15), filed May 27, 1981. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra Street, Kingsburg, CA 93631. Representative: Lavern R. Holdeman, P.O. Box 891849, Lincoln, NE 68501 (402) 476-1144. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Colgate-Palmolive Company, Inc., of Kansas City, KS.

MC 150185 (Sub-4), filed May 22, 1981. Applicant: STAM-WIN, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114 (216) 566-5639. Transporting *machinery*, between points in the U.S., under continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 151645 (Sub-1), filed May 21, 1981. Applicant: K.S.R., INC., Route 412, Paragould, AR 72450. Representative: E. Lewis Coffey, 26 Kingspark Drive, Maumelle, AR 72118 (501) 851-3208. Transporting (1) *chemicals*, (2) *fabricated metal products*, (3) *plastic products*, and (4) *canned beverages*, between points in Green County, AR, Tunica County, MS, and Shelby County, TN, on the one hand, and, on the other, points in the U.S.

MC 152464 (Sub-3), filed May 20, 1981. Applicant: PYRAMID T.O.F.C. SERVICES, INC., Route 2, Box 235A, Carterville, IL 62918. Representative: Ronald N. Cobert, 1730 M St., NW., Suite 501, Washington, DC 20036 (202) 296-2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chemetco, Inc., of Hartford, IL.

MC 153315 (Sub-2), filed May 26, 1981. Applicant: GEO. MCNEIL TEAMING COMPANY, 700 West Erie St., Chicago, IL 60610. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with LaSalle Messinger Paper Co., of Broadview, IL.

MC 153344, filed May 20, 1981. Applicant: ZEIGLER'S LIQUID WASTE MANAGEMENT, INC., 700 North Hartley St., P.O. Box 1943, York, PA 17405. Representative: Jon Yinger (same address as applicant) (717)-845-8783. Transporting *hazardous materials*, between points in PA, MD, NJ, NY, OH, VA, WV and NC.

Note.—The authority granted in this proceeding shall expire 5 years from the date of issuance.

MC 156104 filed May 22, 1981. Applicant: PAUL WATTS, 386 Larkin Ave., Akron, OH 44305 Representative: James W. Conner, 431 Keith Ave. Akron, OH 44313 (216) 864-3561. Transporting *such commodities* as are manufactured, processed, or dealt in by ceramic manufacturers, between points in IN, KY, NY, NY, OH, PA, TN, WV, IL, MI, and CO.

MC 156064, filed May 20, 1981. Applicant: GENEVA AND JOHN NIXON d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route No. 42, P.O. Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *general commodities* (except classes A and B explosives), between the facilities of Purex Corp., in the U.S., on the one hand, and, on the other, points in the U.S.

MC 156065, filed May 20, 1981. Applicant: FREDERICK LIMOUSINE, INC., P.O. Box 98, Braddock Heights, MD 21714. Representative: Annette C. Reynolds, 7017 Ridge Rd., Frederick, MD 21701, (301) 694-6404. Transporting *passengers and their baggage*, between points in Frederick, Washington and Carroll Counties, MD, on the one hand, and, on the other, Washington National Airport, Arlington, VA.

MC 156105, filed May 22, 1981. Applicant: CELINA MOVING & WAREHOUSING, INC., 1901 Industrial Drive, Celina, OH 45822. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036, (202) 463-6044. Transporting *household goods*, as defined by the Commission, between points in OH, KY, IN, IL, MI, PA, NY and NJ.

Volume No. OPY-4-181

Decided: June 3, 1981.

FF-347 (Sub-2), filed May 27, 1981. Applicant: NORTHERN LIGHTS EXPRESS, INC., 2805 26th Ave., SW, P.O. Box 3365, Seattle, WA 98114. Representative: Frank MonteCalvo (same address as applicant), (206) 938-6345. As a freight forwarder, in connection with the transportation of *general commodities* (except household goods as defined by the Commission), between points in CA and WA.

MC 105367 (Sub-5), filed May 27, 1981. Applicant: THE HALL TRUCK LINE, INC., P.O. Box 188, Olathe, KS 66061. Representative: Everett J. Sellers (same address as applicant), (913) 782-0850. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Ottawa and Garnett, KS, over U.S. Hwy 59, serving all intermediate route points, and (2) between Osawatomie and Garnett, KS, over U.S. Hwy 169, serving all intermediate points.

Note.—Applicant intends to tack this authority with exiting authority.

MC 121667 (Sub-10), filed May 21, 1981. Applicant: SMALLEY TRANSPORTATION COMPANY, P.O. Box 5175, Tampa, FL 33675. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601 (813) 223-2411. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Key West, FL and the junction of U.S. Hwy 1 near Perrine, FL, over U.S. Hwy 1, (2) between Perry, FL and Pensacola, FL, over U.S Hwy 98, (3) between Inglis, FL and Tallahassee, FL, from Inglis over U.S. Hwy 19 to Capps, FL, then over U.S. Hwy 27 to Tallahassee, and return over the same route, (4) between Ocala, FL and Lake City, FL, over U.S. Hwy 441, (5) between Jacksonville, FL and Pensacola, FL, over Interstate Hwy 10, (6) between Jacksonville, FL and Tallahassee, FL, over U.S. Hwy 90, (7) between Tallahassee, FL and Pensacola, FL, over U.S. Hwy 90, (8) between Ocala, FL and the junction of Interstate Hwys 75 and 10 near Lake City, FL, over Interstate Hwy 75, (9) between Tallahassee, FL and Panama City, FL, (a) from Tallahassee over FL Hwy 20 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Panama City, and return over the same route, (10) between Jacksonville, FL and Sanford, FL, over U.S. Hwy 17, and (11) serving in connection with routes (1) through (10)

above all points in FL as either intermediate or off route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 134637 (Sub-7), filed May 27, 1981. Applicant: SILICA TRANSPORT, INC., West Market St., P.O. Box 232, Guion, AR 72540. Representative: Kay L. Matthews, 401 Kane Bldg., Little Rock, AR 72201 (501) 376–8363. Transporting *commodities in bulk*, (1) between points in AL, AR, AZ, CA, CO, FL, GA, IA, IL, IN, KS, KY, LA, MO, MS, MT, NC, ND, NE, NM, OK, SC, SD, TN, TX, VA, and WY, and (2) between points in AL, AR, AZ, CA, CO, FL, GA, IA, IL, IN, KS, KY, LA, MO, MS, MT, NC, ND, NE, NM, OK, SC, SD, TN, TX, VA, and WY, on the one hand, and, on the other, points in the U.S.

MC 155987, filed May 13, 1981. Applicant: SHORT LINE BUS SYSTEMS, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Samuel B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021 (516) 482–0881. To engage in operations, in interstate or foreign commerce, as a broker, at Mahwah, NJ, in arranging for the transportation, by motor vehicles, of *passengers and their baggage*, between points in the U.S. (including AK and HI).

Volume No. OPY–4–184

Decided: June 4, 1981.

MC 108937 (Sub-71), filed May 27, 1981. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55113 (612) 633–7911. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 116227 (Sub-21), filed May 27, 1981. Applicant: POLMAN TRANSFER, INC., Route 3, Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118 (612) 457–6889. Transporting *food and related products*, between points in Clark County, SD, and Hubbard County, MN, on the one hand, and, on the other, those points in the U.S. in and east of SD, ND, NE, KS, OK, and TX.

MC 123407 (Sub-676), filed May 27, 1981. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant) (219) 926–7575. Transporting *lumber and wood products*, between points in MI, on the one hand, and, on the other, points in U.S.

MC 124987 (Sub-25), filed May 27, 1981. Applicant: EARL L. BONSACK AND ELAINE M. BONSACK d.b.a. EARL L. BONSACK, 512 W. Plainview Road, La Crosse, WI 54601. Representative: Joseph E. Ludden, P.O. Box 1567, 2707 South Ave., La Crosse, WI 54601 (608) 788–2000. Transporting *glassware*, between points in the U.S.

MC 128007 (Sub-167), filed May 27, 1981. Applicant: HOFER, INC., 20th and 69 Bypass, P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KA 66601 (913) 234–0565. Transporting *construction materials and equipment*, between points in AR, CO, IL, KS, LA, MS, MO, NE, OH, OK, and TX, on the one hand, on the other, points in the U.S.

MC 134197 (Sub-19), filed May 27, 1981. Applicant: JACKSON AND JOHNSON, INC., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580 (716) 265–9510. Transporting (1) *rubber and rubber products*, and (2) *transportation equipment*, between points in Shelby County, TN, on the one hand, and, on the other, points in NY.

[FR Doc. 81-17262 Filed 6-10-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 81–14784, at page 27183, in the issue of Monday, May 18, 1981, on page 27188, in the middle column, the third paragraph, designated as "MC 107515", the tenth line, correct "LA" to read "AL".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1981 aggregate production quotas.

SUMMARY: This notice establishes revised 1981 aggregate production quotas for controlled substances in Schedule II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On April 29, 1981, a notice of the proposed revised 1981 aggregate production quotas for certain controlled substances in Schedule II was published in the **Federal Register** (46 FR 24045). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before May 29, 1981.

One comment was received from Philips Roxane Laboratories, Inc. of Columbus, Ohio. Concerning hydromorphone, the company stated that market competition for tableted preparations was inadequate and that it was therefore planning to market such a preparation. The company estimated production requirements to be 6 kg. this year and requested that this amount be considered in the establishment of the revised 1981 aggregate production quota for hydromorphone. The Drug Enforcement Administration has determined that no increase in production above that proposed previously is necessary because the introduction of a new product, similar to one already available on the market, should not affect the amount of hydromorphone needed for medical use. In addition, the proposed production of 116 kg. is large enough to accommodate the market shift contemplated by Philips Roxane, should it occur as that company expects.

No other comments and no objections were received. In accordance with § 1303.11(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration has determined that no hearing relative to the above mentioned comment is necessary at this time.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedule I and II

controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, The Administrator of the Drug Enforcement Administration hereby orders that the 1981 revised aggregate production quotas be established as follows:

Basic class	Production quota [1] (expressed as grams of anhydrous base)
Schedule II	
Amphetamine	862,000
Codeine (for sale)	56,426,000
Codeine (for conversion)	4,148,000
Desoxyephedrine	1,683,000
(methamphetamine)	(148,000)
(levodesoxyephedrine)	(1,535,000)
Dextropropoxyphene	48,439,000
Dihydrocodeine	1,585,000
Diphenoxylate	700,000
Fentanyl	4,000
Hydrocodone	1,022,000
Hydromorphone	116,000
Methadone	1,489,000
Methadone Intermediate	2,127,000
Methaqualone	0
Morphine (for conversion)	59,430,000
Phenylacetone	7,000,000
Thebaine (for sale)	2,319,000

[1] Established revised 1981 aggregate production quota.

Dated: June 3, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-17386 Filed 6-10-81; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-24]

Reports, Responses to Recommendations; Availability

Aircraft Accident Reports—Brief Format, U.S. Civil Aviation, Issue No. 3, 1980 Accidents (NTSB-BA-81-3).

Railroad Accident Reports—Brief Format, Issue No. 3, 1979 Accidents (NTSB-RAB-81-1).

Responses from the Federal Aviation Administration:

A-78-67 through -74 (May 11).—FAA finds present process of approving aircraft tires to be satisfactory (A-78-67). Revisions were made Nov. 29, 1979, to Technical Standard Order C-62b for tires to include severer testing requirements and higher tire load margins and to 14 CFR 25.733 to include a 1.07 factor in establishing required load rating of tires (A-78-68). Airplane certification procedures account for compatability of tire with airframe (A-78-69). Revised TSO-C62c for aircraft tires requires manufacturer to furnish applicable maintenance data which includes inspection criteria for recapped tires; an Advisory Circular on qualification of retread tires was proposed at 46 FR 17730, Mar. 19, 1981 (A-78-70). (The Safety Board concurred with this proposal on May 15.) FAA considered variation of tire loads on airplanes with dual or tandem landing gear in revising §25.733 and the new tire TSO (A-78-71). Operator maintenance and operational practices in FAA-approved operators' manuals are satisfatory; Advisory Circular 20-97, High-Speed Tire Maintenance and Operational Practices, and Maintenance Bulletin 32-3, Aviation Tire Maintenance Practices, were issued in 1977; a 30-day tire surveillance program was conducted in April 1978 (A-78-72). An R&D project on recapped aircraft tires, conducted by Transportation Systems Center in Cambridge, Mass., is scheduled for completion in December 1981(A-78-73). There are no data to support a limit for the number of retread cycles allowed; reliability of any tire, new or recapped, depends on maintenance, operational practices, and inspections prior to recapping (A-78-74). (Ref. 43 FR 57359, Dec. 7, 1978.)

A-79-27 through -30 (May 26).—Research under Contract DOT-FA-79-WA-4268 has yet to provide sufficient justification to support recommended rulemaking on ground proximity warning systems; present rules provide an adequate level of safety when proper procedures are followed (A-79-27 and -28). Report No. FAA-RD-76-22, "Aircraft Alerting Systems Criteria Study," third in a series of Independent Altitude Monitoring Study contracts, suggests an automatic intensity adjustment for various ambient cockpit noise conditions; requirements for emergency verbal communications between crewmembers are under consideration (A-79-29). When contract study results are available, FAA will consider issuance of guidance material (A-79-30). (Ref. 44 FR 48004, Aug. 16, 1979.)

A-79-89 and -90 (May 20).—Subsequent to issuance of Airworthiness Directive 80-04-09, insulation of fuel supply lines, 51 suspected and 13 confirmed reports of fuel vapor problems were evaluated by Cessna and FAA; this AD has not reduced the fuel vapor problems. Work is continuing. (Ref. 45 FR 18212, Mar. 20, 1980.)

A-80-59 and -60 (May 26).—FAA concurs with need to standarize instrument approach charts for all airport approaches that require a sidestep maneuver but finds no need for separate charts (plan view portrayal) since a greatly increased number of charts could result; FAA, as indicated in its Oct. 9, 1980, response, is acting to identify more clearly the sidestep minimums (A-80-60). Advisory Circular 90-1A, Civil Use of U.S. Government Instrument Approach Procedures Charts, will be rewritten to provide the sidestep information (A-80-60). (Ref. 45 FR 49411, July 24, 1980).

A-80-51 through -63 (May 26).—An alert on Goodyear Aerospace Corporation fuel cells, BTC-39 series construction type, was published in General Aviation Airworthiness Alert No. 29, AC No. 43-16, dated December 1980. A-80-63 was classified "closed" by the Board Dec. 19, 1980. (Ref. 45 FR 73830, Nov. 6, 1980.)

A-80-112 and -114 (May 26).—FAA provides an advance copy of Air Carrier Operations Bulletin No. 7-81-1, Aircraft Deicing and Anti-icing Procedures (A-80-112). FAA believes the manufacturer, not FAA, should be responsible for publishing and distributing to operators detailed information about deicing/anti-icing fluids (A-80-114). (Ref. 46 FR 22296, Apr. 16, 1981.)

A-80-141 (May 26).—FAA questions the cost/benefit aspects of a more complete recorded wind data system solely to augment data for analyzing accident causes; rather, availability of current and accurate wind information should be viewed as a valuable tool for use in enhancing safety of flight. FAA plans no further action. (Ref. 46 FR 14232, FEb. 26, 1981.)

A-81-1 (May 26).—FAA provides a copy of an airworthiness directive, issued as a final rule on Mar. 13, 1981, requiring inspection of Lockheed Model L-1011 series aircraft main landing gear wheels and removal from service of all wheels found to have cracks. (Ref. 46 FR 16367, Mar. 12, 1981.)

A-81-14 (May 20).—FAA finds sufficient guidance is now available in rules and air carrier operations bulletins on fuel planning requirements and pilot-in-command responsibilities, and does not concur in the need to amend 14 CFR Part 121 or Part 135. (Ref. 46 FR 15387, Mar. 5, 1981.)

A-81-15 and-16 (May 26).—To determine whether some Cessna seats may not lock in place properly because of interference with the door jamb, FAA is analyzing its service difficulty reports, inspections of Cessna production aircraft, and some additional Board data on other accidents where slippage of the pilot's seat was determined to be a causal element. FAA expects to complete its analysis by Aug. 1, 1981. (Ref. 46 FR 15387, Mar. 5, 1981.)

Response from the U.S. Coast Guard:

M-80-102 through -114 (May 20).—Status of recommendations reported at 45 FR 81692, Dec. 11, 1980:

M-80-102: USCG does not concur in examining all passenger vessels under its control verification program to insure that cooking appliances that can heat more than a thin film of oil have reliable overheat protection. No international agreements specifically require overheat protection on such appliances and unilateral action is herein indicated.

M-80-103: Neither the 1948, 1960, or 1974 Safety of Life at Sea (SOLAS) conventions nor the 1966 Amendments specifically require A-60 insulation on ducts.

M-80-104: Rather than require proof from the master of a vessel that duct work has been cleaned, USCG will change Marine Safety Manual CG-495 to guide USCG inspectors and to emphasize examination of galley vents and associated fire safety systems.

M-80-105: USCG finds no need for special examination of fire screen doors on

passenger vessels operating under its control verification program: 1960 SOLAS adequately provides for safety design of such doors.

M–80–106: USCG has neither sufficient funding nor personnel to conduct unannounced boardings of foreign passenger vessels to insure that sprinkler system control valves are fully open.

M–80–107: SOLAS requirements for holding and logging regular drills are adequate to insure crew familiarity with the vessel and its firefighting system and equipment.

M–80–108: It is not necessary to modify the intent of current SOLAS convention fire watch standards.

M–80–109: USCG does not concur; 1948 and 1960 SOLAS Conventions require maintenance of an efficient patrol system in all passenger ships so that fire may be promptly detected. Additional unilateral fire safety requirements can be mandated aboard foreign-flag vessels only if a thorough basis for same is first established.

M–80–110: A copy of USCG Marine Board of Investigation and Commandant's Action on its recommendations will be made available to vessel operators and masters through their local agents. The case will be offered at IMCO through USCG liaison with that body.

M–80–111 and –112: USCG will submit a paper to the 26th session of IMCO Subcommittee on Fire Protection, set for June 1981, discussing the ANGELINA LAURO casualty and highlighting lessons learned in investigation. Owners and operators of passenger vessels subject to 46 USC 362(c) will be urged to inspect their galley exhaust system for cleanliness, to evaluate sprinkler systems for proper maintenance, ready availability of water, and completeness of coverage, and, further, to evaluate the need for additional insulation and fixed extinguishing systems in galley exhaust ducts; voluntary installation of fire and smoke detection systems will be recommended.

M–80–113: USCG concurs in training all senior and safety officers at an approved practical firefighting school. The present International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, addresses this matter.

M–80–114: USCG has contacted the Federal Emergency Management Agency, offering to assist the Virgin Islands Government in revising contingency plans. USCG contingency plans for ports in the Greater Antilles Section will be updated by Dec. 1, 1981.

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.

June 4, 1981.

[FR Doc. 81–17017 Filed 6–10–81; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on June 30, 1981 at the Battelle Memorial Institute, Pacific Northwest Laboratories, Richland, WA 99352. The Subcommittee will review NRC's fiscal year 1983 Reactor Safety Research Program Budget concerning Inservice Inspection and Steam Generator programs.

In accordance with the procedures outlines in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far is advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The majority of the meeting will be open to public attendance. The Subcommittee will be considering some predecisional budget information associated with the NRC Safety Research Program Budget for fiscal year 1983. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. Therefore it may be necessary to close portions of this meeting (Sunshine Act Exemption 9(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, June 30, 1981, 8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting. The authority for such closure is Exemption 9(B) to the Sunshine Act, 5 U.S.C. 552b(c)(9)(B).

Dated: June 8, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81–17361 Filed 6–10–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–416 and 50–417]

Availability of the Draft Environmental Statement for the Grand Gulf Nuclear Station, Units 1 and 2

Notice is hereby given that the Draft Environmental Statement (NUREG–0777) related to the operation of the Grand Gulf Nuclear Station, Units 1 and 2, by the Mississippi Power & Light Company, has been prepared by the Commission's Office of Nuclear Reactor Regulation. The Grand Gulf Nuclear Station is located on the Mississippi River in Claiborne County, Mississippi.

The Draft Environmental Statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendor Library, Raymond, Mississippi 39154. The Draft Environmental Statement is also being made available at the State Clearinghouse, Coordinator Federal-State Programs, Office of the Governor, 1503 Sillers Building, Jackson, Mississippi 39201, and the Southwest Mississippi Planning and Development District, Post Office Box 636, Meadville, Mississippi 39653. Requests for copies of NUREG–0777 should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on this Statement for the Commission's

consideration. Federal, State and specified local agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and at the Hinds Jr. College, George M. McLendor Library. Upon consideration of comments submitted with respect to the Draft Environmental Statement, NUREG–0777, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.** Comments are due by July 27, 1981.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of June 1981.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81-17365 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–413 and 50–414]

Duke Power Co. et al., Catawba Nuclear Station, Units 1 and 2; Order Extending Construction Completion Dates

Duke Power Company, North Carolina Municipal Power Agency Number 1, North Carolina Electric Membership Corporation, and Saluda River Electric Cooperative, Inc. are the current holders of Construction Permit Nos. CPPR–116 and CPPR–117 issued by the Nuclear Regulatory Commission on August 7, 1975 for the Catawba Nuclear Station. These facilities are presently under construction at the applicants' site on the shore of Lake Wylie in York County, South Carolina. By letter dated April 30, 1981, Duke Power Company filed a request for an extension of the latest construction completion dates for the facilities to March 1, 1984 for Unit 1 and to September 1, 1985 for Unit 2. This extension was requested due to (1) a delay in completion of support systems for the auxiliary boiler, (2) problems with vendor deliveries which in turn delayed installation of equipment, (3) impact on manpower due to projects resulting from the accident at Three Mile Island, (4) a revised preoperational test plan, and (5) a delay in erection of piping support restraints caused by late design information, a shortage of key support restraint material and an increase in the total number of support restraints required.

This action involves no significant hazards consideration, good cause has been shown for the delay, and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement-Construction Permit Stage for the Catawba Nuclear Station, Units 1 and 2, published in December 1973. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 20555 and at the local public document room established for the Catawba Nuclear Station, Units, 1 and 2 at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina 29730.

It is hereby ordered that the latest completion date for CPPR–116 be extended from June 1, 1981 to March 1, 1984 and the latest date for CPPR–117 be extended from June 1, 1982 to September 1, 1985.

Date of Issuance: June 4, 1981.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-17362 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–413 and 50–414]

Duke Power Co., North Carolina Municipal Power Agency No. 1, North Carolina Electric Membership Corporation, Saluda River Electric Cooperative, Inc.; Negative Declaration Supporting: Extension of Construction Permit Nos. CPPR–116 and CPPR–117, Expiration Dates for Catawba Nuclear Station, Unit Nos. 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the letter from Duke Power Company requesting an extension of the expiration dates of the construction permits for the Catawba Nuclear Station, Unit Nos. 1 and 2 (CPPR–116 and CPPR–117) which are located in York County in the State of South Carolina. The request is for an extension of the permits through March 1, 1984 for CPPR–116 and through September 1, 1985 for CPPR–117, to allow for completion of construction of the facilities.

The Commission's Division of Licensing has prepared an environmental impact appraisal relative to these changes to CPPR–116 and CPPR–117. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement-Construction Permit Stage or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina 29730.

Dated at Bethesda, Maryland, this 4th day of June, 1981.

For the Nuclear Regulatory Commission.

Elinor Adensam,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 81-17363 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40–8768]

Kerr-McGee Nuclear Corp.; Negative Declaration Regarding Issuance of Source and Byproduct License for Operation of R. & D. in Situ Leach Project in Converse County, Wyo.

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a Source Material and Byproduct Material License to Kerr-McGee Nuclear Corporation authorizing R&D-scale uranium solution mining operations at their South Powder River Basin "Q" Sand Project Site in Converse County, Wyoming.

The Commission's Division of Waste Management has prepared an environmental impact appraisal for the proposed action. On the basis of this appraisal, the Commission has concluded that an environmental impact statment for this particular action is not warranted for there will be no significant environmental impact

attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Silver Spring, Maryland, this 2nd day of June, 1981.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 81-17364 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License and Granting of Relief

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to replace the current inservice inspection technical specifications with an inservice inspection program that meets the requirements of 10 CFR 50.55a and to incorporate several changes of an administrative nature.

By letter dated April 10, 1981, as supported by the related safety evaluation, the Commission has also granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensee. The relief relates to the inservice inspection program for the facility. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR 50. The relief is effective as of its date of issuance.

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 rule 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 and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 30, 1977, the licensee's submittals dated March 15, 1978, August 28, 1978, January 5, 1979, February 26, 1979, July 27, 1979, March 5, 1980, and July 16, 1980, (2) Amendment No. 6 to License No. DPR-22, 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, NW., Washington, D. C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. 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 3rd day of June 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-17366 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

NRC Requirements Regarding the Environmental Qualification of Safety-Related Electrical Equipment; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The NRC staff will discuss the content of Safety Evaluations, which are being issued to power reactor licensees, regarding the qualification requirements for their safety-related electrical equipment.

DATES: July 7, 8, 9 and 10, 1981.

ADDRESS: Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

FOR FURTHER INFORMATION CONTACT: Mr. Mark H. Williams, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-9798.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to further the licensee's understanding of the NRC requirements regarding the Qualification of Safety Related Electrical Equipment. The meeting will serve as a mechanism to address industry concerns and questions on the subject.

The meeting will be divided up into sessions for the NRC presentations and sessions for licensee questions. In order to allow more efficient use of the question sessions, it is planned that attendees will be grouped by NSSS affiliation. The tentative agenda is shown below.

July 7, 1981

10:00 A.M.

- Identification of Systems
- Prediction of Temperature, Pressure and Humidity Conditions Following Accidents
- Uncertainties Associated with the Predicted Environmental Conditions, Uncertainties of Qualification Tests, Margin Requirements
- Question Session (on above topics)

P.M.

- Determination of Flood Levels, Requirements for Submerged Equipment
- The Effect of Chemical Sprays
- Evaluation of Aging, Acceptable Methods, Minimum Requirements
- Prediction of Radiation Exposure, Acceptable Calculational Methods, Expected Detail of Requested Documentation
- Question Session (on above topics)

July 8, 1981

9:00 A.M.

- Review of Transmitters, Terminal Blocks, Cables and Penetrations
- Question Session (on above topics)

P.M.

- Review of Motors, Valve Actuators, and Other Electrical Equipment
- Question Session (on above topics)

July 9, 1981

9:00 A.M.

- Requirements for Qualification of Electrical Equipment Exposed to Mild Environments
- Expected Licensee Response to the Equipment Qualification SER's Content of Response, Difficulties in Meeting the June 1982 Deadline
- Information Needed to Justify Continued Plant Operation
- Question Session (on above topics)

P.M.

- Open Hours for Carryover Discussions

July 10, 1981

- Test Report Evaluations, Applicability of Test Reports, Shortcomings of Test Reports
- The NRC Equipment Qualification Data Systems, Present Status Expected Use of the Data System
- Proposed Interim Requirements for Mechanical Equipment Qualification for Seismic and Dynamic Qualification with Licensee comments.
- Question Session (on above topics)
- Equipment Qualification Rulemaking, Electrical Equipment, Mechanical Equipment, Accreditation of Test Laboratories

Persons other than the NRC Staff and Licensee Representatives may observe the proceedings but will be permitted to participate in the discussions only as time will allow.

Registration will be conducted prior to the meeting.

Dated at Bethesda, Md., this 3rd day of June 1981.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-17367 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment changes the TSs to provide consistency in terminology between the TSs and plant design and to ensure adequate surveillance requirements. These changes were identified during the Commission's review of Amendment No. 36 to License No. NPF-3. Amendment No. 36 allows the plant to use a manual switchover of the Emergency Core Cooling System pumps from the Borated Water Storage Tank (BWST) to the emergency sump during a loss of coolant accident after the BWST reaches a low level.

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 Ch. 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.

For further details with respect to this action, see (1) the application for amendment dated February 24, 1981, (2) Amendment No. 40 to License No. NPF-3, 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, NW., Washington, DC, and at the William Carlson Library, University of Toledo, 2801 W. Bancroft Avenue, Toledo, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of June 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-17368 Filed 6-10-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

June 8, 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 USC, 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 description 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 documenst 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 or 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, Norhtwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Econonmics and Statistics Service
Supermarket Labor Cost Survey
Nonrecurring
Businesses or other institutions
Supermarket operators
SIC: 541
Agricultural research and services, 714 responses; 119 hours; $1,500 Federal cost, 1 form; not applicable under 3504 (H)
Office of Federal Statistical Policy and Standard, 202–673–7974

Provides data on labor costs of supermarket. Data will be used as one of the variables in a multivariate analysis to determine whether market powers is a significant factor in comparing price levels among super markets in the same city and between cities.

• Farmers Home Administration
Applicant Reference Letter (A Request for Credit Reference)
FMHA 410–8
On occasion
Businesses or other institutions
Credit agencies
SIC: 602, 603, 611, 612, 613, 614, 615, 616, 637, 651
Small businesses or organizations
Mortgage credit and thrift insurance, 237,682 responses, 78,435 hours; $10,092 Federal cost, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

The Fair Credit Reports Act, Title V of the Housing Act of 1949 and the Consolidated Farm and Rural Development Act authorize FMHA to collect information to determine eligibility of loan applicants.

• Science and Education Administration
"Effectiveness of the 'Green Thumb Box' Information Delivery System as Viewed by Farmer Participants and Key Observers"
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
(1) 200 farm households with "Green Thumb Box" (2) Compari
SIC: 011, 013, 021, 024, 481, 483, 287, 352, 964, 951
Small businesses or organizations
Agricultural research and services, 350 responses, 218 hours; $150,000 Federal cost, 3 forms; not applicable under 3504 (H)
Charles A. Elett, 202–395–7340

At the close of pilot 15 months or "Green Thumb Box" (GTB) operation in Kentucky, evaluation data are needed on extend and type of GTE utilization by farmer participants, with comparison data from nonparticipating farmers and contextual data from local representative of government, business, media, education, etc.

Revisions

• Food and Nutrition Service
Part 226—Child Care Food Program
82, 341, 342, 344, 430, 431, 432, 433
On occasion
Businesses or other institutions
Participating child care centers and administering agencies
Public Assistance and other income supplements 328,698 responses, 1,388,010 hours; $1,168,278 Federal cost, 8 forms; NPRM under 3504(H)
Charles A. Ellett, 202–395–7340

Applications which institutions submit to administering agencies for participation in the CCEP and agreements which ensure all entities are aware of and will fullfill their responsibilities.

Extensions (No Change)

• Rural Electrification Administration
Architects and Engineers Qualifications
REA–179
On occasion
Businesses or other institutions
Architects and engineers qualifications
SIC: 481
Small businesses or organizations
Energy supply, 110 responses, 220 hours; $542 Federal cost, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

Provides the basis by which REA will approve or disapprove architectural or engineering service contracts, depending on the individuals qualifications.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 Economic Censuses Pretest of Revised Inventory Inquiry
E–1 B–2 B–3 B–4
IV–1 C–1 MP–1
Nonrecurring
Businesses or other institutions
Wholesale, retail, manufacturing and construction establish
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of Commerce, 1,500 responses, 375 hours; $35,000 Federal cost, 7 forms; Not applicable under 3504(H)
Office of Federal Statistical Policy and Standard, 202–673–7974

Pretest of revised inventory inquiry for 1982 economic censuses.

• Bureau of the Census
Housing Unit Coverage Studies P-Sample Follow-Up Form
1980 Decennial census evaluations
D–8098
Nonrecurring
Individuals or households
Occupants of, or persons knowledgeable about, housing units other advancement and regulation of commerce, 3,700 responses, 617 hours; 1 form; not applicable under 3504(H)
Office of Federal Statistical Policy and Standard, 202–673–7974

Results from this portion of the housing unit coverage studies will provide estimates of the gross miss rate for occupied housing units and the rate at which occupied units were misclassified as vacant.

Revisions

• Economic Development Administration
Survey of Footwear Industry Firms
ED–4550
Nonrecurring
Businesses or other institutions

Footwear (except athletic) manufacturers
SIC: 314
Small businesses or organizations
Area and regional development, 130 responses, 130 hours; $80,000 Federal cost, 1 form; not applicable under 3504(H)
William T. Adams, 202–395–4814

The information obtained in this study will be used to assess the economic impact of trade adjustment assistance on the footwear industry to refine basic program guidelines.

• Economic Development Administration
Special Adjustment Assistance Application Form
M–4 Supplement
On occasion State or local governments
State, non-profit public organizations, a consortium
SIC: All
Area and regional development, 60 responses, 315 hours; $75,500 Federal cost, 1 form; not applicable under 3504(H)
William T. Adams, 202–395–4814

The information (form) is needed to receive benefits under the sudden and severe economic dislocation (SSED) program. Because the SSED program responds to unforeseen disruptions to an economy, specific and new information is needed to identify the problem to be addressed. No other program in the agency is designed to address such special needs.

Extensions (No Change)

• Bureau of the Census
Employment Inquiry
BC 36C
On occasion
Businesses or other institutions
Employers, teachers, etc., of applicants
Small businesses or organizations
Other advancement and regulation of commerce, 7,500 responses; 1,250 hours, 1 form, not applicable under 3504(h)
Off. of Federal statistical policy & standard, 202–673–7974

Sent to references listed on SF–171's and to previous employers to obtain evaluations of prospective employees.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (Burden Change)

• Departmental and Others
Police record check
DD 369
On occasion
State or local governments
Law enforcement agencies
Department of Defense—Military, 350,000 responses; 70,000 hours, $495,500 Federal cost, 1 form, not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Per sections 504 and 505 of title 10, U.S. Code, applicants for enlistment must be screened to identify any discreditable involvement with police or other legal officials. Form is sent to FBI as part of entrance national agency check. Results are used to determine general enlistment eligibility and job skill placement.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

New

• Office of Educational Research and Improvement
"High school and beyond"—First follow-up of sophomore and senior cohorts, field test, spring 1981
2408–30 2408–31 2408–32 2408–33
Nonrecurring
Individuals or households
Sophomores and seniors in high school in 1979 were selected
Research and general education aids, 1,069 responses; 802 hours, $250,000 Federal cost, 1 form, not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

This longitudinal study provides data needed for educational policy information at Federal, State, and local levels with special attention to the needs for financial aid for postsecondary education. The field test is needed to develop the full-scale first follow-up survey.

• Office of Special Education and Rehabilitative Services
Impact Survey of the handicapped children's early education program (HCEEP)
775–1 775–2 775–3 ED 9037
ED 9037–1
Nonrecurring
State or local goverments/businesses or other institutions
State and local education agencies
SIC: 821
Elementary, secondary, and vocational education, 411 responses; 761 hours, $118,000 Federal cost, 3 forms, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

This survey will examine the impact of the Federal investment in early childhood education for the handicapped, particularly the benefits of the "seed money" approach to the continuation and replication of successful demonstation projects. Survey results will be furnished to the Congress and the Federal, State, and local policymakers for planning future services.

• Office of Educational Research and Improvement
Special project performance report form
ED 864
Nonrecurring
Businesses or other institutions
Recipients of IMS special projects awards
SIC: 841
Small businesses or organizations
Research and general education aids, 39 responses; 69 hours, $2,000 Federal cost, 1 form, not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The data will be used by the staff of IMS and the national museum services board to determine how the funds were spent and to make administrative policy decisions that will assist IMS in serving its constituency and adhering to its legislative mandate.

• Office of Vocational and Adult Education
Application for state advisory council for vocational education
ED 773–1 ED 773–2 ED 773–3 ED 773–4
Annually
State or local governments
State Governors or boards for vocational education and SIC: 941
Elementary, secondary, and vocational education, 114 responses; 228 hours, $5,472 Federal cost, 4 forms, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

The membership information will be reviewed to determine whether each State has legally constituted State advisory council, which is prerequisite to the issuance of a grant for the State advisory council and to the approval of the State's annual plan for vocational education. The budget will be used as the basis for the issuance of the grant award to the State advisory council.

• Office of Elementary and Secondary Education
A description of district practices since 1978 under title I of the Elementary and Secondary Education Act of 1965
ED 862
Nonrecurring
State or local governments
Local title I staff
SIC: 821
Elementary, secondary, and vocational education, 4,010 responses; 2,663

hours $1,950,000 Federal cost, 1 form, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

This congressionally-mandated study is being undertaken to examine changes in district practices that have occurred since the education amendments of 1978. The 1982–83 reauthorization hearings for ESEA title I will be informed by this description of the ways title I programs operate locally, and local educator's views on the strengths and weaknesses of the title I legislation.

• Office of Vocational and Adult Education
Demonstration and validation of a comprehensive elementary/secondary career education project in local setting
830–9 through 830–21
Nonrecurring
Individuals or households/State or local governments
Students, parents LEA personnel, employers/community
SIC: 941
Elementary, secondary, and vocational education, 1,496 responses; 11,968 hours, $181,070 Federal cost, 13 forms, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

Pre-and post-test data for the school year 1981–82 are needed to assess processes and outcomes of the project's career education activities. If findings are positive, data will be submitted to the joint dissemination review panel for project approval as a replicable "exemplary career education model."

• Office of Elementary and Secondary Education
Application for non-competing countinuation grants under the ethnic heritage studies program P.L. 95–561, title IX, part E elementary and secondary education Act of 1965 as amended
ED 349/1
On occasion
Individuals or households
Educational institutions, libraries and individuals
Elementary, secondary, and vocational education, 120 responses; 1,800 hours, $165,000 Federal cost, 1 form, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

To provide information for the Secretary so that he/she can make determination for assistance designed to afford students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of other ethnic groups of the Nation.

• Office of Educational Research and Improvement
Update of the public library universe
ED 2349
Other–see SF83
State or local governments
State library agencies
SIC 823
Research and general education aids, 51 responses; 26 hours, $8,500 Federal cost, 1 form not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The data collection consists of mailing to each of the 50 State library agencies and D.C. a cover letter requesting additions, deletions, and corrections to the enclosed computer printout of all public libraries in that particular State, and requesting the return of the corrected printout by a specified date.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strand—202–245–7488

New

• Health Care Financing Administration
Medicare mental health demonstration statement of reimbursable costs and quarterly statistical report
HCFA–266 (Cost Report)—226Q(Qtrly Cost Report)—& 266A(Statistical Report)
Quarterly annually
Businesses or other institutions
45 Comm. mental health centers & other nonhcsp.—based, etc.
SIC: 808
Health, 405 responses; 3,330 hours, $424,440 Federal cost, 2 forms, not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The cost reports will be used by HCFA's office of direct reimbursement (ODR) to ensure proper and timely payments to the freestanding community and other nonhospital-based mental health facilities in the demonstration project. The statistical reports will provide selected data for evaluation purposes. This demonstration will test what medicare coverage of partial hospitalization coupled with cost reimbursement to community mental health centers is cost effective.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado–202–343–6191

New

• National Park Service
Glacier Bay National Park and Preserve Protection of Humpback Whales 36 CFR
On occasion Individuals or household/ businesses of other institutions
Charter and Fishing Companies
Sic: 091, 799
Small businesses or organizations
Recreational resources, 339 responses; 57 hours, $5,000 Federal cost, 0 form, not applicable under 3504(h)
Robert Shelton, 202–395–7340

This information will be collected by the National Park Service to monitor and control the number of small vessels using Glacier Bay during whale season (June 1 to August 31). The Service in response to formal consultation with the National Marine Fisheries Service (NMFS) must restrict vessel use of the Bay to 1976 levels to protect the Humpback Whale, an endangered species.

• National Park Service
Gulf Islands
Annually
Individuals or households
Individuals
Recreational resources, 400 responses; 80 hours, $1,000 Federal cost, 1 form, not applicable under 3504 (h)
Robert Shelton, 202–395–7340

This information collection will be in the nature of applications for permits to operate off-road vehicles on designated beach routes in the Florida District of Gulf Islands National Seashore, Florida. The permit system is necessary to ensure that each CRV driver is make aware of the specific routes where these vehicles can be used and the restrictions on the manner in which they can be used.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

Revisions

• Office of Justice Assistance, Research and Statistics
Supplemental to SF–424 application for Federal assistance (non-construction programs)
OJARS 4000/3
On occasion
State or local governments/businesses or other institutions
State agen., local gov., educ. instit. & non-profit organs.
Sic: 922
Small businesses or organizations
Criminal justice assistance, 200 responses; 5,200 hours, $44,000 Federal cost, 1 form, not applicable under 3504 (h)
Andy Uscher, 202–395–4814

This standard grant application is required for discretionary, technical assistance and other grants. It is required to meet certain legal

administrative requirements of OMB circular A-102.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer–MS. Joy Tucker–202–634–5394

New

• Internal Revenue Service
Vol voluntary withholding from annuity payments annually
Individuals or households/State or local governments/businesses or other
Annuitants and payors of annuities
Sic: 632
Central fiscal operations, 13,065,000 responses; 13,065,000 hours, 0 form, not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Under section 3402 of the Internal revenue code, payors of annuities are required to withhold income tax from payments if requested to do so by the annuitant. The proposed regulations implement this voluntary statutory scheme and incorporate by reference temporary regulations on this subject which have been in effect since 1970.

• Office of the Secretary
TFR–620 Transfer of Iranian Assets [1]
TFR–620
Nonrecurring
Businesses or other institutions
Banks, brokers, and other institutions
SIC: 601, 602, 603, 604, 605, 621
Small businesses or organizations
Central fiscal operations, 80 responses; 80 hours, $1,200 Federal cost, 1 form, not applicable under 3504(h)
Kevin Broderick, 202–395–6880

One time report regarding transfers (by banks and other holders) of financial assets in which Iran has interest to the Federal Reserve Bank of New York, per U.S.-Iran Agreements of 1/19/81.

Revisions

• Internal Revenue Service
Information Return by Trustee for Taxable Distribution or Termination From a Generation-Skipping Trust/ Beneficiary's Share of a Taxable Distr. From a Generation-Skipping Trust 706–B(1) 706–B(2)
On occasion
Individuals or households/businesses or other institutions banks, trust co., legal F & any operations
SIC: 601, 602, 603, 604, 605, 811
Central Fiscal Operations, 10,000 responses; 44,495 hours, $319,107 Federal cost, 2 forms, not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 706–B(1) is used to gather information pertaining to generation skipping transfers. The service processes this information and provides it to the distributees and other trustees who need it to prepare their tax returns. Form 706–B(2) conveys some of the information on Form–B(1) to the beneficiaries who use it to prepare their tax returns. The tax is computed on Form 706–B.

Extensions (Burden Change)

• United States Customs Service
Informal Entry
CF–5119–A
On occasion
Individuals or households/businesses or other institutions
Brokers, importers, individuals
SIC: All
Small businesses or organizations
Federal law enforcement activities, 1,560,000 responses; 156,000 hours, $1,372,629.00 Federal cost, 1 form, not applicable under 3504(b)
Kevin Broderick, 202–395–6880

Document allows the entry of merchandise less than $250.00, and the subsequent collection of applicable duties and taxes. Non commercial merchandise of unlimited value may also be entered on the form.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Phillip Ross—202–287–0747

New

• Submission of Written Questions at Panel Hearing [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permit applicant, regional trial staff
SIC: Multiple
Pollution control and abatement, 124 responses; 248 hours; 0 form; not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Any party may submit written questions to the presiding office to be directed to any person appearing or testifying in the hearing.

• PSRT B: Application for New Land Disposal Facilities (RCRA) [2]
Nonrecurring
State or local governments/businesses or other institutions
Persons wishing to dispose of hazardous waste in new land
SIC: Multiple
Pollution control and abatement, 50 responeses; 19,000 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Information is necessary to determine whether the facility can meet the performance standard established under 40 CFR part 267 to protect human health and the environment as required by 42 USC section 6924.

• Panel Hearing, Additional Submissions [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permit applicant, agency trial staff
SIC: Multiple
Pollution control and abatement, 124 responeses; 4,960 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Any party must submit additional testimony, affidavits, information or materials it considers relevant or which the panel may request.

• Requests for Cross-Examination, Contents [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permit applicant, agency trial staff
SIC: Multiple
Pollution control and abatement, 124 responses; 372 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Gives parties opportunity to more fully scrutinize the factual issues at the panel hearing.

• Public notice of emergency permits [2]
On occasion
State or local governments
Regional EPA and State permit directors
Pollution control and abatement, 25 responses; 200 hours; 1 form; not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Information is necessary to fulfill EPA oversight responsibilities, to warn the public of potential dangers from the accident, and to ensure the appropriate governmental officials and bodies are aware of potential impacts from the the emergency.

[1] These reporting requirements have been approved in accordance with the assertion by the Treasury Department that prompt action was needed for timely completion of undertakings agreed to in the U.S.-Iran agreements of January 19, 1981.

[2] Over the next several weeks the Environmental Protection Agency will be requesting clearance for several hundred reporting and recordkeeping requirements that were administered previously without OMB approval. In order to provide a thorough review without unnecessarily disrupting EPA programs, OMB may grant interim approvals for many of these requests, after an initial screening. Interim approvals would be followed by full reviews and final approval or disapproval decisions which would be announced in future editions of the **Federal Register**.

• Groud—Water Monitoring Records Retention [2]
On occasion
Businesses or other institutions
Persons with RCRA permit for treating, storing, or disposing
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 1,881 responses; 17,869 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Monitoring records must be retained in order to ensure that (1) the permittee is complying with the ground-water monitoring requirements, and (2) that any impact the permittee is having on groundwater is within the confines of the permit conditions.

• Requests for Alternative Methods of Clarifying the REC [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permit applicant, agency trial staff
SIC: Multiple
Pollution control and abatement, 62 responses: 31 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Any person may request tht alternative methods of clarifying the record may be used in lieu of or in addition to cross-examination.

• Notification of New Facility by Permittees [2]
Nonrecurring
Businesses or other institutions
Persons wishing to treat, store, or dispose of hazardous
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 150 responses; 1,500 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The required demonstration is necessary because permit conditions are partly premised on the proper construction of the facility. It is useful because it may save the cost of stopping operations and retrofitting in the future should a problem arise, and may affirmatively defend against an enforcement action for permit noncompliance. The letter must be certified because of the expertise necessary to ensure permit compliance.

• Approval Process [2]
Nonrecurring
State or local governments
States seeking to administer the RCRA hazardous waste program
Pollution control and abatement, 22 responses; 10,560, hours; 1 form; not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

State must submit its proposed hazardous waste program to public review (public notice and opportunity for comment and a public hearing) in order to fulfill the requirements of 42 U.S.C. section 6926(b).

• Request for an evidentiary hearing [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
NPDES permit applicants
SIC: Multiple
Pollution control and abatement, 1,239 responses; 1,239 hours; 0 form; not applicable under 3504(h)
Eeward H. Clarke, 202–395–7340

This regulatory information is necessary to provide public participation in agency decisionmaking as required by the Clean Water Act. Contents of hearing request is necessary to aid administrator in narrowing issues subject to hearing and facilitation expeditious review.

• Requests for intervention [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Individuals, trade associations or environmental groups
SIC: Multiple
Pollution control and abatement, 25 responses; 25 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Persons who are not parties to an evidentiary hearing may request to become parties by intervening. The information contained in the motion for intervention is necessary for the presiding officer to decide whether the request should be granted.

• Filing and Service [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permittee, reg. trial staff, parties to hearing, intervenors
SIC: Multiple pollution control and abatement; 1,860 responses; 1,860 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Parties to an evidentiary hearing must file one original and one copy of each submission relating to the hearing.

• Prehearing Conference [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permittee, Regional trial staff, intervenors
SIC: Multiple
Pollution control and abatement; 1,860 responses; 1,860 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

If a prehearing conference is held, each party must make available to all other parties the names of experts or other witnesses it expects to call.

• Summary motions for determination [2]
Nonrecurring Individuals or households/ State or local governments/businesses or other institutions
Permittees, agency trail staff, intervenors
SIC: Multiple
Pollution control and abatement, 62, responses; 2,976 hours; 0 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Any party may move for a summary determination in its favor.

• Countermotions for Summary Determination [2]
Nonrecurring
Individuals or households/State or local govenments/businesses or other institutions
Permittees, regional trial staff, intervenors
SIC: Multiple
Pollution control and abatement, 186 responses; 8,928 hours; 0 form; not applicable 3504(h)

Edward H. Clarke, 202–395–7340

Any other party to an evidentiary hearing may submit a countermotion for summary determination, contents of motions.

• States Must Impose Manifest, Application, and Record Keeping Requirements [2]
Other—See SF 83
State or local governments
States with final authorization to run the RCRA hazardous
Pollution control and abatement, 22 responses; 0 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The application is needed to satisfy the requirements of section 3006(C) (42 USC section 6926(C) that the State submit evidence of a program which is substantially equivalent to the Federal program as required by the statute. The various elements ensure the requisite substantial equivalency.

• Applications for Interim Authorization [2]
Nonrecurring
State or local governments
States applying for interim authorization

Pollution control and abatement, 22 responses, 21,120 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

The application is needed to satisfy the requirements of section 3006(C) (42 USC section 6926(C) that the state submit evidence of a program which is substantially equivalent to the Federal program as required by the statute. The various elements ensure the requisite substantial equivalency.

• Direct and rebuttal evidence [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Permittee, regional trial staff, intervenors
Sic: Multiple
Pollution control and abatement, 1,860 responses, 148,800 hours; 0 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

All direct and rebuttal evidence must be submitted in written form so that it can be compiled into the Administrative Record.

• Program requirements for Interim Authorization under 40 CFR [2]
Section 123, 128, 129.
Nonrecurring
State or local governments
States seeking interim authorization to run the hazardous pollution control and abatement, 22 responses, 10,560 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

These requirements are necessary to ensure that the State interim authorization program is substantially equivalent to the Federal program as required in 42 U.S.C.6929(C).

• Progress reports [2]
Biennially
State or local governments
States with interim authorization to administer the hazardous pollution control and abatement, 44 responses, 44 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

The reports are necessary to assure that the State is complying with the authorization plan which includes steps the State must take to make its substantially equivalent program an equivalent and consistent program.

• Requests for Alternative Methods of Determining Emission [2] Factors for modifications
Nonrecurring
Business or other institutions
All sources which are subject to NSPS modification regula
Sic: 333, 491, 142, 327, 331, 121, 287, 495, 324, 281
Small businesses or organizations
Pollution control and abatement, 3 responses, 2 hours $75 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

A source has the option of demonstrating that EPA emission factors are not accurate, and alternative methods should be used to determine if emissions increase after a physical or operational change. Any manual tests conducted for this purpose shall be based on representative conditions as specified by the administrator.

• Written Application for Alternative Monitoring Procedures [2] under NSPS.
Nonrecurring
Businesses or other institutions
All covered sources which have continuous monitoring requi
Sic: 333, 491, 142, 327, 331, 121, 287, 495, 324, 281
Small businesses or organizations
Pollution control and abatement, 3 responses, 2 hours; $225 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

This is designed to give more flexibility to the source in demonstrating compliance. Alternate monitoring procedure will be approved by the administrator when the required procedures are not practical. If an affected facility is operated infrequently or use of the specified system would provide inaccurate measurements, alternative systems may be approved.

• Motions [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other ins permittee, agency trial staff, intervenors
SIC: Multiple
Pollution control and abatement, 620 responses, 1,860 hours; 0 form not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Any party may file a motion with the presiding officer on any matter relating to the evidentiary hearing.

• Emission and operations monitoring requirements for ferroal [2]
Loy Production Facilities
Quarterly, other-see SF83
Businesses or other institutions
All new, modified or reconstructed Ferroalicy production
SIC: 106
Polution control and abatement.
730 responses, 365 hours;
$200 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

The requirements for daily records of various operating parameters is designed to insure that Plants are operating under the same conditions as when the initial performance test was conducted and the standard was met. Opacity excess emission reports are an enforcement tool to assure control are operating properly. Reporting of product changes alerts EPA to the possibility that an inspection may be necessary.

• Proposed Findings of Fact and Conclusions of Law [2]
Nonrecurring
Individuals or households/State or local Governments/Business or other in permittee and regional trial staff
SIC: Multiple
Pollution control and abatement, 1,240 responses, 148,800 hours; 0 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Any partry may file proposed findings of fact and conclusions cf law or a brief in support thereof in an evidentiary hearing to aid presiding officer in making an initial decision.

• Submission of Written Comments on Draft Permit [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other in permit applicant, agency trial staff
SIC: Multiple
Pollution control and abatement, 124 responses, 19,840 hours; 0 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Each party must submit all of its comments on the draft permit. All comments shall include any affidavits, studies, data, tests, or other materials relied upon for making any factual statements.

• Submission of Oral Comments [2]
Nonrecurring
Individuals or households/State or local governments/businesses or other in permit applicant, agency trial staff
SIC: Multiple
Pollution control and abatement, 124 responses, 62 hours; 0 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Any party may move to submit all or part of its comments orally at the hearing in lieu of submitting written comments.

• NSPS Part 60 Subpart MM Automobile and Light Duty Truck [2]
Surface coating
Monthly quarterly
Businesses or other institutions
Auto and light duty truck surface coating operations at SIC: 371

Pollution control and abatement, 12 responses, 180 hours; $585 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Owner or operator shall perform monthly performance tests to ensure continuous compliance. Reporting and Recordkeeping of the performance tests is required. Monitoring of operating parameter of a control device shall be reported quarterly.

• Request for use of Alternative or Equivalent Method or [2]
Waiving of performance test
Nonrecurring
Businesses or other institutions
All sources under NSPS are eligible to make application.
SIC: 333, 491, 142, 327, 331, 121, 287, 495, 324, 281
Small businesses or organizations
Pollution control and abatement, 4 responses, 12 hours; $400 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

If a source desires to use a different test method, or wants to waive performance testing, it may submit a request to the administrator. If the source demonstrates that use of such method assures compliance, the request will be approved. This allows the source flexibility as well as economic advantages.

• Request for Adjustment of Opacity Standard Under New [2]
Source performance standards
Nonrecurring
Businesses or other institutions
All sources subject to NSPS which have opacity and pollut
SIC: 491,142, 327, 331, 121, 287, 495, 324, 281, 333
Small businesses or organizations
Pollution control and abatement, 2 responses, 12 Hours; $1,150 Federal cosst, 1 Form, not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Source may request administrator to determine opacity of emissions from an affected facility during initial performance test. If source is in compliance with all standards except opacity, it may petition administrator to adjust opacity standard. This provides source with increased leeway in meeting opacity.

• Baseline Monitoring report [2]
Nonrecurring
Businesses or other Institutions
All industrial users, small businesses and otherwise
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 20,000 responses, 400,000 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Needed to identify the industrial user, his wastewater flow, nature of his pollutants and schedule of compliance with categorical standards.

• POTW—Compliance Schedule Work Plan [2]
On occasion
State or local governments
Publicly owned treatment works
Pollution control and abatement, 1,600 response, 8,000 hours; 1 Form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Access progress of POTW or compliance with schedule to develop and implement a pretreatment program.

• Industrial Pretreaters Compliance Schedule Reports [2]
On occasion
Businesses or other institutions
Industrial users (small businesses and otherwise)
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 18,000 responses, 72,000 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Used to monitor compliance with schedule to control pollutants. This report is needed to report to the control authority to determine if the compliance schedule increments are being met.

• Removal Credit Self-Monitoring Report [2]
Semiannually
State of local governments
Publicly owned treatment works
Pollution control and abatement, 800 responses, 6,400 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Provide data on the removal of regulated pollutants and the concentration of pollutants in sludge. This report will determine ongoing removal of pollutants by POTW to support credit.

• Industrial Pretreaters Compliance Attainment report [2]
Nonrecurring
Businesses or other Institutions
Industrial users (small businesses and otherwise)
SIC: Multiple
Small businesses of organizations
Pollution control and abatement, 5,000 responses, 15,000 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Used to monitor the nature and concentration of all regulated pollutants in discharge, daily flow and whether the limits are being met. This is reported to the control authority at the time of final compliance.

• Industrial Self Monitoring Report [2]
Semiannually
Businesses or other institutions
Industrial users (small businesses and otherwise)
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 2,000 responses, 8,000 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

The reports to the control authority are necessary to determine on-going compliance with pretreatment standards.

• Category Determination Request [2]
Nonrecurring
Businesses or other institutions
All industrial users (small businesses and otherwise)
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 1,114 responses, 6,684 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

To obtain written certification from approval authority that industrial user does or does not fall within a partricular subcategory.

• POTW Pretreatment Program Approval Request [2]
Nonrecurring
State or Local governments
Publicly owned treatment works
Pollution control and abatement, 808 responses, 22,624 hours; 1 form not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Approval authority needs information to determine if the POTW has sufficient legal authority, procedures and funding to operate an adequate pretreatment program.

• Fundamentally Different Factors Variance Requests [2]
Nonrecurring
Businesses or other institutions
All industrial users (small businesses and otherwise)
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 1,114 responses, 8,912 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

If an industrial user wishes to obtain pollutant discharge limits different than those established in the categorical standards.

• Net/Gross Request [2]
Nonrecurring
Business or other institutions
All industrial users (small businesses and otherwise)
SIC: multiple
Small businesses or organizations
Pollution control and abatement, 554 responses, 4,432 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

If an industrial user wishes to obtain a credit for the presence of a regulated pollutant in its intake water.

• State Pretreatment Program Approval Request [2]
Nonrecurring
State or local governments
All 50 States seeking approval for a pretreatment program
Pollution control and abatement, 14 responses, 560 hours; 1 form; not applicable under 3504(h)Edward H. Clarke, 202–395–7340

To determine if the State has sufficient legal authority, procedures and funding to operate an adequate pretreatment program.

• State/POTW Public Notice [2]
On occasion
State or local governments
All POTW's and States seeking control authority approval
Pollution control and abatement, 1,616 responses, 808 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

To inform the public of requests from POTW's to approve pretreatment programs and revise categorical pretreatment standards.

• POTW Hearing Request [2]
On occasion
State or local governments
All POTW's seeking approval from the control authority
Pollution control and abatement, 81 responses, 81 hours, 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340.

To request by POTW or State a public hearing to review application for pretreatment program or revise categorical standards.

• Public Notice on FDF Variance [2]
On occasion
Businesses or other institutions
All industrial users (small businesses and otherwise)
SIC: multiple
Small businesses or organizations
Pollution control and abatement 1,114 responses, 557 hours; 1 form; not applicable under 3504(h)

Edward H. Clarke, 202–395–7340

Public notice on the submission by the industrial user for variance from categorical pretreatment standards for fundamentally different factors

• POTW/industrial user maintenance of monitoring records [2]
Other—See SF83
State or local governements/businesses or other institutions both industrials and POTW's subject to the categorical
SIC: multiple
Small businesses or organizations
Pollution control and abatement, 20,840 responses, 10,420 hours; 1 form; not applicable under 3504(h)

Edward H. Clarke, 202–395–7340

Any industrial user of POTW subject to the categorical pretreatment standards are required to maintain records of all information resulting from monitoring activities.

• Removal Credit Aproval Request [2]
Other-See SF83
State or local governments
All POTW's wishing to grant removal credits to their INDUS
Pollution control and abatement, 160 responses, 4,480 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

If POTW wishes to grant credits to its industrial contibutors for the amount of priority pollutants removed at the treatment facility, they must request authority to revise categorical pretreatment standards.

• Industrial Pretreater Slug Load Notification [2]
On occasion
Businesses or other institutions
Industrial users (small businesses and otherwise)
SIC: multiple
Small businesses or organizations
Pollution control and abatement 1,000 responses, 2,000 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

If an industrial user of a POTW releases slug loads (too much) of his effluent discharge he must notify said POTW to allow them to take protective action.

Identification of Underground Sources of Drinking Water and [2] Exempted Aquifers
Nonrecurring
State or local governments
The Director of the State UIC Program or the Regional
Pollution Control and abatement, 57 responses, 128 hours; 1 from; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Since the Safe Drinking Water Act mandates that we protect our sources drinking water we must identify such sources. An exemption is provided for water which has no actual potential for providing drinking water.

• Assessment of Class V Wells [2]
Nonrecurring
State or local governments
Director of the State UIC program or the RA IF EPA is run
Pollution control and abatement, 57 responses, 112,500 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

The States are given 3 years in which to complete the assessment of class V wells and to submit recommendations for further regulation to EPA

• Notification of New Wells [2]
On occasion
Businesses or other institutions
Owners or operators of underground injection wells
SIC: multiple
Small businesses or organizations
Pollution control and abatement, 40 responses, 20 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

If a permittee with an area permit constructs a new well the director would want to know this information to identify the wells covered by the permit and to assess if a permit modification may be warranted due to the cumulative effect of all the wells under the area permit.

Reinstatements

• NPDES-Application to discharge Waste Water-Short Form [2]
EPA 7550–6, 8, & 9 EPA 7550–6 EPA 7550–8
Nonrecurring
State or local governments, Businesses or other institutions
Point source dischargers into navigable waters
Small businesses or organizations
Pollution control and abatement, 8,000 responses, 8,000 hours; 2 forms; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

These application forms are needed to obtain information for the issuance and enforcement of wastewater discharge permits for certain municipal and new source industrial dischargers.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—389–4251

Revisions

• Consolidated Report of Income—Mutual Savings Banks (large)
8040/60

Monthly
Businesses or other institutions
FDIC-insur. mutual savings banks having over $500M, etc.
SIC: 603
Mortage credit and thrift insurance, 960 responses, 1,440 hours; $22,956 Federal cost, 1 form; not applicable under 3504(H)
Kevin Broderick, 202–395–6880

The survey provides information which FDIC uses to monitor savings bank deposit flows, and income-expense results. Under the prevailing economic conditions with continued high interest rates necessary to obtain this information on a monthly basis.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—202–254–9515

New

• Firefighter Injury Reports
On occasion
State or local governments
Fire departments
SIC: multiple
Disaster relief and insurance, 500 responses, 1,500 hours; $5,000 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder, 202–395–4814

To collect data to analyze the causes of firefighter injuries and develop techology/programs to reduce same. After this phase of the project is completed, injury data will be collected through the National Fire Incident Reporting System.

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Agency Clearance Officer—Ms. Melita Yearwood—202–632–0084

New

• AID Readership survey of Three Publications: Agenda, Front [3]
Lines, world development letter
Nonrecurring
Individuals or households, businesses or other institutions
Broad range of resp. from many publics, the most number., etc.
SIC: All
Foreign economic and financial assistance, 4,500 responses; 1,125 hours, $9,173 Federal cost, 1 form, not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Findings from this readership survey will be used by aid's office of public affairs in implementation of OMB 81–16 to make management decisions regarding the cost-effective three publications: whether one or more should be discountinued, whether one or more should be combined, or whether all three should be continued.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

Extensions (No Change)

• Application for Disposal of Pledged or Treasury Securities
CP–F–220
On occasion
Businesses or other institutions
Privately owned regulated carriers
Ground Transportation, 10 responses; 30 hours, 1 form, not applicable under 3504(h)
Corrinne Hayward, 202–395–7340

Regulated carrier authorized to issue pledged or treasury securities submit notice of implementation of transaction within 10 days after disposition as required under 49 U.S.C. 11301(c)(2).

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

New

• Assuring Channel Independence in Engineered Safety Features
Actuation systems (ESFAS)
Nonrecurring
Individuals or households
NRC licensee and construction permit holders
Energy information, policy, and regulation, 86 responses; 6,020 hours, $50,000 Federal costs, 1 form, not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The intent of the bulletin is to improve nuclear power plant safety by assuring the independence of redundant channels of engineered safety reatures actuation systems.

VETERANS ADMINISTRATION

Agency Clearance office—R. C. Whitt—202–389–2146

Revisions

• Enrollment Certification (under chapter 34, CR 35 title 38, USC)
22–1999 22–1993A 22–1999–1
On occasion
Businesses or other institutions
Schools and firms that offer a program approved for VA
SIC: 822, 824
Small businesses or organizations
Veterans education, training, and rehabilitation, 1,000,000 responses; 200,000 hours, $4,860,300 Federal cost, 1 form, not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

As required by 38 U.S.C. 1784, this form must be completed and submitted for benefits to be awarded. Completed by the school or training establishment, the form certifies enrollement of training data which is used by the VA determining rate of benefits.

C. Louis Kincannon,
Assistant Administrator for Reports Management.

[FR Doc. 81–17400 Filed 6–10–81; 8:45 am]
BILLING CODE 3110–01–M

[3] This request for clearance may be acted upon before the normal 10-day public comment period is up. Completion of this survey in a timely fashion is essential in order to formulate plans and budgets concerning the continuance of these publications.

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1981.

The above named national securities exhange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Brown-Forman Distillers Corp.
Class A Voting Common Stock ($.30 Par Value) (File No. 7–5939)
Class B Non-Voting Common Stock ($.30 Par Value) (File No. 7–5940)
Wendy's International, Inc.
Common Stock, No Par Value (File No. 7–5941)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 25, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market, Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17285 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Lake Shore Mines Ltd.
Capital Stock, $1 Par Value (File No. 7-5942)

Wright-Hargreaves Mines Ltd.
Common Stock, No Par Value (File No. 7-5943)

These securities are registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 25, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17286 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22081; (70-6610)]

Cedar Coal Co. et al.; Notice of Proposed Equipment Lease

June 5, 1981.

In the matter of Cedar Coal Co., 301 Virginia Street East, Charleston, West Virginia 25327; Central Appalachian Coal Co., 301 Virginia Street East, Charleston, West Virginia 25327; Southern Appalachian Coal Co., 301 Virgina Street East, Charleston, West Virginia 25327; Central Ohio Coal Co., 301 Cleveland Avenue, S.W., Canton, Ohio 44702; Southern Ohio Coal Co., Post Office Box K, Moundsville, West Virginia 26041; Windsor Power House Coal Co., 301 Cleveland Avenue, S.W., Canton, Ohio 44702; Simco Inc., 215 North Front Street, Columbus, Ohio 43215.

Cedar Coal Company ("Cedar"), Central Appalachian Coal Company ("CACCo") Southern Appalachian Coal Company ("SACCo"), Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company ("SOCCo"), Windsor Power House Coal Company ("WPHCCo") and Simco Inc. ("SIMCO"), coal mining subsidiaries of American Electric Power Company, Inc., a registered holding company, have filed an application pursuant to Sections 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act").

The applicants ("Lessees") each propose to enter into a separate master leasing agreement ("Lease") with Manufacturers Hanover Trust Company (the "Lessor") to lease mining equipment with a total cost to the Lessor not exceeding $40,000,000. The Leases will provide for the rental to each Lessee of various types of equipment for surface and underground mining of coal for primary terms of 3, 5, 7 or 10 years. The Lessor's total cost (the total price paid by the Lessor for such equipment, including all freight charges, taxes and installation costs) of all equipment to be leased under the Leases shall not exceed $40,000,000 in the aggregate.

During the primary term, rent will be payable quarterly in arrears. Rentals will provide for the amortization of Lessor's cost over periods of 12 to 40 calendar quarters. The amortization period of each item will be determined by the Lessee at the time the item is placed under lease. Each quarterly rental payment with respect to an item of equipment under lease will consist of (i) one quarter's amortization of the Lessor's cost of the item on a level basis over the lease term for that item, plus (ii) the variable interest rate applied to Lessor's amortized cost of the item on the first day of the quarter. The variable interest rate for such quarter shall mean the Domestic Rate or Eurodollar Rate as the Lessee may select. Domestic Rate means a fluctuating interest rate equal at all times to: (i) the prime rate in effect from time to time during the first five years of the primary term and (ii) thereafter 1/4 of 1% above the prime rate in effect from time to time during the next five years of the primary term. Eurodollar Rate means a fluctuating interest rate equal at all times to: (i) 3/8 of 1% above the LIBO rate in effect from time to time during the first five years of the primary term and (ii) thereafter 5/8 of 1% above the LIBO rate in effect from time to time during the next five years of the primary term. The Lessees will be obligated to reimburse Lessor for any additional cost incurred by Lessor in complying with Regulation D of the Federal Reserve System with respect to any LIBO-based lease rates. Assuming a prime rate of interest of 20% over the term of the leased equipment, the equivalent effective annual interest rate would be 20.10% on a weighted basis or lower if the LIBO rate is less than 20%.

Upon 90-days written notice, the Lessee may terminate the lease of all of the equipment thereunder, or of any item of equipment, by purchasing such equipment from the Lessor for the Termination Value plus any accrued but unpaid rent and other amounts owing with respect to such equipment and all taxes and charges upon such sale. The Lessee will have the right to purchase all items of equipment at the end of the lease term for $1.00 or earlier by repaying the unpaid portion of the lease rentals. If, during the term of the Lease, the coal supply agreement ("Coal Contract") between the Lessee and its immediate parent shall for any reason whatsoever cease to be in full force and effect or be rescinded or terminated, Lessee shall promptly give Lessor written notice thereof and Lessee shall pay Lessor on the next succeeding Quarterly Date an amount equal to the Termination Value of all the leased items of equipment and all accrued and unpaid rent and other amounts owing with respect to such equipment due on such Quarterly Date and all sales taxes and charges. Upon payment of such amount to Lessor, the lease shall terminate and the Lessor shall transfer all of Lessor's right, title and interest in and to the equipment to the Lessee. The Lessee will agree that no provision of the Coal Contract will be amended, supplemented, modified or waived without the prior written consent of Lessor. All references in the Lease between WPHCCo and Lessor to "the Coal Contract" and "the Coal Contract Letter" shall have no effect until such time as a Coal Contract between Ohio Power and WPHCCo is prepared and all requisite regulatory commission approvals of said contract have been obtained. Obtaining such approvals will not constitute conditions precedent to entering into said Master Lease Agreement or leasing equipment

thereunder. The Coal Contract Letter to the Lessor from Ohio Power and WPHCCo will be executed and delivered after regulatory approval has been received.

For its $40,000,000 commitment under the Lease, Lessor will charge the Lessees an annualized fee of (a) 3/8 of 1% of the unused amount of that portion of the commitment available in the sum of $19,000,000 during the period from the date of approval of this application to October 1, 1981, and (b) 1/8 of 1% on the unused portion of the commitment thereafter.

Investment tax credits will be for the account of the Lessee. The Leases are structured as net leases, and, accordingly, all costs of operation, maintenance, taxes, insurance and other affiliated costs are to be borne by the Lessees. The Lessor will be indemnified by the Lessees against all liabilities and risks of loss.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their veiws in writing by June 29, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17267 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Wendy's International, Inc.
Common Stock, No Par Value (File No. 7-5944)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 25, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17068 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22080; (70-6260)]

New England Electric System and New England Energy Inc.; Proposed Advance of Funds by Holding Company to Fuel Company

June 5, 1981.

New England Electric System ("NEES"), a registered holding company, and New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01581, a fuel subsidiary of NEES, have filed with this Commission a post-effective amendment to their application-declaration previsously filed and amended pursuant to Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 50(a)(2) and 50(a)(3) promulgated thereunder.

By prior order NEEI has been authorized to invest during 1981 $75 million in an oil and gas exploration partnership with Samedan Oil Corporation (HCAR No. 21864, December 31, 1980) and $35 million in a similar oil and gas exploration project with Dorchester Exploration, Inc. (HCAR No. 21862, December 30, 1980). NEEI is financing such investments through a Capital Funds Agreement under which NEES will provide up to $45 million (HCAR No. 19580, June 18, 1976) through stock purchases, capital contributions and subordinated loans through 1988 (HCAR No. 21158, July 25, 1979). NEEI has also entered into a Revolving Credit and Term Loan Agreement ("Loan Agreement") with Bank of Montreal and National Bank of North America secured by NEEI's rights under the Capital Funds Agreement (HCAR No. 21158, July 25, 1979). NEEI has been authorized to borrow up to $105 million through 1981 under this agreement (HCAR No. 21835, December 10, 1980). NEEI will also receive in 1981 approximately $27 million from deferred tax payments (HCAR No. 18635, October 30, 1974) and $28 million from amortized fuel sales to New England Power Company (HCAR No. 20632, July 19, 1978).

By post-effective amendment, authorization is sought for NEES to advance up to an additional $25 million to NEEI for the oil and gas exploration costs. Necessary expenditures will exceed NEEI's available resources by July , 1981. The advance would be subordinated to NEEI's obligations under the Loan Agreement. NEEI is presently negotiating additional bank loans for which authorization will be sought, but needs the proposed advance pending consummation of such bank borrowings. The advance would be payable upon the receipt of proceeds from the new bank loan.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 29, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17269 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Toys "R" Us

Common Stock, $1 Par Value (File No. 7-5945)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 25, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17270 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22079; (70-6609)]

The Southern Co.; Proposed Guaranty of Subsidiaries' Obligations

June 5, 1981.

The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to Section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

Southern proposes to act as a guarantor of the obligations of its subsidiaries, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Company Services, Inc., under the Longshoremen's and Harbor Workers' Compensation Act ("LHWCA") in order that the Southern electric system may be covered by a single self-insurer's indemnity bond. The LHWCA is a federal compensatory plan providing benefits to workers engaged in maritime employment who are injured upon the navigable waters of the United States. The only known exposures of the Southern electric system under LHWCA arise in connection with coal dock operations, water quality research and testing, and other miscellaneous activities on navigable waterways, involving approximately 278 system employees.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 1, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17271 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11092]

Texaco Inc. (a Delaware Corporation); Notice of Application and Opportunity for Hearing

June 5, 1981.

Notice is hereby given that Texaco Inc. (a Delaware corporation) ("Texaco Inc.") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Manufacturers Hanover Trust Company ("Manufacturers") under the five indentures set forth in paragraphs 2 and 3 below, all heretofore qualified or pending qualification under the Act, and under a trust agreement, not requiring qualification under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under any of such indentures or the trust agreement.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securties of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeships under the indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

Texaco Inc. alleges that:

1. As of the year ended December 31, 1980 Texaco Inc. has issued and outstanding the following described securities issued under the following indentures ("The Texaco Indentures"), each of which was qualified under the Act in connection with the registration under the Securities Act of 1933 of the securities issued thereunder, the file number of each Registration Statement being set forth in parenthesis below:

(a) $150,000,000 principal amount 3⅝% Debentures Due May 1, 1983, issued under an Indenture, dated as of May 1, 1958, (File No. 2-14039);

(b) $180,000,000 principal amount 5¾% Debentures Due 1997, issued under an Indenture, dated as of July 15, 1967, (File No. 2-26807);

(c) $200,000,000 principal amount 7¾% Debentures Due 2001, issued under an Indenture, dated as of June 1, 1971, (File No. 2-40333); and

(d) $298,175,000 principal amount 8⅞% Debentures Due 2005, issued under an

Indenture, dated as of May 1, 1975, (File No. 2-53027).

2. As part of its Registration Statement (File No. 2-71823), Pembroke Capital Company Inc. ("Pembroke") has presently pending before the Commission an application to qualify under the Trust Indenture Act of 1939 a proposed Sixth Supplemental Indenture dated as of May 1, 1981, supplementing and restating an indenture dated as of December 1, 1978 as heretofore amended, between Pembroke and Manufacturers, as trustee, (the "Pembroke Indentures"). The securities already issued and which are to be issued under the Pembroke Indenture are secured by the pledge of a Partnership Note of Pembroke Cracking Company, an English partnership whose two partners are Gulf Oil [Great Britain] Limited and Texaco Limited, a wholly-owned subsidiary of Texaco Inc. As security for the payment of the Partnership Note, the partnership has assigned to Manufacturers, as trustee under the Pembroke Indenture, all the partnership's right, title and interest in a Completion Agreement and a Throughput Agreement, both dated as of December 1, 1978, between the partnership and its two partners. Texaco Limited's performance under the Completion Agreement and under the Throughput Agreement is guaranteed by Texaco Inc. which guarantee has also been assigned to Manufacturers, as trustee under the Pembroke Indenture, as additional security for the payment of the Partnership Note.

3. Texaco-Cities Service Pipe Line Company ("T-CS"), which is fifty percent owned by Texaco Inc. and fifty percent owned by Cities Service Company, plans to enter into a trust agreement, to be dated as of April 1, 1981 (the "T-CS Trust Agreement"), with Manufacturers, as trustee, pursuant to which T-CS proposes to issue up to an aggregate principal amount not to exceed $55,000,000 at any one time outstanding of its Expansion Short-Term Notes. Inasmuch as the Expansion Short-Term Notes will be offered and sold in a private placement to a limited number of institutional investors in reliance upon the representations of the purchasers that they are purchasing the Expansion Short-Term Notes for investment and not with a view for resale, they are not being registered under the Securities Act of 1933 and the T-CS Trust Agreement is not being qualified under the Trust Indenture Act of 1939. The Expansion Short-Term Notes will have a maturity of not more than 270 days after the date of issue, and it is proposed that as the issued and outstanding notes mature, subsequent Expansion Short-Term Notes will be offered and sold in a private placement under the terms and conditions stated above. The Expansion Short-Term Notes which are to be issued under the T-CS Trust Agreement are to be secured by an assignment to the trustee by T-CS pursuant to a Consent, Assignment and Agreement dated as of April 1, 1981 among T-CS, Texaco Inc., Cities Service Company and Manufacturers, as trustee, (the "T-CS Consent, Assignment and Agreement") of certain of T-CS rights under a Thoughput and Deficiency Agreement dated as of April 1, 1981 among T-CS, Texaco Inc. and Cities Service Company (the "T-CS Throughput and Deficiency Agreement"). The T-CS Throughput and Deficiency Agreement will be entered into on a several basis by Texaco Inc. and Cities Service Company, and provide that Texaco Inc. and Cities Service Company will ship or cause to be shipped sufficient oil through the pipeline such that the revenues resulting from Texaco Inc.'s and Cities Service Company's shipments, together with revenues resulting from shipments by third parties and other available cash resources of T-CS, will be sufficient to satisfy T-CS's debt service obligations and certain other cash needs. Additionally, if, for any reason, T-CS has a cash deficiency on the date that any payment of principal and/or interest is due on the Expansion Short-Term Notes, Texaco Inc. and Cities Service Company will be unconditionally severally obligated to advance to T-CS in cash its stockholder's percentage of the cash deficiency as an advance payment for future shipments through the pipeline.

4. Each of the Indentures referred to in paragraphs 1 and 2 above contain the provisions required by Section 310(b) of the Act.

5. Neither Texaco Inc. nor Manufacturers believes Texaco Inc.'s guarantee of Texaco Limited's performance under the Completion Agreement and under the Throughput Agreement (No. 2 above) and the assignment thereof to Manufacturers, as trustee under the Pembroke Indenture, make Texaco Inc. an obligor upon the securities issued under the Pembroke Indenture as the term "obligor" is defined in the Trust Indenture Act of 1939 and Manufacturers has so stated in its Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 on Form T-1 filed as part of Pembroke's Registration Statement.

6. Texaco Inc. does not believe that, as a result of its execution and delivery of the T-CS Throughout Agreement and of the T-CS Consent, Assignment and Agreement (No. 3 above), it will be an obligor upon the Expansion Short-Term Notes to be issued under the T-CS Trust Agreement as the term "obligor" is defined in the Trust Indenture Act of 1939, and, accordingly, does not believe that the proposed trusteeship of Manufacturers under the T-CS Trust Agreement will involve Manufacturers in a conflict of interest within the meaning of Section 608 of the Texaco Indentures or within the meaning of Section 7.12 of the Pembroke Indenture. If, however, Texaco Inc. is deemed to be an obligor upon the Expansion Short-Term Notes, Texaco Inc. respectfully requests that the Securities and Exchange Commission find and declare by order that the continued trusteeship of Manufacturers under the Texaco Indentures and under the Pembroke Indenture would not be so likely to involve any material conflict of interest as to make it necessary in the public interest or for the protection of investors that Manufacturers be disqualified from continuing to act as trustee under the Texaco Indenture and under the Pembroke Indenture, if Manufacturers were to act as trustee under the T-CS Trust Agreement.

7. Texaco Inc. has waived notice of hearing, and waived hearing, in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than June 28, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17272 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22078; (70-6597)]

WPL Holdings, Inc.; Notice of Proposed Acquisition of Electric Utility Companies

Notice is hereby given that WPL Holdings, Inc. (the "Company"), 222 West Washington Avenue, Madison, Wisconsin 53703, a Wisconsin corporation, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a)(2) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

The Company is a newly organized corporation, a wholly-owned subsidiary of Wisconsin Power and Light Company ("WPL"), a Wisconsin corporation, and was created to accomplish a proposed merger and reorganization of WPL. WPL is an operating utility company and is also a holding company as defined in Section 2(a)(7) of the Act. WPL owns all of the capital stock of South Beloit Water, Gas and Electric Company ("South Beloit"), an Illinois corporation, and 33.1% of the outstanding capital stock of Wisconsin River Power Company, ("River Power"),[1] a Wisconsin corporation, which companies are further described herein. WPL is an exempt holding company, claiming such status on the basis of Section 3(a)(2) of the Act in filings made pursuant to Rule 2.

The proposed merger and reorganization involves the following: (1) a subsidiary of the Company will be merged into WPL, with WPL as the surviving corporation; (2) the common stock of the subsidiary owned by the Company will be converted into new common stock of WPL; (3) each outstanding share of common stock of WPL, par value $5 per share, will be converted into one share of common stock of the Company, par value $1 per share; (4) WPL will become a wholly-owned subsidiary of the Company and WPL's subsidiaries (other than River Power) will maintain their present relationships with WPL; and (5) River Power, by means of a non-cash dividend from WPL to the Company, will become a 33.1% owned subsidiary of the Company. There will be no exchange of the outstanding preferred stock or first mortgage bonds of WPL,[2] and following the merger the Company will have no securities outstanding other than common stock.

The proposed merger and reorganization will not result in any substantial change in the operation of the utility properties of the parties, or in any expansion of WPL's present holding company system. The shareholders of WPL will be asked to vote on the proposed merger and reorganization and related matters at a special meeting to be held on or about September 16, 1981. It is stated that the objective of the merger and reorganization is to provide organizational flexibility in the management and operation of the present utility business and to facilitate diversification into other areas, including but not limited to coal exploration and mining, gas exploration, oil exploration and production, transportation of fuels, communications systems, coal gasification, home weatherization, energy consulting, power plant design and construction, waste heat utilization and cogeneration, and conservation projects.

WPL is a public utility engaged in generating, purchasing, distributing and selling electric energy to about 296,000 electric customers, and in purchasing, distributing and selling natural gas to about 97,000 gas customers, in southern and central Wisconsin. It also supplies water to about 16,000 customers. At December 31, 1980, WPL had total grosss utility plant of $856,646,132 and for the twelve months then ended reported $397,715,189 of operating revenues ($293,823,912 electric, $101,530,566 gas and $2,360,711 water) and $33,683,807 of net income. South Beloit is a public utility providing electric service to about 4,900 customers, gas service to about 3,500 customers and water service to about 1,300 customers, all in an area in northern Illinois adjacent to the territory served by WPL in Wisconsin. At December 31, 1980, South Beloit had gross utility plant of $7,003,598 and for twelve months then ended reported $9,580,894 of operating revenues ($4,971,536 electric, $4,411, 260 gas and $198,098 water) and $1,497,930 of net income. South Beloit purchases from WPL all electricity, gas and water required in its operations. River Power is an electric generating company engaged in owning and operating two dams and related hydroelectric plants on the Wisconsin River with a capacity of about 35 MW. All of River Power's electric output is sold to its owners substantially in proportion to their stock ownership interests. At December 31, 1980, River Power had gross utility plant of $20,366,788, and for the twelve months then ended reported selling 230,088,000 KWH of electric energy, of which 77,614,000 KWH were sold to WPL.

WPL's non-utility subsidiaries include the following companies: (1) Wisconsin Power & Light Nuclear Fuel, Inc. (the "Fuel Company"), a Wisconsin corporation wholly-owned by WPL, whose sole business consists of ownership as a tenant-in-common of a 41% interest in certain nuclear fuel assemblies comprising the initial nuclear fuel core of the Kewaunee Nuclear Plant (in which WPL owns a 41% interest as tenant-in-common with other utility companies); (2) NUFUS Resources, Inc., ("NUFUS"), a Wisconsin corporation wholly-owned by WPL, whose business consists of being a limited partner in a limited partnership with subsidiaries of two other utility companies for the purpose of owning and operating uranium mines and certain mining claims in order to obtain a portion of the uranium requirements of the Kewaunee Nuclear Plant; and (3) Wisconsin Valley Improvement Company ("Valley Improvement"), a Wisconsin corporation 13% owned by WPL, which operates a system of dams and reservoirs on the Wisconsin River and tributary streams for the purpose of producting a uniform steam flow.[3] WPL carries on its books its investments in Fuel Company, NUFUS and Valley Improvement at $500, $7,446,727, and $186,120, respectively.

The Company is not now a holding company, and it does not intend to register as such if the acquisition of WPL, South Beloit and River Power is authorized and the merger and reorganization consummated. The Company states that it will be entitled to an exemption under Section 3(a)(1) of the Act on the basis that it and its public utility subsidiaries from which it derives, directly or indirectly, any material part of its income "are predominantly intrastate in character and carry on their business substantially in a single state in which such holding company and every such subsidiary

[1] The remainder of the capital stock of River Power is owned by Wisconsin Public Service Corporation (33.1%) and Consolidated Water Power Company (33.8%).

[2] There are no publicly-held securities of any of WPL's subsidiaries.

[3] By order dated October 28, 1940 (HCAR No. 2359), Valley Improvement was declared not to be a subsidiary of WPL within the meaning of the Act.

thereof are organized."[4] The Company intends to claim such exemption by an appropriate filing pursurant to Rule 2.

	1978 (percent)	1979 (percent)	1980 (percent)
Consolidated Operating Revenues	2.4	2.3	2.3
Consolidated Net Income	.5	.7	4.3

The increase in 1980 in the percentage of consolidated net income from South Beloit resulted from a contractual change in that year whereby South Beloit is no longer charged the formerly applicable rate on WPL assets which are used to provide electricity, gas and water sold to South Beloit. No further such increase is anticipated.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 29, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on this applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17273 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17845; File No. SR-AMEX-81-11]

American Stock Exchange, Inc.; Self-Regulatory Organizations; Rule Change

Rule change by American Stock Exchange, Inc., relating to the Opening Automated Report Service ("OARS"), comments requested on or before July 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1981, the American Stock Exchange filed with the Securities and Exchange Commission the 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 rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange has amended Rule 116 to reflect a change in the acronyms used by the Exchange as universal contra broker give-ups on orders which are executed through the Opening Automated Report Service ("OARS" or the "System").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the rule change and discussed any comments it received on the rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* Rule 116 has been amended to reflect a change in the acronyms used by the Exchange as universal contra broker give-ups on orders executed through OARS. The contra symbol "ASE" will be used instead of "OPN" on all OARS executions reported by the system and the contra symbol "AUTO" will replace "OARS" as the give up on the trading floor by the specialist on transactions representing any OARS' imbalance. This change in acronyms is needed for clearance purposes in order to differentiate between Amex and NYSE transactions executed through OARS.

(b) *Basis.* The rule change is consistent with Section 6(b) of the Exchange Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the rule change does not have an impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received, or are to be solicited in the future, with respect to the 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 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 rule change that are filed with the Commission, and all written communications relating to the 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 July 2, 1981.

[4] Although South Beloit is organized and operates in Illinois, the Company states it will not dervie any material part of its income from that prospective subsidiary. WPL derived the following percentages of its consolidated operating revenues and net income from South Beloit in the three most recent years ending December 31:

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17360 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17848; File No. SR-MSRB-81-6]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Changes

Proposed Rule Changes By Municipal Securities Rulemaking Board relating to Uniform Practice. Comments requested on or before July 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 11, 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board (the "Board") is filing herewith the following proposed amendment to rule G-12 on uniform practice (hereafter referred to as the "proposed rule changes"). The text of the proposed rule changes appears below.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) Board rule G-12 sets forth certain procedures and standards with respect to the comparison, clearance and settlement of transactions in municipal securities and other, related matters. Section (h) of the rule sets forth procedures to be used by municipal securities dealers wishing to close out purchase transactions which have not yet been completed. The proposed rule changes significantly revise these procedures in order to simplify the close-out process and foster its use to facilitate deliveries.

While the Board believes that the use of the current procedure has contributed in many instances to an acceleration of deliveries of municipal securities and more efficient settlement of municipal securities transactions, the Board is aware that many industry members have found the procedure to be cumbersome and confusing. The sharp increase in the number of close-outs during the market dislocations following Federal Reserve actions in October 1979 and February 1980 clearly illustrated problems in certain aspects of the process, particularly the multiplicity of written notices and the frequent time extensions and changes in the various applicable dates. In May 1980 the Board released an exposure draft of certain proposed amendments to the close-out procedure. These amendments would have substantially restructured the procedure by, among other matters, eliminating the retransmittal feature of the current rule, and limiting the issuance of close-out notices to one per transaction. Many of the comments received in response to the exposure draft proposal suggested that these changes were too extensive. In addition, the Board's continued monitoring of the functioning of the close-out provisions showed that industry members were developing greater familiarity with the procedure, and that this was remedying many of the difficulties with which the Board had been concerned. As a result the Board has concluded that a simplified variant of the current rule would be a preferable approach.

The proposed rule changes would effect the following amendments to the current procedure for close-outs by purchasing dealers:

1. The proposed rule changes set forth requirements concerning the contents of written notices used in the close-out procedure. The Board has from time to time received comments from industry members indicating that many dealers use close-out notices which do not provide sufficient information to identify the transactions to which they relate or to establish clearly the terms of the close-out procedures themselves; these industry members have sugested that some standardization in this area would be helpful. While the Board continues to be of the view that prescription of uniform forms for the various notices would not be appropriate, the Board has concluded that some standards for the contents of such notices would be of assistance to the industry. The proposed rule changes therefore contain a new section setting forth minimum content requirements for original notices of close-out, retransmittal notices, and notices of extensions of dates.

2. The proposed rule changes delete the extension provided, in the case of the first close-out notice issued on a transaction, in the event the selling dealer provides an "adequate explanation" for its failure to deliver, and substitute a longer standard period of time (ten business days) between issuance and effectiveness of the notice. The Board believes that the rationale for the "adequate explanation" extension provision of the current rule (*i.e.*, to provide additional time within which to resolve a clearance problem on a transaction subject to a close-out notice) is sufficiently addressed by the provision of a longer standard period of time, and therefore the extension, and the attendant paperwork, can be eliminated.[1]

3. The proposed rule changes adopt a much shorter time limit by which a party must retransmit a close-out notice to any subsequent party. The Board believes that a requirement that retransmittal of a notice must be effected within a much shorter time period would contribute greatly to the efficient use of the close-out procedure. Accordingly, the proposed rule changes provide that a party receiving telephone notice of a close-out that it wishes to retransmit must retransmit such notice by not later than the close of business on the day following the date of receipt of the telephone notice. Provision of telephonic notice of the retransmittal within the time limit will be sufficient to meet the requirement. The proposed rule changes provide that the telephone notification of retransmittal must be confirmed in writing not later than the following business day.

4. The proposed rule changes consolidate the time extensions provided for retransmittals into one extension of five business days; the concept of successive one-business-day extensions triggered by successive retransmittals would be eliminated. The continuing variation of the dates applying to a procedure caused by the current retransmittal procedure appears to be one of the more confusing aspects of the current close-out process since it necessitates constant monitoring and updating of the status of the particular

[1] The current rule provides that the "adequate explanation" extension applies only to the first close-out notice issued on a transaction, with second or subsequent notices having a shorter (five-business-day) standard time period between issuance and effectiveness of the notice. The Board believes that a shorter period is appropriate for second or subsequent notices and, accordingly, proposes to retain the five-business-day waiting period for such notices.

notice. The Board has concluded that this aspect of the procedure is highly complex and presents several possibilitlies for error; the Board is aware that several municipal securities dealers have been exposed to significant risk of loss on close-outs due to miscounting or other mistakes in applying the one-business-day retransmittal time extension.

While the Board continues to believe that dealers involved in a close-out procedure with one or more retransmittals should be afforded a longer period of time during which to carry through the procedure, it has concluded that it would be far less complex and confusing to establish this longer time period at the beginning of the retransmittal process, with the applicable dates remaining the same for all subsequent recipients of the retransmitted notice. Accordingly the proposed rule changes provide for a single time extension of five business days, which takes effect upon the first retransmittal of a close-out notice. The Board believes that dealers will find a single time extension easier to monitor and much less confusing.

The Board further believes that the longer time period provided by the extension, in conjunction with the time limits proposed to be applied to the retransmittal process itself, provide sufficient time for the entire close-out process to be completed, even in the event of several retransmittals.

5. The proposed rule changes revise the methods provided under the rule for execution of a close-out by eliminating the "cancellation" provision and restricting purchasers to the selection of one execution method. The Board is of the view that the "cancellation" provision is duplicative, since in a declining market (the circumstance in which a "cancellation" is likely to be exercised) the current rule permits the purchaser to force the seller to repurchase the securities at the contract price (effectively "cancelling" the transaction), since the this is the price which requires the seller to bear the burden of the market change. Further, the use of the "cancellation" method on a close-out notice which has been retransmitted may cause the intermediate parties to be deprived of any profit on the transactions which have been closed out. For these reasons the Board concludes that the "cancellation" provision should be eliminated.

The Board is also concerned that the current rule may provide an opportunity for a municipal securities dealer to seek to obtain additional remuneration on a transaction through the execution of a close-out by the combination of two execution methods. The Board notes that the close-out procedure is intended to provide a means of facilitating the clearance of transactions and encouraging the delivery of securities, and not to provide a method of deriving additional profit on a transaction. Accordingly, the proposed rule changes restrict the purchaser to selection of only one of the execution methods provided.

6. The proposed rule changes require that notice of the execution of a close-out be given by telephone on the date of execution, with written notification to be sent no later than the following business day. The Board believes that the current requirement for same-day written notification has proven in practice to be difficult to comply with, particularly in close-outs involving retransmittals, and that a relaxation of the requirement is desirable.

7. The proposed rule changes establish a specific time frame (ten business days following the close-out execution date) for payment of moneys owed on close-outs and closed-out transactions. The Board suspects that the failure of the current rule to specify a time limit for such payments has, in some cases, contributed to an undue delay in settlement of moneys due on close-outs. The Board has concluded that requiring settlement of moneys due by a specific time would benefit the industry. The Board considers the proposed limit of ten business days adequate to permit each party to receive proper notification and process the item for payment.

8. The proposed rule changes lengthen the period provided to the seller for delivery upon prior notice. The Board proposes to extend the current one-business-day period to two business days. The Board believes that this additional time will be helpful to parties seeking to complete deliveries on transactions subject to close-out procedures; the Board notes, however, that such parties will still be required to process such deliveries expeditiously in order to meet the two-business-day time limit.

The proposed rule changes also clarify that, if the seller suspends the execution of a close-out for the two-business-day period, the period during which the close-out notice has been specified to be effective is extended by two business days.

9. The proposed rule changes revise the operation of the overall 90-business-day time limit. The Board is concerned that the functioning of the current 90-business-day time limit on completion of close-out activity may be confusing to dealers since it is subject to variation and applies to completion, rather than initiation, of the procedure. The Board has concluded that the purpose of the overall time limit is more effectively served by a fixed number of days that does not vary depending on the circumstances of a particular close-out; further, the Board believes that the functioning of the time limit would be clarified if it were applied to the initiation of the close-out, rather than the completion of close-out activity. Accordingly the proposed rule changes provide that a close-out procedure with respect to a transaction may not be initiated after the nintieth business day following the settlement date of the transaction.

The Board continues to be of the view, however, that the concept of a time limit should be retained. The time limit is intended to foster timely action on uncleared transactions and to ensure that dealers do not unduly postpone the resolution of such transactions. The Board considers this aspect of the procedure to be consistent with the general purpose of the close-out provisions, encouraging greater efficiency in clearance and prompt delivery of securities.

10. The proposed rule changes incorporate conforming amendments to the procedure for close-out by sellers. The proposed rule changes revise these procedures to (1) specify the contents of the close-out notice used, (2) clarify the manner of notification of execution of such notices, and (3) provide for the settlement of moneys due from the execution of the close-out.

(b) The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are

> designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board believes that the close-out provisions generally act to foster the efficient processing and clearance of transactions in municipal securities. The proposed rule changes, which simplify the procedure and establish uniform methods of preparing and processing close-out notifications, will facilitate the use of the close-out procedure for these ends.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board is of the opinion that the proposed rule changes will not impose any burden on competition among brokers, dealers or municipal securities dealers inasmuch as the proposed rule changes will streamline the functioning of the current close-out procedures, which apply uniformly to all brokers, dealers and municipal securities dealers, and promote efficiency in their use.

The Board is of the view that the close-out procedures generally operate to promote competition, in that they foster efficiency in the clearance and settlement of municipal securities transactions. Since the proposed rule changes contribute to the efficient use of the close-out procedures, the Board believes that they would further this end.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received From Members, Participants, or Others

On May 30, 1980 the Board issued in exposure draft form a series of proposed amendments which would have substantially revised the current close-out procedures. The majority of the comment letters received on the exposure draft opposed the changes proposed therein, expressing a preference for a modified version of the existing close-out procedure. The Board has determined not to proceed with the exposure draft proposal, in large part because of the views expressed in the comment letters. These comments also were influential in formulating many aspects of the proposed rule changes.

A. Comments on Aspects of Exposure Draft Included in Proposed Rule Changes

Several aspects of the proposed rule changes were included in the exposure draft. These were (1) the proposed elimination of the "adequate explanation" extension and the substitution of a ten-business-day standard waiting period, (2) the proposed revision of the provision pertaining to the method of notification of execution to conform it with the method used for other notifications, and (3) the proposed explicit time limit for money settlements on close-outs. In addition, the exposure draft solicited comment on the current ninety-business-day time limit on completion of all close-out activity.

All of the parties commenting on the proposed elimination of the "adequate explanation" extension expressed support for the proposal, indicating that the proposed longer standard period of time would be a satisfactory substitute. There were few comments on the other proposals. One commentator suggested that the rule provide a specific number of days by which money settlement must take place; the Board determined to adopt this suggestion.

In response to the solicitation of comment regarding the ninety-business-day time limit, several commentators expressed support for the time limit. The balance of the commentators opposed the concept of a time limit, stating that it inappropriately restricted the purchaser seeking to close out a transaction. As noted above, the Board believes that placing a time limit on the use of the close-out procedure is consistent with the intent of the close-out provisions. The Board believes, however, that applying the time limit to the issuance of notices, rather than the completion of the procedure, will provide additional flexibility to purchasers seeking to close out transactions, and may address some of the commentators' concerns about the time limit.

B. Comments Relevant to Other Aspects of Proposed Rule Changes

The commentators on balance opposed the proposal to eliminate the retransmittal provisions, pointing out the growing industry facility in the use of a retransmittal-type procedure and the appropriateness of providing such a means of transferring liability on close-out notices. The Board was persuaded that it would be preferable to retain some form of retransmittal procedure.

One of the commentators suggested that the rule should contain a requirement that a notice be retransmitted within a reasonable period of time after its receipt. The Board determined to adopt such a time limit, and chose a short limit of one business day from the time of receipt of the notice. The Board believes that retransmittals should be accomplished in sufficient time to permit the ultimate selling party to take steps to obtain the securities and deliver them prior to the last date specified for delivery. The one-business-day limit would ensure that sufficient time is provided; the Board believes that a longer period would in some circumstances not accomplish this result, or would necessitate that the overall procedure be unduly prolonged.

The proposed rule changes also address a concern raised by one of the commentators, who stated that the current close-out procedure could be used to derive additional profit on a transaction, through what the Board believes to be a combination of two execution methods. The commentator suggested resolving this problem through deletion of the "cancellation" option. Although the Board has, for different reasons, eliminated the "cancellation" option, the Board believes that the problem cited by the commentator is more appropriately addressed by limiting purchasers executing close-outs to the selection of only one execution method.

C. Other Comments

The May 30, 1980 exposure draft also proposed to limit the issuance of close-out notices to one notice per transaction, and to require that a purchaser planning to execute a close-out contact the selling dealer prior to exeuction to advise the seller of its plans. The commentators opposed both of these proposals. They suggested that the limitation on issuance was extremely inflexible and made no allowance for mistakes, and that the requirement for notification prior to exeucition placed an onerous burden on purchasers. The Board agreed with the views of these commentators, and, accordingly, did not adopt these proposals.

The commentators also suggested that the Board expand the time period permitted to be specified for execution of the notice, and that the Board require acceptance of partial deliveries on transactions which are the subject of a close-out procedure. The Board believes that the five business days currently provided for execution of a notice is adequate for this purpose, and that purchasers cannot be required to accept partial deliveries due to the lack of fungibility of most municipal securities. Accordingly, the Board did not adopt either of these suggestions.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

On or before July 16, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule 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 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 July 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

Text of Proposed Rule Changes[2]

Rule G–12. Uniform Practice.

(a) through (g) No change.

(h) Close-Out. Transactions which have been confirmed or otherwise agreed upon by both parties but which have not been completed may be closed out in accordance with this section, or as otherwise agreed by the parties.

(i) Close-Out by Purchaser. With respect to a transaction which has not been completed by the seller according to its terms and the requirements of this rule, the purchaser may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the purchaser elects to close out a transaction in accordance with this paragraph (i), the purchaser shall, not earlier than the fifth business day following the settlement date, notify the seller by telephone of the purchaser's intention to close out the transaction. *The purchaser shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the tenth business day following the date the telephonic notice is given (the fifth business day, in the case of a second or subsequent notice), the transaction may be closed out in accordance with this section at any time during the period of time, which shall not be more than five business days, specified by the purchaser for such purpose. The purchaser shall* [and] immediately thereafter send, return receipt requested, a written notice of close-out to the seller. Such notice *shall contain the information specified in item (1) of subparagraph (C) below, and* shall be accompanied by a copy of the seller's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. [The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the fifth business day following the date the telephonic notice is given, or as provided in subparagraph (C) below, the transaction may be closed out in accordance with this section at any time during the period of time, which shall not be more than five business days, specified in the notice.]

(B) *Retransmittal.* [Response. The seller shall respond to the notice of close-out in writing, or by telephone call promptly confirmed in writing, return receipt requested, within one business day following the date the telephonic notice required by subparagraph (A) is given, stating the seller's reasons for failing to complete the transaction.] Any party receiving a notice of close-out may retransmit the notice to another party from whom the securities are due. *The retransmitting party shall, not later than the first business day following its receipt of the telephone notice of close-out, notify the party to whom it is retransmitting by telephone of its intention to retransmit such notice, specifying the name of the originator and the applicable dates for delivery and effectiveness of the notice. The retransmitting party shall immediately thereafter send, return receipt requested, a written notice of retransmittal which shall contain the information specified in item (2) of subparagraph (C) below. The first such retransmittal shall extend the dates for close-out by five business days, and the first retransmitting party shall specify the extended dates on its notice of retransmittal. The first retransmitting party shall, on the date telephone notice of the retransmittal is given, notify the purchaser originating the notice by telephone of the extended dates and immediately thereafter send, return receipt requested, a notice of extension of dates which shall contain the information specified in item (3) of subparagraph (C) below. Any party subsequently retransmitting such notice shall, on the date telephonic notice of the retransmittal is given, notify the purchaser originating the notice by telephone of such retransmittal, and immediately thereafter send a copy of the retransmittal notice to such originating purchaser.* [, provided that any retransmitted notice must be received by such other party not later than one business day preceding the earliest date for close-out as specified on the original notice or as extended due to retransmittals. Each retransmittal subsequent to the initial retransmittal shall extend the date for close-out by one business day and the party retransmitting the notice shall attach to the notice a memorandum specifying the extended date for close-out resulting from such retransmittal and shall immediately notify the purchaser originating the close-out notice of the extended date. Any party receiving a retransmitted notice of close-out shall respond to the party retransmitting the notice within the time periods and according to the procedures provided herein for the seller's response.]

(C) Contents of Notices. Written notices sent in accordance with the requirements of subparagraphs (A) or (B) above shall contain the following information:

(1) The notice of close-out required under subparagraph (A) above shall set forth:

(a) the name of the municipal securities broker or dealer originating the notice;

(b) the name and address of the municipal securities broker or dealer to whom the notice is being sent;

(c) the name of the person to whom the originator provided the required telephonic notice;

(d) the date of such telephonic notice;

(e) the par value and description of the securities involved in the transaction with respect to which the close-out notice is given;

(f) the trade date and settlement date of the transcation;

(g) the price and total dollar amount of the transaction;

(h) the date by which the securities must be received by the originating dealer;

(i) the date or dates during which the notice of close-out may be executed; and

(j) the name and telephone number of the person to contact concerning the close-out.

(2) The notice of retransmittal required under subparagraph (B) above shall set forth:

(a) the name of the municipal securites broker or dealer retransmitting the notice;

(b) the name and address of the municipal securities broker or dealer to whom the notice is being retransmitted;

[2] Italics indicate new language; [brackets] indicate deletions.

(c) the name of the municipal securities broker or dealer originating the notice;

(d) the name of the person to whom the retransmitting party provided the required telephonic notice;

(e) the date of such telephonic notice;

(f) the par value and description of the securities involved in the transaction with respect to which the retransmittal notice is given;

(g) the trade date and settlement date of the transaction;

(h) the price and total dollar amount of the transaction;

(i) the date by which the securites must be received by the dealer originating the notice (as extended due to the retransmittal);

(j) the date or dates during which the notice of close-out may be executed (as extended due to the retransmittal); and

(k) the name and telephone number of the person to contact concerning the retransmittal.

(3) The notice of extension of dates required under subparagraph (B) above shall set forth:

(a) the name and address of the municipal securities broker or dealer originating the notice of close-out;

(b) the name of the municipal securities broker or dealer retransmitting the notice;

(c) the name of the municipal securities broker or dealer to whom the notice is being retransmitted;

(d) the name of the person to whom the retransmitting party provided the required telephonic notice of the extension of dates;

(e) the date of such telephonic notice;

(f) the par value and description of the securities involved in the transaction with respect to which the notice is given;

(g) the date specified by the originating dealer as the date by which delivery of such securities must be made;

(h) the date by which such delivery must be made, as extended due to the retransmittal;

(i) the effective date or dates for the notice of close-out, as extended due to the retransmittal; and

(j) the name and telephone number of the person to contact concerning the close-out.

[(C) Time Periods. If by the close of the fifth business day following the date the close-out notice was given, the purchaser has received no response or notice of retransmittal or has received a response which fails too provide an adequate explanation, as described below, for the seller's failure to complete the transaction, the purchaser may close out the transaction in accordance with the terms of the close-out notice. With respect to the first close-out notice issued for a transaction, if the purchaser has received an adequate explanation of the seller's failure to complete the transaction, the purchaser may not close out the transaction before the close of the fifteenth business day following the date the close-out notice was given. For purposes of this subparagraph, a seller shall be deemed to have provided an adequate explanation for its failure to complete the transaction only if it has an offsetting fail to receive outstanding of the same security and so states or if the certificates, coupons or documentation required by this rule are in transit to the purchaser or the seller, have been sent for transfer, deregistration or validation, or have been lost or mutilated and replacements have been requested, and the seller so states. If the purchaser has received a notice of retransmittal extending the date for close-out, the transaction may not be closed out before the close of business on the latest extended date.]

(D) Purchaser's Options. *If the securities described in the notice of close-out are not delivered to the originating purchaser by the date specified in the original notice, or the extended date resulting from a retransmittal, such purchaser may close out the transaction in accordance with the terms of the notice.* To close out a transaction as provided herein the purchaser may, at its option, *take one of the following actions:*

(1) purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller;

[(2) cancel the transaction as to all or any part of the securities necessary to complete the transaction;]

(2) [(3)] accept from the seller in satisfaction of the seller's obligation under the original contract (which shall be concurrently cancelled) the delivery of municipal securities which are comparable to those originally bought in quantity, quality, yield or price, and maturity, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller; or

(3) [(4)] require the seller to repurchase the securities on terms which provide that the seller pay an amount which includes accrued interest and bear the burden of any change in market price or yield.

A purchaser executing a close-out shall, upon execution, notify the selling dealer for whose account and liability the transaction was closed out by telephone, stating the means of close-out utilized. The purchaser shall immediately thereafter confirm such notice in writing, sent return receipt requested, and forward a copy of the confirmation of the executed transaction. A retransmitting party shall give immediate notice of the execution of the close-out, in accordance with the procedure set forth herein, to the party to whom it retransmitted the notice. A close-out will operate to close out all transactions covered under retransmitted notices. *Any moneys due on the transaction, or on the close-out of the transaction, shall be forwarded to the appropriate party within ten business days of the date of execution of the close-out notice.* A buy-in may be executed from a long position in customers' accounts maintained with the party executing the buy-in or, with the agreement of the seller, from the purchaser's contra party. In all cases, the purchaser must be prepared to defend the price at which the close-out is executed relative to market conditions at the time of the execution.

(E) Close-Out Not Completed. [A close-out procedure instituted pursuant to this rule (including any action by the purchaser pursuant to subparagraph (D) of this paragraph) must be completed not later than the ninetieth business day following the settlement date.] If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire. Additional close-out notices may be issued, provided that a close-out procedure *with respect to a transaction may not be* initiated [pursuant to this rule with respect to a transaction must be completed not] later than the ninetieth business day following the settlement date *of such transaction,* regardless of the number of close-out notices issued. [Anything herein to the contrary notwithstanding, each time period specified in this subparagraph (E) shall be extended by one business day for each retransmittal of the notice of close-out subsequent to the initial retransmittal.]

(F) [Effect of] Completion of Transaction. If at any time prior to the execution of a close-out pursuant to this paragraph (i), the seller, *or any subsequent selling party to whom a notice has been retransmitted,* can complete the transaction *within two business days* [according to its original terms], *such party* [the seller] shall give immediate notice to the purchaser *originating the notice of close-out* that the securities will be delivered within *such time period* [one business day of such notice]. *If the originating purchaser receives such notice, it shall not execute*

the close-out for two business days following the date of such notice; the period specified for the execution of the close-out shall be extended by two business days. Delivery of the securities [by the seller] in accordance with such notice shall [operate automatically to] cancel *the* [all] close-out notice[s] outstanding with respect to the transaction.

(G) "Cash" Transactions. The purchaser may close out transactions made for "cash" or made for or amended to include guaranteed delivery at the close of business on the day delivery is due.

(ii) Close-Out by Seller. If a seller makes good delivery according to the terms of the transaction and the requirements of this rule and the purchaser rejects delivery, the seller may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the seller elects to close out a transaction in accordance with this paragraph (ii), the seller shall at any time not later than the close of business on the fifth business day following receipt by the seller of notice of the rejection, notify the purchaser by telephone of the seller's intention to close out the transaction. *The seller shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the business day following the date the telephonic notice is given, the transaction may be closed out in accordance with this section. The seller shall* [and] immediately thereafter send, return receipt requested, a written notice of close-out to the purchaser. Such notice *shall contain the information specified in subparagraph (B) below, and* shall be accompanied by a copy of the purchaser's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. [The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the business day following the date the telephonic notice is given, the transaction may be closed out in accordance with this section.]

(B) Content of Notice. The written notice sent in accordance with the requirements of subparagraph (A) above shall set forth:

(1) the name of the municipal securities broker or dealer originating the notice;

(2) the name and address of the municipal securities broker or dealer to whom the notice is being sent;

(3) the name of the person to whom the originator provided the required telephonic notice;

(4) the date of such telephonic notice;

(5) the par value and description of the securities involved in the transaction with respect to which the close-out notice is given;

(6) the trade date and settlement date of the transaction;

(7) the price and total dollar amount of the transaction;

(8) the date of improper rejection of the delivery;

(9) the date by which the delivery of the securities must be accepted; and

(10) the name and telephone number of the person to contact regarding the close-out.

(C) [(B)] Execution of Close-Out. Not earlier than the close of the business day following the date telephonic notice of close-out is given to the purchaser, the seller may sell out the transaction at the current market for the account and liability of the purchaser. *A seller executing a close-out shall, upon execution, notify the purchaser for whose account and liability the transaction was closed out by telephone. The seller shall immediately thereafter confirm such notice in writing, sent return receipt requested, and forward a copy of the confirmation of the executed transaction. Any moneys due on the close-out of the transaction shall be forwarded to the appropriate party within ten business days of the date of execution of the close-out notice.*

(D) [(C)] *Acceptance of Delivery.* In the event the transaction is completed by the date and time specified in the notice of close-out, the seller shall be entitled, upon written demand made to the purchaser, to recover from the purchaser all actual and necessary expenses incurred by the seller by reason of the purchaser's rejection of delivery.

[(iii) Notice of Executed Close-Out. The party executing a close-out shall, immediately upon execution, notify via hand delivery or other written media having same-day receipt capabilities, the party for whose account and liability the transaction was closed-out, stating the means of closing out utilized and forwarding a copy of the confirmation of the executed transaction, if any.]

(iii) [(iv)] Close-Out Under Special Rulings. Nothing herein contained shall be construed to prevent brokers, dealers or municipal securities dealers from closing out transactions as directed by a ruling of a national securities exchange, a registered securities association or an appropriate regulatory agency issued in connection with the liquidation of a broker, dealer or municipal securities dealer.

(iv) [(v)] Procedures Optional. Nothing herein contained shall be construed to require the parties to follow the close-out procedures herein specified if they otherwise agree.

(i) through (l) No change.

[FR Doc. 81-17370 Filed 6-10-81; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17649; File No. SR-MS RB-81-9]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Change

Proposed rule change by Municipal Securities Rulemaking Board relating to uniform practice. Comments requested on or before July 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 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 Changes

The Municipal Securities Rulemaking Board (the "Board") is filing herewith the following proposed amendment to rule G-12 on uniform practice (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:[1]

Rule G-12. Uniform Practice

(a) through (f) No change.

(g) Rejections and Reclamations.

(i) and (ii) No change.

(iii) Basis for Reclamation and Time Limits.

A reclamation may be made by either the receiving party or the delivering party if, subsequent to delivery, information is discovered which, if known at the time of the delivery, would have caused the delivery not to constitute good delivery, provided such reclamation is made within the following time limits:

(A) Reclamation by reason of the following shall be made within one business day following the date of delivery:

[1] Italics indicate new language; [brackets] indicate deletions.

(1) and (2) No change.

(3) not good delivery because a legal opinion or other documents referred to in paragraph (e) (x) hereof were missing; *or* [.]

(4) not good delivery because the securities (which are issuable in both bearer and registered form) were delivered in registered form and were not identified as such at the time of trade.

(B) through (D) No change.

(iv) through (vi) No change.

(h) through (l) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

Rule G–12 sets forth certain procedures and standards for the comparison, clearance and settlement of transactions in municipal securities. Under section (e) of the rule, a party selling municipal securities which are issuable in both bearer and registered form is obliged to deliver to the contra-party securities in bearer form, unless the parties agree at the time of trade that the transaction involves securities in registered form. Section (g), however, does not currently permit a dealer to reclaim, or demand reclamation of, securities which are delivered, and erroneously accepted, in registered form, when the terms of the trade did not specify registered securities. The Board is of the view that a reclamation remedy should be provided for this circumstance.

Deregistration or transfer of municipal securities can, at times, be an involved and expensive process. The transfer agent on an issue is often a small bank located in or near to the municipality, or, in a number of instances, it is the municipal issuer itself; therefore, submitting the securities for transfer is often a time-consuming procedure. Further, the expense involved in deregistration or transfer can range from a service fee to the cost of reproducing engraved plates and related printing expenses. While these difficulties are not insurmountable, the Board believes that a dealer erroneously accepting registered securities, when it is owed bearer securities, should be provided some means of correcting this error, so that it does not have to become involved in a cumbersome transfer or deregistration process.

The proposed rule change would therefore establish a right of reclamation in the event that a transaction not specified to involve registered securities is completed by the erroneous delivery and acceptance of registered securities. Since registered municipal securities are, in most cases, clearly distinguishable from bearer municipal securities, the Board believes that a dealer should be able to determine very promptly that it has erroneously accepted securities in registered form. Accordingly the Board proposes to establish a time limit of one business day from the date of delivery of the securities for reclamations in this circumstance. The Board notes that this time limit is consistent with that provided in the Board's rule for reclamations arising from other defects in the securities certificates which were delivered.

The proposed rule change is adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules

> designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board believes that the reclamation provisions generally, and the proposed rule change in particular, act to promote just and equitable principles of trade in that they provide a remedy in the event of mistaken completion of a contract to purchase or sell municipal securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board is of the opinion that the proposed rule change will have no impact on competition. The proposed rule change would provide a means, available to all municipal securities brokers and municipal securities dealers equally, for redressing a defective delivery of securities.

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 from members of the municipal securities industry or the general public.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

On or before July 16, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule 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 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 July 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–17371 Filed 6–10–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17844; File No. SR–PSE–81–11]

Pacific Stock Exchange Inc.; Self-Regulatory Organization; Proposed Rule Change

Proposed rule change by the Pacific Stock Exchange Incorporated relating to SEC Registration Fees. Comments requested on or before July 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on June 1, 1981. The Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described

in Items I, II, and III below, which Items have 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

The Pacific Stock Exchange Incorporated (the "PSE") proposes to amend Rule IX, Section 10(b), of the Rules of the Board of Governors concerning the SEC Registration Fee provided for in Section 31 of the Securities Exchange Act of 1934. The proposed rule would raise the SEC registration fee assessed to the exchange from 1/500th to 1/300th of 1 per centum of the aggregate dollar amount of the sales of securities transacted on such exchange. The submission also would raise the fee the PSE charges it members from one cent for each $500 to one cent for each $300 for fraction thereof of the dollar value of the sales transacted on the exchange.

II. Self-Regulatory Organization's Statement of the purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commissions, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to conform Rule IX, Section 10(b), with the requirements of Section 31 of the Securities Exchange Act of 1934.

The proposed rule change is consistent with the requirements of the Act in that it provides for the equitable allocation of reasonable fees and other charges among members of the PSE, in accordance with Section 6(b)(4) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden 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 change were neither solicited nor received.

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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Copies of the Commission, 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. 522, will be available for inspection and copying in the Commission's Public Reference Room, 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 July 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17372 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17846; File No. SR PHLX 81-9]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Proposed rule change by Philadelphia Stock Exchange, Inc., Relating to breaches of regulations on order, decorum, health, safety and welfare on the exchange's trading floors. Comments requested on or before July 2, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 27, 1981, the Philadelphia Stock Exchange, Inc. 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

The proposed rule change would extend the applicability of the exchange's regulations relating to order, decorum, health, safety and welfare on the options trading floor ("conduct regulations") to the equity trading floor as well. The proposal further would raise the maximum fine for violations of these regulations from $100 to $500 per occurrence. finally, the submission proposes to renumber the conduct regulations from PHLX Rule 1058 to Rule 60.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to provide for the same standards of conduct on both the

Options and Equity Trading Floors and to increase the maximum assessments for violations of the Exchange's rules governing conduct on the respective Trading Floors. The proposed increase is designed to strengthen the deterrent effect of assessments. Such assessments are made pursuant to regulations which are in turn designed to ensure that the behavior of all floor personnel contributes to the efficient, orderly functioning of the market.

For the above reasons the proposed rule change is based on Sections 6(b)(6) and 6(b)(7) of the Securities Act of 1934 ("Act") which provide, in part, that the rules of the Exchange be designed to appropriately discipline its members and persons associated with its members for violation of the rules of the exchange, and provide fair procedures for the disciplinary actions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before July 16, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing 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 July 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17373 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17847; File No. SR PHLX 81-1, Amdt. No. 1]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule

Proposed rule by Philadelphia Stock Exchange, Inc., relating to appointment of specialists and market-makers allocation of securities. Comments requested on or before July 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) notice is hereby given that on June 1, 1981 Philadelphia Stock Exchange, Inc. 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

Italics indicate the words to be added.

Rule 501, Commentary .02

3. Announcement. The Committee will make an announcement in writing of the name and post location of any successful applicant and give a digest of its reasons for making the assignment.

Effective Dates

Rule 506

Rules 501 through 505 are effective upon approval by the Securities and Exchange Commission, and shall continue in effect for a period of two years from the date of such approval. Except for Rule 505, any extension of the effective date of these rules will require further approval by the Securities and Exchange Commission.

A decision by the Allocation, Evaluation and Securities Committee pursuant to the procedures set out in Rules 501 through 504 shall be valid if reached on or prior to the date of the expiration of these rules. Rule 505 shall be automatically extended for the purpose of hearing appeals from such decisions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The instant amendment is the first amendment to a proposed rule change (File No. SR-PHLX 81-1) which the Philadelphia Stock Exchange, Inc. ("PHLX") has previously filed with the Commission. Notice of the original proposal, which was submitted to the Commission on January 7, 1981, was published for public comment on February 27, 1981 (46 FR 14511) (Release No. 34-17565).

The January 7, 1981 submission proposed several rules concerning the appointment of specialists and market makers and allocation of securities. It also proposed that these rules be administered by the Allocation, Evaluation and Securities Committee ("Committee").

In its statement of the purpose of the originally proposed rule change, the PHLX detailed the purpose of its proposed rules relating to appointment of specialists and market-makers and allocation of securities. The instant amendment, which is being made at the Commission's request, requires, in Rule 501, that the Committee give written notice of the basis for a decision to assign a security to a particular specialist. It also provides, in Rule 506, that the Rules proposed in the original

submission, as amended, shall be effective for two years following Commission approval.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or recieved.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before July 16, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing 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 July 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17374 Filed 6-10-81; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Wednesday, July 8, 1981, from 2:00 p.m. to 5:00 p.m. will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act), information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives, information the disclosure of which would be likely to significantly frustrate implementation of proposed government action, and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Advisory Committee for Trade Negotiations will be closed to the public.

William E. Brock,

United States Trade Representative.

[FR Doc. 81-17298 Filed 6-10-81; 8:45 am]

BILLING CODE 3190-01-M

Advisory Committee for Trade Negotiations; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, July 8, 1981, from 2:00 p.m. to 5:00 p.m. at the Old Executive Office Building, Treaty Room. The meeting of the Advisory Committee will be closed to the public, because it will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions and with matters listed in Section 552b(c) of Title 5 of the United States Code.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

Phyllis O. Bonanno,

Director, Office of Private Sector Liaison.

[FR Doc. 81-17299 Filed 6-10-81; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Informal Airspace Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of informal airspace meeting.

SUMMARY: Notice is hereby given that a public informal airspace meeting will be held to give interested persons the opportunity to comment on the proposed joint use restricted area for Fort Devens, Massachusetts.

DATE: June 18, 1981.

Notice is hereby given that a public informal airspace meeting will be held at the B. F. Brown Auditorium, 62 Academy Street, Fitchburg, Massachusetts, on Thursday, June 18, 1981, at 7:30 p.m., to give interested persons an opportunity to submit oral or written views concerning a proposed joint use restricted area for Fort Devens, Massachusetts. The topic of discussion will be the aeronautical effects this proposal may have on the safe and efficient use of navigable airspace. Environmental issues will not be addressed at this meeting. Comments concerning environmental aspects relating to this proposal should be directed to: Department of Army Headquarters, Fort Devens, Massachusetts. 01433, Attention: Project Officer.

Comments may be submitted in writing at this meeting or within five days thereafter, addressed to the following: Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park,

Burlington, Massachusetts 01803. For further information contact Mr. David J. Hurley, Chief, Operations, Procedures and Airspace Branch, ANE-530, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7285, office hours 8:00 a.m. to 4:30 p.m.

Issued in Burlington, Massachusetts, on June 1, 1981.

David J. Hurley,

Chief, Operations, Procedures and Airspace Branch.

[FR Doc 81-17229 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-81-15]

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 July 1, 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: 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 June 3, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
21664	Air Polynesia, Inc.	14 CFR 121.371(a), 121.378, and 145.73(a)	To permit petitioner to use Air Asia (foreign repair station) to overhaul DC-3/DC-6 engines, propellers, and accessories even though the aircraft are not operated wholly or partly outside of the United States.
21735	Transcontinental Gas Pipe Line Corp	14 CFR 91.169 and Part 135	To permit the operation of petitioner's helicopters in the same manner as its large turbine-powered multiengine airplanes.
21670	Sierra Academy of Aeronautics	14 CFR 141.33(a)(3) and (b), 141.35(a)(1)(ii), and 141.79(a) and (d).	To allow petitioner to use instructors in its transport category aircraft training courses who do not hold flight instructor certificates provided they are currently employed as simulator or flight instructors with a Part 121 air carrier or, in the case of simulator instructors not so employed, meet certain minimum experience standards.The petitioner would be permitted to use chief or assistant chief flight instructors in the transport aircraft courses who do not meet the minimum qualifications for those positions and who have not taken the required flight tests prior to their designation. Finally, the exemption would permit the petitioner to use flight instructors in the approved transport aircraft training courses who have not accomplished a flight check given to them by the designated chief flight instructor prior to instructing in the courses and each 12 months thereafter. Petitioner proposes to use 121 recurrency requirements in lieu of the required flight test or, in the case of simulator instructors not employed by a Part 121 certificate holder, a simulator proficiency checkride administered by the FAA each 12 months.
20392	Pennsylvania Commuter Airlines, Inc.	14 CFR 21.197	Extension of Exemption No. 3000. The present exemption permits petitioner to obtain a special flight permit with continuing authority for aircraft maintained under a continuous airworthiness maintenance program.
21612	Barken International, Inc	14 CFR 135.89(b)(3)	To permit operation of petitioner's Learjet aircraft above flight level 350 without requiring one pilot to wear and use an oxygen mask.
21726	Executive Air Fleet Corp.	14 CFR 135.261(a)(b)	To permit petitioner to operate flights of no more than 12 hours duration using three-pilot crews.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21589	Capitol International Airways, Inc.	14 CFR 121.291(a)	To allow petitioner to commence initial DC-10 scheduled service in a 345 passenger-seat configuration without first conducting the required emergency evacuation demonstration of the full load of passengers. *Granted 6/1/81.*
20770	Accelerated Ground Training, Inc.	14 CFR 63.39(b)(2)	To allow the practical test for a Flight Engineer rating to be conducted in an FAA-approved flight simulator. *Granted 5/28/81.*
21506	Northwest Orient	14 CFR 121.433(c)	To allow the Petitioner to change its training schedule to conduct flight attendant training over an 8-month period. This will allow petitioner to complete the "hands on" training in accordance with § 121.417 utilizing their newly acquired "mock up" training aids. *Granted 5/27/81.*
21718	U.S. Aviation, Inc.	14 CFR 121.538	To allow relief from the requirement to maintain a full security program. *Granted 6/2/81.*

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21305	Balloon Federation of America	14 CFR 61.3 and 91.27	To permit foreign airmen and foreign-registered balloons to compete in the Fifth World Hot Air Balloon Championship without complying with the pilot certification and airworthiness requirements of those sections. *Granted 5/29/81.*
21344	Camas Aviation	14 CFR 135.1(b)(2)	To permit passenger sightseeing flight operation beyond the 25-statute mile limit of the same airport where the flight began and terminated. *Denied 5/29/81.*
21570	Federal Aviation Administration Technical Center	14 CFR 61.39(a)(2) and 61.65(e)(1)	To allow approximately 30 subjects enrolled in a research program, to be conducted by the FAA, to apply for an instrument rating at the end of their training without meeting the 200 hours total pilot flight time minimum aeronautical experience requirement. *Granted 5/27/81.*
21751	Reeve Aleutian Airways, Inc	14 CFR 121.538	To allow relief from the requirement to maintain a full security program. *Granted 6/1/81.*
20090	Sierra Academy of Aeronautics	14 CFR 61.157(d)(1) and 61.63(d)(2) and (3)	Extension and amendment of Exemption No. 2963. The present exemption allows petitioner's trainees to complete portions of a practical aeronautics test for a type rating in a flight simulator. The petitioner requests the exemption be amended to allow them to have the same privileges for pilot certification as a Part 121 certificate holder. *Granted 5/11/81.*
20793	Lundy Aeronautics	14 CFR 63.39(b)(2)	To allow the practical test for a flight engineer rating to be conducted in an FAA-approved flight simulator. *Granted 5/27/81.*
20901	Evergreen International	14 CFR 121.291	To permit petitioner to operate a B-747-100 aircraft in a 130 passenger-seat configuration without first conducting a full seating capacity emergency evacuation demonstration. *Granted 5/22/81.*
18238	Flugisidir, H.F., and Flying Tiger Line, Inc.	Parts 21, 43, 61, 63, 91, and 121	To amend Exemption No. 2602 to allow petitioner to substitute an aircraft for about 30 days, and to increase at any point in time the number of aircraft to three. The present exemption involves the leased aircraft and the use of minimum equipment lists. *Granted 5/28/81.*
21519	Gulf Air Transport (GAT)	§ 121.651	To permit GAT aircraft to take off and conduct instrument approaches at airports without weather condition reports issued by the U.S. National Weather Service, a source approved by that service or a source approved by the Administrator. *Denied 5/27/81.*
21775	Swift Aire Lines, Inc.	14 CFR 121.538	To allow relief from the requirement to maintain a full security program. *Granted 6/1/81.*
21781	Aeroclub De France	14 CFR 91.27(a)(1)	To permit certain foreign-registered aircraft participating in a transatlantic air race, modified to carry additional fuel and operate over the weight limits specified in their original airworthiness certificates, to enter the United States. *Granted 5/29/81.*

[FR Doc. 81-17220 Filed 6-10-81; 8:45 am]
BILLING CODE 4910-13-M

Research and Special Programs Administration

Hazardous Materials; Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes July 13, 1981.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8649-N	Burris Chemical, Inc., Augusta, GA	49 CFR 173.245	To authorize shipment of acetic acid, glacial and acetic acid (aqueous solutions) in stainless steel DOT Specification 57 portable tanks. (Mode 1.)
8650-N	Ethyl Corp, Baton Rouge, LA	49 CFR 173.354(a)(6)	To authorize shipment of motor fuel antiknock compound, poison B liquid, in portable tanks complying with DOT Specification 51 except for grain of steel and without the ASME Code stamp. (Modes 1, 2, 3.)
8651-N	Rockwell International Corp. Canoga Park, CA	49 CFR 173.145, 173.336	To authorize the transportation of nitrogen tetroxide and monomethylhydrazine in separate tanks mounted on a motor vehicle chassis. (Mode 1.)
8652-N	Catalyst Research Corp., Baltimore, MD	49 CFR 172.240, 172.243, 173.206(d)(1), (f), 175.3.	To authorize shipment of lithium-iodine cells or batteries contained in hermetically sealed metal cases overpacked in strong outside containers as essentially non-regulated. (Modes 1, 2, 3, 4.)
8653-N	Fiber Industries, Inc., Charlotte, NC	49 CFR 173.245	To authorize shipment of orthochlorophenol (OCP), classed as a corrosive liquid in DOT Specification 57 steel portable tanks. (Mode 1.)
8654-N	Isomedix Inc., Whippany, NJ	49 CFR 173.394	To authorize shipment of special form radioactive materials in DOT Specification 55 containers built after March 1975. (Modes 1, 2.)
8655-N	Western Electric Co., Greensboro, NC	49 CFR 173.352(a)(1)	To authorize shipment of a cyanide solution, n.o.s., classed as a poison B, in DOT Specification 6D steel overpack with inside Specification 2S or 2SL polyethylene container. (Mode 1.)
8656-N	Texas Nuclear Corp., Austin, TX	49 CFR 173.301, 173.302, 175.3	To authorize shipment of a radiation detection instrument containing xenon, classed as a nonflammable compressed gas. (Modes 1, 2, 3, 4, 5.)

New Exemptions—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8657-N	Celanese Chemical Co., Inc., Dallas, TX	49 CFR 173.289(a)(2)	To authorize shipment of 95% formic acid in lined aluminum DOT Specification 111A60ALW tank cars. (Mode 2.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 2, 1981.

J. R. Grothe,

Chief, Exemptions Branch Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc 81-17124 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes June 26, 1981.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1479-X	Jet Propulsion Laboratory, Pasedena, CA.	1479
4400-X	AIRCO Industrial Gases, Murray Hill, NJ.	4400
4459-X	Lil-O-Gen American Life Support Corp., Cambridge, MD.	4459
4719-X	Allied Corp., Morristown, NJ	4719
5179-X	Union Carbide Corp., Tarrytown, NY	5179
5248-X	3M Co., St. Paul, MN	5248
5248-X	The Boeing Co., Seattle, WA	5248
5662-X	Dow Chemical, Co., Midland, MI[1]	5662
5776-X	Lil-O-Gen American Life Support Corp., Cambridge, MD.	5776
5923-X	Union Carbide Corp., Tarrytown, NY	5923
6128-X	Hapag-Lloyd, Hamburg, Germany	6128
6267-X	Georgia-Pacific Corp., Montebello, CA	6267
6416-X	Allied Corp., Morristown, NJ	6416
6477-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6477
6657-X	Liquid Air Corp., San Francisco, CA	6657
6657-X	Kelsey Welding Supply Corp., New Berlin, WI.	6657
6738-X	Texas Eastman Co., Longview, TX	6738
6738-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6738
6755-X	Lincoln Welding Supply Co., Lincoln, NB.	6755
6759-X	E. I. du Pont de Nemours & Co. Inc., Wilmington, DE.	6759
6766-X	DuBois Chemical Co., Cincinnati, OH	6766
6769-X	E. I. du Pont de Nemours & Co. Inc., Wilmington, DE.	6769
7051-X	Ozark-Mahoning Co., Tulsa, OK	7051
7192-X	Air Products and Chemicals, Inc., Allentown, PA.	7192
7282-X	M-R Plastics and Coatings, Inc., Maryland Heights, MO.	7182
7413-X	Chilton Metal Products Div. Western Industries, Inc., Chilton, WI.[3]	7413
7476-X	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.[3]	7476
7526-X	Sherex Chemical Company, Inc., Dublin, OH.	7526
7555-X	Provost Cartage, Inc., Ville d'Anjou, Quebec.[4]	7555
7587-X	Makhteshim Darom, Beer Sheva, Israel.	7587
7590-X	Smith's Transfer Corp., Staunton, VA	7590
7590-X	Gordons Transports, Inc., Memphis, TN.	7590
7590-X	Ryder Truck Lines, Inc., Jacksonville, FL.	7590
7590-X	Central Freight Lines, Inc., Waco, TX	7590
7590-X	Pacific Intermountain Express Co., Oakland, CA.	7590
7590-X	Transcon Lines, Los Angeles, CA	7590
7590-X	Commercial Lovelace Motor Freight, Inc., Columbus, OH.	7590
7886-X	W. M. Barr & Co., Memphis, TN	7886
8012-X	Campagnie des Containers Reservoirs, Paris, France.	8012
8123-X	Texas Instruments, Inc., Dallas, TX	8123
8129-X	RAD Services, Inc., Laurel, MD[3]	8129
8134-X	J. T. Baker Chemical Co., Phillipsburg, NJ.	8134
8145-X	American Box Co., Fernwood, MS	8145
8171-X	Sea Containers, Inc., New York, NY	8171
8177-X	A. O. Smith-Inland, Inc., Little Rock, AK.	8177
8182-X	Fauvet-Girel, Paris, France	8182
8182-X	Societe Parisfer, Paris, France	8182
8192-X	Greif Brothers Corp., Springfield, NJ	8192
8212-X	Embassy of Switzerland, Washington, DC.	8212
8222-X	Campagnie des Containers Reservoirs, Paris, France.	8222
8235-X	Mobay Chemical Corp., Pittsburgh, PA	8235
8264-X	Hercules, Inc., Wilmington, DE[5]	8264
8265-X	Hercules, Inc., Wilmington, DE[1]	8265
8308-X	United States Priority Transport Corp., Huntington Station, NY.	8308
8554-X	E. I. du Pont de Nemours & Co. Inc., Wilmington, DE.[6]	8554
8646-X	Marshall Hyde Inc., Port Huron, MI	8646

[1] To renew and to change the guard around the safety valve from 12 inch schedule 80 to 12 inch schedule 40, pipe.
[2] To authorize passenger carrying aircraft as additional mode of transportation.
[3] To authorize poison B liquids, n.o.s. as additional commodity.
[4] To provide for an alternate resin in FRP cargo tanks construction; and to accommodate additional corrosive liquids.
[5] To amend exemption to allow co-mingling of subject packages in the same motor vehicle in a manner where ready access is not always practicable.
[6] To authorize rail as an additional mode of transportation.
[7] To authorize rail as an additional mode of transportation.
[8] To remove the restriction of private carriage from exemption.

Application No.	Applicant	Parties to exemption
4453-P	Alamo Explosives Co., Inc., Houston, TX.	4453
6530-P	MG Burdett Gas Products Co., Conshohocken, PA.	6530
6806-P	Department of Health and Human Services, Morgantown, WV.	6806
6932-P	Compagnie des Containers Reservoirs, Paris, France.	6932
7052-P	Airco Temescal, Berkeley, CA	7052
7052-P	Data/Ware Development, Inc., San Diego, CA.	7052
7259-P	FMC Corp., Philadelphia, PA	7259
7275-P	Basler Flight Service, Inc., Oshkosh, WI.	7275

Application No.	Applicant	Parties to exemption
7285-P	Compagnie des Containers Reservoirs, Paris, France.	7285
7418-P	Interpool Ltd. New York, NY 1	7418
7772-P	Compagnie des Containers Reservoirs, Paris, France.	7772
7891-P	Fisher Scientific Co., Fair Lawn, NJ	7891
7943	FMC Corp., Philadelphia, PA	7943
8265-P	U.S. Environmental Protection Agency, Washington, DC.	8265
8441-P	Magnavox Electronics Systems Co., Fort Wayne, IN.	8441
8445-P	Advanced Environmental Technology Corp., Morris Plains, NJ.	8445
8526-P	Red Star Express Lines of Auburn, Inc., Auburn, NY.	8526
8526-P	National Starch and Chemical Corp., Bridgewater, NJ.	8526
8554-P	Alamo Explosives Co., Inc., Houston, TX.	8554
8572-P	AMEX, Inc., Hayden Lake, ID	8572
8606-P	Makhteshim Darom, Beer Sheva, Israel.	8606
8613-P	Mission Petroleum Carriers, Houston, TX.	8613

1 To be added as a party to and to authorize additional flammable liquids, combustible, and corrosive liquids.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 2, 1981.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-17125 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Secret Service

Appointment of Performance Review Board (PRB) Members

This notice announces the appointment of members of Senior Executive Service Performance Review Boards in accordance with 5 U.S.C. 4314(c)(4) for the rating period beginning July 1, 1980 and ending June 30, 1981. Each PRB will be composed of at least three of the Senior Executive Service members listed below.

Name and Title

John W. Mangels—Director of Operations, Department of the Treasury
Myron I. Weinstein—Deputy Director, U.S. Secret Service
John R. Simpson—Assistant Director, Protective Operations (USSS)
Robert R. Burke—Assistant Director, Protective Research (USSS)
John W. Warner, Jr.—Assistant to the Director, Public Affairs (USSS)
William R. Barton—Assistant to the Director, Training (USSS)
Robert O. Goff—Legal Counsel (USSS)
Robert R. Snow—Deputy Assistant Director, Protective Research (USSS)
Don A. Edwards—Deputy Assistant Director, Protective Operations (USSS Uniformed Division)

FOR FURTHER INFORMATION CONTACT:
Wesley Bishop, Chief, Personnel Division, Room 912, 1800 G St., N.W., Washington, D.C. 20223, Telephone No. 202-535-5800.

H. S. Knight,

Director.

[FR Doc. 81-17246 Filed 6-10-81; 8:45 am]

BILLING CODE 4810-42-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 112
Thursday, June 11, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1, 2
Federal Election Commission	3
Federal Home Loan Bank Board	4, 5
Federal Maritime Commission	6
International Trade Commission	7
Metric Board	8
National Science Foundation	9
Nuclear Regulatory Commission	10, 11

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Cancellation 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 given that the closed meeting of the Corporation's Board of Directors scheduled for 10:00 a.m. on Tuesday, June 9, 1981, has been cancelled. No earlier notice of the cancellation of the meeting was practicable.

Dated: June 8, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-904-81 Filed 6-9-81; 11:31 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes 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 given that at its closed meeting held at 2:30 p.m. on Monday, June 8, 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 Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,815-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Community Bank, Huntington Park, California, for consent to establish a branch at 21415 Devonshire Street, Chatsworth, California.

Application of Bank of Thomasville, Thomasville, Alabama, for consent to merge, under its charter and title, with Citizens Bank, Thomasville, Alabama, and for consent to establish the sole office of Citizens Bank as a branch of the resultant bank.

Application of The Coastal Bank, Hinesville, Georgia, for consent to merge, under its charter and title, with Long State Bank, Ludowici, Georgia, and for consent to establish the sole office of Long State Bank as a branch of the resultant bank.

Request from the Board of Governors of the Federal Reserve System that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a State member bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: June 8, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-905-81 Filed 6-9-81; 11:32 am]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, June 16, 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.

* * * * *

DATE AND TIME: Thursday, June 18, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public (fifth floor).

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinions:
Draft AO 1981-23—Richard H. Magnuson, Vice President/General Counsel, Land O'Lakes, Inc.
Draft AO 1981-24—William C. Oldaker, American Federation of State, County and Municipal Employees (AFSCME)
Pending legislation
Appropriations and budget:
Budget Execution Report
Classification actions
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Majorie W. Emmons,

Secretary to the Commission.

[S-908-81 Filed 6-9-81; 3:31 pm]

BILLING CODE 6715-01-M

4

FEDERAL HOME BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 30474, Monday, June 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, June 11, 1981.

PLACE: 1700 G Street N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled for Thursday, June 11, 1981.

Application for Insurance of Accounts—Citizens Building and Loan Association Plaquemine, Louisiana

[No. 500, June 9, 1981]

[S-909-81 Filed 6-9-81; 3:48 pm]

BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 30474, Monday, June 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, June 11, 1981.

PLACE: 1700 G Street N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled for Thursday, June 11, 1981.

Monetary Control Act Reserves Counting Toward Liquidity Requirements

[No. 499, June 9, 1981]

[S-910-81 Filed 6-9-81; 3:48 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., June 16, 1981.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the 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 the public:

1. Nigeria-United States Discussion Agreement No. 10407.
2. Agreement No. 10414: PRC-USA Eastbound Rate Agreement.
3. Draft Consumer Affairs Program.

Portions closed to the public:

1. Docket No. 81-26—Agreement No. 10247-3—Australian Loading Expense Agreement—Motion to Dismiss.
2. Consideration of H.R. 2042, H.R. 3578 and H.R. 3577.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Acting Secretary.

[S-906-81 Filed 6-9-81; 11:44 am]

BILLING CODE 6730-01-M

7

[USITC SE-81-15A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 29584, June 2, 1981.

PERVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, June 9, 1981.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Alberger, Calhoun, Bedell, and Stern voted by action jacket INV-E-067 to hold a portion of the discussion with respect to item No. 5 [Investigation 731-TA-42 (Motorcycle Batteries from Taiwan) — briefing and vote] in closed session.

Commissioners Alberger, Calhoun, Bedell, and Stern determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-907-81 Filed 6-9-81; 3:05 pm]

BILLING CODE 7020-02-M

8

METRIC BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 29852, June 3, 1981.

TIME AND DATE:

9 a.m. to 5 p.m.—Tuesday, June 9, 1981 (closed session)
10 a.m. to 12 noon—Wednesday, June 10, 1981 (open session)
3 p.m. to 5 p.m.—Wednesday, June 10, 1981 (closed session)

PLACE: U.S. Metric Board, 1600 Wilson Boulevard, Suite 400, Arlington, Virginia 22209.

STATUS: Portions of the meeting will be open to the public and portions of the meeting will be closed to the public.

CHANGES IN THE MEETING: The closed session (Tuesday, June 9, 1981) is continued to 3 p.m., Wednesday, June 10, 1981. The schedule now reads: Tuesday, June 9, 1981 (closed session); 10 a.m. to 12 noon, Wednesday, June 10, 1981 (open session); 3 p.m. to 5 p.m., Wednesday, June 10, 1981 (closed session).

The noted sessions are closed under exemption 5 U.S.C. 552(c)(9)(B) because premature release of this information would have a significant adverse impact on the successful completion of the three projects under review by the Committee.

Exigent circumstances prevented the publishing of this notice earlier.

CONTACT PERSON FOR MORE INFORMATION: G. Edward McEvoy, Director of Research (703) 235-2583.

Louis F. Polk,

Chairman, United States Metric Board.

[S-903-81 Filed 6-9-81; 10:52 am]

BILLING CODE 8250-01-M

9

NATIONAL SCIENCE FOUNDATION.

DATE AND TIME:

June 17, 1981: 1 p.m. open session, 2 p.m. closed session
June 18, 1981: 8:30 a.m. closed session
June 19, 1981: 8:30 a.m. Open session (if necessary), 9 a.m. closed session

PLACE: National Academy of Sciences Summer Study Center, Woods Hole, Massachusetts.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Wednesday, June 17, 1 p.m.

1. Minutes—Open Session—Thirty-first Annual (226th) Meeting
2. Chairman's Items
3. Director's Report:
   a. Report on Grant and Conract Activity—5/20-6/16/81
   b. Organizational and Staff Changes
   c. Congressional and Legislative Matters
   d. NSF Budgets for Fiscal Years 1981 and 1982
   e. Other Items
4. Reports on Meetings of Board Committees
5. NSF Advisory Groups and Other Events
6. Other Business
7. Next Meeting National Science Board—August 20-21

Friday, June 19, 8:30 a.m.

Conclusion of Open Session (if necessary)

Matters to be considered at the closed session:

Wednesday, June,17, 1 p.m.

A. Minutes—Closed Session—Thirty-first Annual (226th) Meeting
B. Recommendations to the Administration and the Congress for Fiscal Year 1983 and Subsequent Years:

1. Science and Engineering Education

Thursday, June 18, 8:30 a.m.

B. Recommendations to the Administration and the Congress for Fiscal Year 1983 and Subsequent Years (continued):
2. Behavioral and Social Sciences
3. NSB Role in National Science Policy

Friday, June 19, 9 a.m.

C. NSB and NSF Staff Nominees
D. Appointments to Alan T. Waterman Award Committee
E. NSB Annual Reports
F. Export of Technological Data
B. Recommendations to the Administration and the Congress for Fiscal Year 1983 and Subsequent Years (conclusion):
1. Science and Engineering Education
2. Behavioral and Social Sciences
3. NSB Role in National Science Policy
4. Other

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202)357–9582.

[S-913-81 Filed 6-9-81; 3:59 pm]

BILLING CODE 7555-01-M

10

NUCLEAR REGULATORY COMMISSION.

DATE: Tuesday, June 16 and Wednesday, June 17, 1981.

PLACE: Commissioners conference room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, June 16:

10 a.m.: 1. Briefing on Criterion I in Export Licensing (closed meeting)

Wednesday, June 17:

10 a.m.: 1. Discussion of Anticipated Transients Without Scram (public meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary M. Gilbert (202) 634–1410.

June 9, 1981.

Gary M. Gilbert,

Office of the Secretary.

[S-912-81-Filed 6-9-81; 3:59 pm]

BILLING CODE 7590-01-M

11

NUCLEAR REGULATORY COMMISSION.

DATE: Week of June 8, 1981 (revision #2).

PLACE: Commissioners conference room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO CONSIDERED: Monday, June 8:

1:00 p.m.

1. Discussion and Vote on GPU Federal Tort Claim—Draft Decision (approximate 1 hour, closed meeting/final portion may be open) (as announced)

Tuesday, June 9:

10:00 a.m.

1. Briefing on McGuire Operating License (approximate 1 hour, public meeting) (as announced)
2. Discussion of McGuire Operating License (closed meeting) (as announced)

2:00 p.m.

1. Discussion and Vote on Operating License for Sequoyah-2 (public meeting) (as announced)

Wednesday, June 10:

2:00 p.m.

1. Briefing on comments on EPA-Proposed Guidance for Occupational Exposures (public meeting approximate 1½ hours), as announced)
2. Discusion and Vote on Motion for a Stay of Certain Aspects of Final Rule on Fire Protection for Operating Nuclear Power Plants (approximate 1 hour, closed meeting) (previously announced for affirmation on June 11)

Thursday, June 11:

10:00 a.m.

1. Discussion and Possible Vote on 10 CFR 60, Disposal of High-Level Wastes in Geologic Repositories: Technical Criteria (public meeting) (as announced)

2:00 p.m.

1. Briefing on Pressurized Thermal Shock (approximate 1½ hours, public meeting) (as announced)
2. Affirmation/Discussion Session (public meeting) Items to be affirmed and/or discussed:
a. Significant Changes Decision in Summer Anitrust Matter
b. Publication of Guidelines for Mgmt. of Agreement State Radiation Control Programs
c. Reporting of Changes to Quality Assurance Programs
d. Commission Review of ALAB-603, St. Lucie

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert (202) 634–1410.

Gary Gilbert,

Office of the Secretary.

June 8,1981.

[S-911-81 Filed 6-9-81; 3:59 pm]

BILLING CODE 7590-01-M

federal register

Thursday
June 11, 1981

Part II

Department of Transportation

Federal Aviation Administration

Pilot-in-Command Qualifications and Instrument Proficiency Check Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 21129; Amdt. No. 135-15]

Pilot-in-Command Qualifications and Instrument Proficiency Check Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Part 135, effective December 1, 1978, required all pilots in command to hold instrument ratings. It also required pilots to satisfactorily demonstrate instrument approach procedures using certain navigational facilities. These requirements are unduly restrictive for some certificate holders. This amendment provides that pilots are not required to hold instrument ratings when operating in day, visual flight rule conditions in certain isolated areas when conducting air taxi or commercial operations. It also provides that only those instrument procedures which the certificate holder desires to be used are required to be demonstrated. This amendment reduces burdens on certain air taxi and commercial operators and is therefore consistent with Executive Order 12291 and the Regulatory Flexibility Act.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn M. Sidwell, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

§ 135.243 Pilot-in-Command Qualifications.

An amendment was adopted on September 26, 1978, which revised the requirements for operations by persons holding Air Taxi/Commercial Operators Certificates and required all pilots in command to hold instrument ratings. Section 135.10(c) originally required compliance with this requirement by June 1, 1979.

Following publication of the revised Part 135, the FAA received numerous petitions for exemption from the instrument rating requirement. In addition, several inquiries were received from members of Congress who were seeking information for constituents who wanted relief from the instrument rating requirement. The majority of these requests for relief were from certificate holders who conduct on-demand charter operations in remote areas which are located in the northern United States. Almost all of the requests were from seaplane operators conducting day VFR operations that carry hunting or fishing groups to isolated locations or provide cargo service to small, isolated settlements which lack access to other commercial transportation means. In virtually all instances, these operators serve areas that are so remote there are no navigation facilities suitable for use. Because of the absence of these facilities and the day VFR nature of the operations, their aircraft are not equipped for instrument flight operations. Consequently, they use pilots who do not hold instrument ratings. However, these pilots are highly experienced and are thoroughly familiar with the terrain, alternate landing areas, and weather patterns in the area of operations.

In response to the situation, Amendment No. 135-1, effective May 7, 1979, (44 FR 26737) extended the compliance date of the instrument rating requirement until December 1, 1980. This action was taken to provide time for the FAA to restudy this requirement and possibly adopt changes regarding its scope.

Notice 80-23 (45 FR 80450), Miscellaneous Amendments, was issued on November 28, 1980. This notice proposed changes to numerous sections of the FAR. Most of the proposals were clarifying, editorial, or corrective in nature. However, one proposal involved changing the Part 135 pilot-in-command requirements to allow pilots to conduct flights during the day under VFR in certain isolated areas without holding an instrument rating. The closing date for comments was February 4, 1981.

Amendment No. 135-9 (45 FR 80460), effective December 1, 1980, further extended the compliance date for the instrument rating requirement to February 1, 1981, to allow the agency adequate time to consider alternatives and determine a course of action.

§ 135.297 Pilot in Command: Instrument Proficiency Check Requirement.

When Part 135 was revised, the pilot-in-command instrument proficiency check requirements were modified. Under that revision, § 135.297 requires each pilot in command to demonstrate satisfactorily at least one instrument approach procedure using an instrument landing system (ILS), a very high frequency omnirange station (VOR), and a nondirectional radio beacon (NDB). Some air taxi certificate holders contend that the revised requirement is too restrictive. For example, some certificate holders state they have no need to use ILS facilities and that the nearest ILS facility is located a significant distance from the certificate holder's operations base. It is argued that the present rule requires unreasonable expenditures of aircraft and pilot operational expense to demonstrate proficiency on a facility which is not used by some certificate holders.

Notice 80-23 proposed that only those instrument approach procedures which the certificate holder desires to use are required to be demonstrated.

Discussion of Comments

§ 135.243 Pilot-In-Command Qualification.

The FAA has reviewed the necessity for an instrument rating in light of comments received from Notice 80-23. It has concluded that it is appropriate to amend the present regulation to allow certain pilots in command operating under Part 135 to operate under day, visual flight rule conditions into isolated areas or settlements without having an instrument rating. A new paragraph (d) is added to § 135.243 to implement this amendment.

Notice 80-23 stated that § 135.243(b)(3), which requires an instrument rating, would not apply to nonstop flights between the certificate holder's main base and seaplane landing area or the return flight, subject to specific limitations. After considering comments which indicate that the proposal is too restrictive, the rule is amended to apply to single reciprocating-engine-powered airplanes, including seaplanes, skiplanes, and landplanes. In addition, the FAA has determined that the nonstop flight requirement is unnecessary and is deleted.

Section 135.243(d)(2) prohibits certain scheduled operators and mail carriers, such as commuter air carriers, from using pilots in command without instrument ratings. No comments were received on this proposal and it is adopted as proposed.

Notice 80-23 proposed that it would not be necessary for a pilot in command in a Part 135 operation flying under day VFR conditions to have an instrument rating when there is no VOR or NDB facility within 40 nautical miles of the certificate holder's main base, the destination, or straight-line course between the main base and destination. In response to the notice, one

commenter states that aircraft that are used in day, VFR operations are not required to be radio equipped, making such a proposal useless. Another commenter took issue with the 40-nautical-mile stipulation stating that although a facility may be within the 40-nautical-mile range, it does not necessarily mean that it can be useful on trips to these isolated areas or settlements.

Three other commenters object to this requirement since they could operate in these areas within 40 nautical miles of the facilities and still not receive a reliable signal due to the nature of the terrain. These commenters feel that climbing to any altitude to get a reliable signal would be time consuming and, at today's cost, would result in substantial loss of business. These flights would be especially impacted since they are of such short duration. The FAA reevaluated this aspect of the proposal and concludes that the requirement concerning the VOR and NDB facility is too restrictive and the rule is amended by deleting this requirement. It was proposed as a means of expressing in objective terms the concept that isolated areas ordinarily do not have radio navigational aids.

The FAA has decided that the certificate-holding Flight Standards district office should determine whether the area to be served is an isolated area since it is familiar with areas within its jurisdiction. Accordingly, § 135.243(d)(3) is added which states that the area, as specified in the certificate holder's operations specifications, is an isolated area as determined by the certificate-holding Flight Standards district office if it is shown that the primary means of navigation in the area is by pilotage, since radio navigational aids are largely ineffective, and the primary means of transportation in the area is by air. Before approving the area as an isolated area, the Flight Standards district office ascertains that the entire operation, that is, takeoff, en route travel, and landing, will be conducted within the area.

Section 135.243(d)(4) provides that pilots in command not holding instrument ratings may operate within isolated areas during day, VFR conditions with a ceiling of not less than 1,000 feet and visibility not less than 3 statute miles. Two commenters propose that the visibility restriction be changed to 1 statute mile visibility and that the flight be conducted clear of all clouds since most operations are in noncontrolled airspace. The FAA disagrees. Section 135.205(a) prohibits operations under VFR in uncontrolled airspace when the ceiling is less than 1,000 feet and flight visibility is less than 2 statute miles. This applies to all operations under Part 135. The FAA sees no reason to lessen this requirement. The 3-mile visibility minimum is necessary because it would allow noninstrument-rated pilots additional time to maneuver to alternate landing areas in the event of deteriorating weather in the isolated area. Therefore § 135.243(d)(4) is adopted as proposed.

Section 135.243(d)(5) is adopted as proposed in the notice. This provides that an operation may be conducted when weather reports or forecasts, or any combination of them, indicate that for the period commencing with the planned departure and ending 30 minutes after the planned arrival at the destination, the flight may be conducted under VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 statute miles. However, if weather reports or forecasts are not available, the pilot in command may use that pilot's observations or those of other persons competent to supply weather observations if those observations indicate the flight may be conducted under VFR with the ceiling and visibility required in this paragraph.

One commenter interprets the proposal to mean that all weather briefings and forecasts must come from local General Aviation District Office (GADO) facilities rather than Flight Service Stations or local forecasting facilities. This interpretation is incorrect. This rule does not change the provisions of § 135.213(a) regarding weather reports and forecasts. These reports and forecasts are not available at GADO's. The provisions for weather reports and forecasts are incorporated in § 135.243(d)(5) to ensure the proper preflight planning to conduct the flight during VFR weather conditions with a ceiling of not less than 1,000 feet and visibility of not less than 3 statute miles. The use of pilot observations or those of other persons competent to supply weather information may also be used when the official reports and forecasts are not available.

Proposed § 135.243(d)(7) limited the distance of each flight from departure point to destination to 250 nautical miles for a pilot in command who holds a commercial pilot certificate with an airplane category rating issued before February 1, 1973, without an instrument rating, or 50 nautical miles in the case of a pilot in command who holds a commercial pilot certificate with an airplane category rating issued after January 31, 1973, without an instrument rating. However, some commercial pilot certificates were issued without instrument ratings and without mileage limitations after February 1, 1973, in accordance with §§ 61.1 and 61.71. The FAA determined that these pilots should be included in the amendment. The amendment allows operation where the distance of each flight from the certificate holder's base of operation to destination does not exceed 250 nautical miles by a pilot who holds a commercial pilot certificate with an airplane rating without an instrument rating, provided that pilot's certificate does not contain any limitations to the contrary.

Two commenters state that the 250-nautical-mile restriction on distances is acceptable since pilots cannot possibly be familiar with areas outside this limit. Two other commenters disagree and feel that the distance restriction should be relaxed since initial certification training requires longer flights. One commenter asks if 250 nautical miles is good, why not 300 miles or 400 miles? The FAA recognizes that some commenter may believe that a limitation other than 250 miles may be more appropriate. However, it is clear that some limit must be given in this rule. No commenter provided quantitative data to support any other mileage limitation. The 250-nautical-mile limit is approximately 2 hours flight time in the airplanes used in these operations. Operations conducted within this limitation would minimize the effects of rapidly changing weather conditions and more likely result in the pilot in command having sufficient knowledge of the area of operations. The FAA has determined that limiting flights to 250 nautical miles from the certificate holder's base of operations provides an acceptable level of safety. A base of operation can be the certificate holder's main base or one or more bases established at the locations more convenient to the isolated area to be served. The approval of the certificate-holding district office is necessary before establishing or changing the area of operation. Proposed § 135.243(d)(7) is redesignated § 135.243(d)(6) to provide a more logical listing and is adopted with the changes discussed.

Section 135.243(d)(7) (proposed (d)(6)) allows pilots in command to operate without the instrument rating when the areas to be flown are approved by the certificate-holding FAA Flight Standards district office and are listed in the certificate holder's operations specifications. Notice 80-23 proposed approval of routes to be flown. One commenter states that approval on every individual route is impractical due to the numerous routes connected with on-demand charter operations. The FAA

would be unable to approve each route in on-demand operations since these could involve thousands of different variations. Another commenter states that all deviations from the instrument rating rule should be handled by the local GADO. The FAA concludes that the certificate-holding office should have approval authorization of these operations and should approve specific areas of operations subject to review by the regional office. In addition, while Notice 80-23 did not specify what method was to be used for approval of operations by the FAA, it is determined that the areas of operation should be listed in the certificate holder's operations specifications. Therefore, proposed § 135.243(d)(6) is redesignated § 135.243(d)(7) and is adopted with these changes.

§ 135.297 Pilot in Command: Instrument Proficiency Check Requirements.

§ 135.297(b) provides that only those instrument approach procedures which the certificate holder desires to use are required to be demonstrated. Thus, each certificate holder would determine from the characteristics of its operation which procedures it needs. This amendment relaxes requirements and provides the air taxi operator flexibility in electing the kinds of approaches authorized. The certificate holder may elect to use only one kind of approach or several, whatever suits its operation. Safety is maintained by requiring the certificate holder to provide initial and recurrent training for each type of approach to be used. This ensures that each pilot receives flight training to proficiency, as specified in § 135.341(a), on each type of procedure to be used. Therefore, the proposed requirement that training for all instrument approach procedures to be used by the certificate holder should be included in the certificate holder's initial and recurrent training program is repetitive and is deleted. The operator is issued operations specifications which contain the instrument approach procedures authorized.

One commenter opposes the change because, by virtue of the type of flying conducted, an operator will be executing instrument approaches to many different navigational aids. The commenter contends that by allowing an operator to select only those approaches that would normally be used in its operation, it is conceivable that a pilot could be forced to execute an approach he or she is not authorized to use because the kind of approach the pilot planned to use was out of service at the destination. This proposal was initiated because of numerous certificate holders located at airports where an ILS/NDB is not available and a substantial cost is involved in demonstrating ILS, NDB, and VOR approaches. The amendment provides flexibility in the rule. Operators will have to plan IFR flights carefully to handle the possibility of a facility being out of service.

The previous rules required each pilot in command to demonstrate satisfactorily at least one instrument approach using an ILS, a VOR, and an NDB facility before a letter of competency is issued to that pilot authorizing IFR operations. Some air taxi certificate holders contend that the requirement is too restrictive, especially if they have no need to use these approaches and the nearest facility is located a significant distance from a certificate holder's base of operations.

To ensure an adequate level of safety, § 135.297(b) allows a pilot to use only those precision approach procedures satisfactorily demonstrated. To use any nonprecision instrument approach procedure, a pilot is required to demonstrate satisfactorily that procedure or any other two nonprecision instrument approach procedures. One commenter was unsure as to the identification of nonprecision approaches. Examples of nonprecision approaches are localizer, localizer (back course), VOR, VOR-DME, NDB, and ASR.

As proposed in Notice 80-23, § 135.297(h) is deleted. The certificate holder is required by § 135.63 to maintain records showing the qualifications of its pilots and to designate operations its pilots are authorized to conduct. This includes the types of instrument approach procedures and facilities authorized and pilot-in-command autopilot authorization. Therefore, § 135.297(h) is not needed. Section 135.297(a) is modified to delete the requirement for a letter of competency.

Economic Analysis

The FAA conducted an economic impact study to determine the benefits and costs of the pilot-in-command qualifications and instrument proficiency check requirement revisions for Part 135 certificate holders. The study is included in the regulatory docket for this final rule.

The FAA found that both industry and the FAA would be affected by the regulatory changes. Expected benefits are cost savings. These cost savings include lower fuel expenses resulting from fewer required instrument training and instrument check flights. Costs include the potential operator's insurance premium reductions if affected pilots had their instrument ratings and the additional FAA workload necessary to issue appropriate operations specifications to operators using pilots without instrument ratings. Neither the FAA nor the industry would incur any additional costs as a result of the changes to the rules on instrument proficiency checks. Finally, the FAA found that the impact on the U.S. economy will be extremely small. The number of certificate holders affected by the changes is small in comparison with the total number of certificate holders. However, the regulatory changes could result in significant time and cost savings to those individuals affected by the pilot-in-command revisions. Therefore these revisions carry out the intent of the Regulatory Flexibility Act by reducing the regulatory burden for essentially small air taxi operators which provide unique service to remote areas of the United States.

To determine the economic impact of the changes to the instrument rating requirement of § 135.243, the FAA surveyed its regional offices and reviewed requests for extension of the compliance date. As a result of the survey, the FAA concludes that there are no more than 100 pilots who would be affected by this rule. Cost savings to the pilots were estimated by multiplying the average number of additional hours of training required for them to obtain instrument ratings by the average training cost per hour, and adding to that total the present value of the potential revenue loss resulting from not being able to fly without an instrument rating. Industry costs are potential operator insurance premium reductions if affected pilots obtained instrument ratings. An operator must pay a risk insurance premium for pilots without instrument ratings. A survey of aviation insurers indicates that operators' insurance premiums would be reduced if they utilize pilots holding instrument ratings. Industry costs were estimated by multiplying the insurance premium risk differential by the number of affected pilots. The present value of these costs was determined because industry costs will accrue each succeeding year an operator uses a pilot without an instrument rating. These costs represent a "worst" case. Actual industry costs may be lower. FAA costs were estimated by calculating the administrative costs required to issue an operations specification and multiplying this figure by the approximate number of Part 135 operators who would request such an action. A major portion of the cost to the FAA would be offset by not

having to process petitions for exemption. The operator's costs to prepare for and travel to a meeting at the certificate-holding Flight Standards district office to get an operations specification were assumed to be insignificant and much less than the cost savings they would accrue.

To calculate the economic benefits of the pilot-in-command instrument proficiency check requirement revisions, the FAA first estimated the percentage of the total certificated commercial pilots who would not have to demonstrate ILS, VOR, and NDB approaches. It estimated that a maximum of 10 percent of the total certificated commercial pilots would be in this category. For the purpose of this analysis, the FAA judged the ILS proficiency check as the most likely check to be foregone. In many cases, an ILS is very far from an affected operator's base. The cost savings to affected operators will result from eliminating the expenses for aircraft operation and pilot time needed for an instrument proficiency check. The present value of the cost savings was determined because an ILS check is required twice a year and a certificate holder who elects not to use ILS approaches will not only accrue cost savings in the year the revision becomes effective but also in each succeeding year. In addition, FAA would save the cost of the administrative time used to perform and rate an instrument proficiency check.

The results of the FAA economic study demonstrate that the savings to affected Part 135 operators, pilots, and Federal Government will exceed any costs incurred in implementing either rule. These savings are summarized in the following table:

Summary of the Present Value of the Economic Impact of Part 135 Pilot-In-Command Revisions

	Benefits	Costs
PIC qualification:		
Industry	$450,000	$127,200
Government		2,500
Total	450,000	129,700
PIC instrument check:		
Industry	3,208,210	
Government	326,895	
Total	3,535,105	

The Amendement

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended as follows, effective June 11, 1981.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. By amending § 135.243 by adding a new paragraph (d) to read as follows:

§ 135.243 Pilot-in-command qualifications.

* * * * *

(d) Paragraph (b)(3) of this section does not apply when—

(1) The aircraft used is a single reciprocating-engine-powered airplane;

(2) The certificate holder does not conduct any operation pursuant to a published flight schedule which specifies five or more round trips a week between two or more points and places between which the round trips are performed, and does not transport mail by air under a contract or contracts with the United States Postal Service having total amount estimated at the beginning of any semiannual reporting period (January 1-June 30; July 1-December 31) to be in excess of $20,000 over the 12 months commencing with the beginning of the reporting period;

(3) The area, as specified in the certificate holder's operations specifications, is an isolated area, as determined by the Flight Standards district office, if it is shown that—

(i) The primary means of navigation in the area is by pilotage, since radio navigational aids are largely ineffective; and

(ii) The primary means of transportation in the area is by air;

(4) Each flight is conducted under day VFR with a ceiling of not less than 1,000 feet and visibility not less than 3 statute miles;

(5) Weather reports or forecasts, or any combination of them, indicate that for the period commencing with the planned departure and ending 30 minutes after the planned arrival at the destination the flight may be conducted under VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 statute miles, except that if weather reports and forecasts are not available, the pilot in command may use that pilot's observations or those of other persons competent to supply weather observations if those observations indicate the flight may be conducted under VFR with the ceiling and visibility required in this paragraph;

(6) The distance of each flight from the certificate holder's base of operation to destination does not exceed 250 nautical miles for a pilot who holds a commercial pilot certificate with an airplane rating without an instrument rating, provided the pilot's certificate does not contain any limitation to the contrary; and

(7) The areas to be flown are approved by the certificate-holding FAA Flight Standards district office and are listed in the certificate holder's operations specifications.

2. By amending § 135.297 by removing paragraph (h) and by revising paragraphs (a) and (b) to read as follows:

§ 135.297 Pilot in command: Instrument proficiency check requirements.

(a) No certificate holder may use a pilot, nor may any person serve, as a pilot in command of an aircraft under IFR unless, since the beginning of the 6th calendar month before that service, that pilot has passed an instrument proficiency check under this section administered by the Administrator or an authorized check pilot.

(b) No pilot may use any type of precision instrument approach procedure under IFR unless, since the beginning of the 6th calendar month before that use, the pilot satisfactorily demonstrated that type of approach procedure. No pilot may use any type of nonprecision approach procedure under IFR unless, since the beginning of the 6th calendar month before that use, the pilot has satisfactorily demonstrated either that type of approach procedure or any other two different types of nonprecision approach procedures. The instrument approach procedure or procedures must include at least one straight-in approach, one circling approach, and one missed approach. Each type of approach procedure demonstrated must be conducted to published minimums for that procedure.

* * * * *

(Secs. 313(a) 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—The FAA has determined that this regulation relaxes requirements for certain operators. It therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant regulation" under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The regulatory evaluation contained in the docket shows that this rule relieves an economic burden on certain small entities. A copy of the evaluation may be obtained from the person indentified under the caption "For Further Information Contact."

Issued in Washington, DC, on May 11, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-17300 Filed 6-10-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
June 11, 1981

Part III

Department of Transportation

Federal Highway Administration

Motor Carriers; Minimum Levels of Financial Responsibility

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-94; Amdt. No. 81-3]

Minimum Levels of Financial Responsibility for Motor Carriers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document establishes minimum levels of financial responsibility for for-hire motor carriers of property involved in interstate or foreign transportation and for motor carriers transporting hazardous materials in intrastate or interstate commerce, in accord with the provisions of Section 30 of the Motor Carrier Act of 1980, and further provides for the implementation and enforcement of the standards set forth.

DATE: The rule is effective on July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety (BMCS), (202) 426-9767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA has determined that this document is a major proposal under Executive Order 12291 and that this rulemaking action is considered to be significant under the DOT's regulatory policies and procedures. The requirement to conduct a regulatory impact analysis prior to promulgation was waived by OMB since their review found this final regulation consistent with the principles of Executive Order 12291. A regulatory evaluation and a regulatory flexibility analysis are available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the program office at the address specified above.

Background

On July 1, 1980, the President signed the Motor Carrier Act of 1980, Pub. L. 96-296. Section 30 of the Act prescribes that minimum levels of financial responsibility be set for for-hire motor carriers of property involved in interstate or foreign transportation and for the transportation of hazardous materials in intrastate and interstate commerce. The Act limits the applicability of these requirements to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

The Act establishes minimum dollar levels of financial responsibility that must be met by affected persons 1 year from the date of enactment of the Act unless the Secretary of Transportation issues regulations that require higher or lower levels.

The Secretary's authority to reduce those levels is limited. The statute generally precludes the Secretary from reducing the minimum levels below specified levels and generally provides that the authority to impose reduced levels applies only to a period of up to 2 years beginning either on (1) the effective date of the rule, provided that the rule is made effective within 1 year after enactment, or (2) the 366th day after enactment, provided that the rule is made effective 1 year after enactment or later. The period of time is herein referred to as a 2-year "phase-in period."

The purpose of the financial responsibility provisions of the Motor Carrier Act of 1980 is to create incentives for the motor carrier industry to focus on the safety aspects of highway transportation and to assure the general public that a motor carrier maintains an adequate level of financial responsibility sufficient to satisfy claims covering public liability and environmental restoration liability. The legislative history of Section 30 indicates a congressional belief that increased financial responsibility will lead to improved safety performance as unsafe motor carriers will incur higher premiums than safe carriers, or will be unable to obtain coverage. The Congress expected that motor carriers which maintain high levels of safety would be evaluated in a favorable light by insurance or surety companies. Since generally the premiums that insurance or surety companies actually charge are directly related to the insured motor carrier's record of loss experience, the minimum levels of financial responsibility for public liability, property damage, and environmental restoration required in the Act should initiate a new and major focus on motor carrier safety.

The BMCS published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on Thursday, August 28, 1980 (45 FR 57676). An errata notice appeared in the September 8, 1980, issue of the **Federal Register** (45 FR 59177) to correct two words that originally appeared on 45 FR 57676. The ANPRM set forth a series of 23 questions for the purpose of gathering information aimed at assisting the FHWA in the promulgation of reasonable and comprehensive regulations in the area of motor carrier financial responsibility and in the development of a report for the Secretary of Transportation to submit to Congress. Responses to the ANPRM numbered 114 and represented segments of the motor carrier industry, including representative associations, as well as the insurance industry and its representative associations, State insurance commissions, Federal government agencies, and other interested persons.

A Notice of Proposed Rulemaking (NPRM) was subsequently published in the **Federal Register** on Monday, January 26, 1981 (46 FR 8186). The NPRM discussed the comments on the ANPRM, asked for responses to 11 specific questions concerning intercorporate hauling and tow truck operations, and set forth proposed rules for minimum levels of financial responsbility for motor carriers. Approximately 345 responses to the NPRM were received from a wide variety of respondents as shown below.

1. Motor carriers
2. Motor carriers of hazardous materials
3. Shipper associations
5. Independent owner-operators
6. Transportation consultants
7. Insurance companies
8. Insurance associations
9. Insurance consultants
10. Trucking associations
11. Leasing companies
12. Government agencies
13. U.S. congressional representatives
14. Hazardous materials manufacturers
15. Other interested persons

The following is a discussion of the final rule.

Purpose, Scope and Applicability (§§ 387.1 and 387.3)

These rules apply only to motor vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or more. Congress, in subsection (f) of section 30 of the Motor Carrier Act of 1980, specifically exempted vehicles weighing less.

The minimum levels of financial responsibility, covering public liability, property damage, and environmental restoration liability, applies to for-hire motor carriers operating motor vehicles transporting nonhazardous property in interstate or foreign commerce. The term "for-hire motor carrier" includes motor carriers operating under certificates of permits issued by the Interstate

Commerce Commission (ICC), certain motor carriers involved in intercorporate hauling, which is discussed further below, and for-hire motor carriers that are exempt from the ICC's economic regulations (49 U.S.C. 10523, 10525, and 10526). It was the intent of Congress to exclude intrastate transportation and private carriage from these requirements when transporting nonhazardous materials (H.R. Rept. 96–1069, p. 43).

The NPRM stated, "the legislative history of section 30 indicates a congressional belief that increased financial responsibility will lead to improved safety performance as unsafe motor carriers will incur higher premiums than safe carriers, or will be unable to obtain coverage." Numerous commenters took exception to the congressional belief stated above. The American Insurance Association (AIA) whose membership, it claims, writes 41 percent of all motor carrier coverage, made the following statements which generally sum up the position taken by the other respondents.

"The congressional belief is not substantiated by the facts. Individual insurers can refuse to voluntarily provide coverage based on objectively poor accident history, financial instability or failure to meet prescribed safety standards. However, all motor carriers have access to insurance. Every jurisdiction provides for the assignment of risks through a residual market mechanism (commonly referred to as assigned risk plans) * * * It must be emphasized that anyone, regardless of accident history or financial stability, must be provided insurance protection for the limits and coverages required by law. There are only two conditions that would preclude coverage through a residual market plan:

—Failure to maintain a valid operator's permit; and

—Failure to pay premium.

Based on this factual observation, the congressional belief that motor carriers will be unable to obtain coverage is incorrect.

"The second premise of congressional intent was that 'unsafe carriers will incur higher premiums.' This belief, likewise, is not factual in all instances. All rate levels upon which premiums are based in the residual market are subject to the *prior approval* of the individual State insurance regulators.

"In several states the residual market rate levels are competitive with or lower than the voluntary market rate level. (For example, in New Jersey the residual market rate level is 20.4% below that of the ISO (Insurance Services Office); in New York 9.5% below; in Virginia 20.6% below; in Wisconsin 17.2% below.) Whether politically or socially motivated, the residual market rate level is artificially depressed, resulting in a real world situation that is not attune with the congressional belief."

No comments were received to contradict this statement. It should be noted, however, that the majority of the State residual market rate levels are higher than those of the voluntary market. Thus it is believed that there is some incentive, though perhaps to a lesser degree than originally contemplated, that will lead to improved safety performance. Subsection (e) of Section 30 requires the Secretary to submit a report to Congress upon the regulations issued under section 30. This concern will be addressed in that report.

The Travelers Insurance Companies, in a comment received on April 13, maintained that section 30(b)(3)(B) granted to the Secretary the authority to reduce, for any amount of time, the amount of financial responsibility which must be maintained in the case of any vehicle transporting nonbulk hazardous material in intrastate commerce, if the Secretary finds that such reduction will not adversely affect public safety. The Travelers stated its belief that no Federal financial responsibility requirement should be imposed on this class of carrier.

We agree that the Act does grant the Secretary the authority to reduce, for any amount of time, the amounts of financial responsibility required for the intrastate carriage of nonbulk hazardous materials. The Congress was concerned that the Secretary exercise the authority granted under section 30(b)(3)(B) so, "* * * that local operations dealing with only small quantities of hazardous materials will not be unduly burdened." (H.R. Rept. 96–1069, page 44.) The Department is also concerned that many persons who fall into this category have never before been subject to Federal regulation (farmers, plumbers, paint store dealers, florists, and the like). While this class would include motor carriers who may or may not be subject to State regulation, the class also contains large numbers of "private" carriers. This latter group, we note, would share many of the characteristics of private carriage noted in the discussion regarding intercorporate hauling located elsewhere in this statement (i.e., nontransportation assets which serve as an incentive to operate safely and as a source for compensation). The large majority of States prescribe minimum levels of financial responsibility for the operation of motor vehicles. Such requirements would be applicable to the intrastate carriage of nonbulk hazardous materials. In a few States (5 States and the District of Columbia according to BMCS' information), no levels of financial responsibility applicable to commercial motor vehicles have been established. However, it can be assumed that in such States the lack of such a requirement has been an affirmative action on the part of those States representing their assessments that the public safety in their State is assured in other ways.

It is therefore believed that, as to intrastate carriage of nonbulk hazardous materials, existing State laws and requirements adequately protect the public safety in those States and variations amongst such State requirements reflect the considered judgments of the respective State legislatures. Consequently, it has been decided to use the authority under section 30(b)(3)(B) to effectively exempt intrastate carriers of nonbulk hazardous materials from this rule.

It is recognized, however, that this issue was raised late in the rulemaking process and, due to the constraints of time imposed by the Motor Carrier Act, has not been the subject of additional public participation. The Bureau, therefore, specifically solicits comments, data, and information on:

1. Whether intrastate carriers of nonbulk hazardous materials should be required to maintain federally established minimum levels of financial responsibility.

2. If so, what levels should be established for such carriers?

3. Should differing classes of intrastate carriers be treated differently?

4. If so, what distinctions (for-hire vs. private carriage, regulated vs. nonregulated, subject to State requirements vs. not so subject) should form the basis for differing treatment?

5. Any other comments bearing on the Secretary's exercise of the authority provided by section 30(b)(3)(B).

Comments and information received in response to this request will be incorporated, as appropriate, in the Secretary's report to the Congress pursuant to section 30(e) and will also be used to determine whether a new rulemaking action should be initiated to assure the public safety while further assuring, ". . . that local operations dealing with only small quantities of hazardous materials will not be unduly burdened." (H.R. Rept. 96–1069, page 44.)

Definitions (§ 387.5)

As used in this part, there are 15 definitions included in these rules. A

few of them require the presentation of background information in order to understand fully the underlying rationale of the definitions.

Several commenters, representing the interests of the insurance industry, suggested the addition of three definitions that were not proposed in the NPRM. The commenters stated that definitions of the word *"accident"*, and the terms *"bodily injury"* and *"property damage"* were needed to clarify the intent of the required endorsement (Form MCS-90). These definitions have been added to the final rule.

Cancellation of insurance—The definition remains the same as it was proposed in the NPRM. However, it should be noted that the required endorsement (Form MCS-90) may be canceled without canceling or terminating the policy of insurance. (See discussion of § *387.7* below)

Endorsement—An endorsement is an amendment to a policy of insurance. The endorsement is a prescribed form (Form MCS-90) and must be attached to the policy of insurance and be maintained at the motor carrier's principal place of business. The NPRM would required motor carriers to secure a single endorsement for the liability amounts set forth in these rules in order to satisfy the requirements of these rules. The proposed language effectively precluded aggregation of the required amounts of financial responsibility by motor carriers. Several commenters argued that to disallow aggregation would be a disservice to the motor carriers as well as to many of the insurance companies serving them. Their rationale included the following points:

1. Paragraphs (d)(1) and (d)(2) of Section 30 of the Motor Carrier Act of 1980 clearly place the responsibility for maintaining adequate amounts of financial responsibility coverage on the motor carrier. Allowing aggregation would go a long way toward reducing the burden of the regulation by leaving to negotiation, between the motor carrier and the insurance industry, how the motor carrier will secure the full amount of financial responsibility required.

2. Many small and medium-sized insurance companies who now provide coverage for regulated or private carriers are either unable or unwilling to certify large dollar amounts of coverage.

3. Several States limit the amount of coverage that a company may write to 10 percent of the company's surplus (policy holder premium retention). Aggregation would allow insurance companies with surpluses between $10 and $50 million to continue to write coverage for motor carriers not hauling highly hazardous materials and would allow them to provide a first layer of coverage for carriers of highly hazardous materials.

4. If a substantial number of insurance companies withdraw from the motor carrier market because they are either unable or unwilling to provide limits up to $5 million (the amount of coverage required by statute for the carriage of highly hazardous materials after July 1, 1983), many of the smaller motor carriers currently insured voluntarily by small insurance companies may be forced to seek coverage from the involuntary market (assigned risk plans). The involuntary market is subsidized by the voluntary market and the subsidy must be passed through in the form of higher costs for motor carriers insured voluntarily, and ultimately to the public.

5. Allowing aggregation will keep many small and medium-sized insurance companies in the motor carrier marketplace, thereby enhancing competition.

The arguments presented have merit and no arguments to the contrary were received. Therefore, section 387.7(d)(1) of this part has been changed, as has been the endorsement, to allow aggregation of the required amounts of financial responsibility.

The NPRM gave notice that the BMCS and the ICC were working closely in an attempt to develop both an endorsement form and a surety bond form that could be used by both agencies, the insurance companies, and the various States with no disruption in their methods of operation. It was further stated that should the proposed modifications be adopted, no additional paperwork would be required when initiating a new filing of a policy of insurance for a motor carrier operating under ICC authority.

The endorsement that appeared in the NPRM contained the following language—

> The Company certifies that the insured has represented that the transportation operations conducted are adequately described under subparagraph — above and that said insured has a policy in force in single limit amounts of at least $.

The ICC would not accept such language in the proposed endorsement form or in the proposed surety bond form. It is their contention that language of this nature limits the public's protection. The ICC further stated:

> The provision serves no purpose except to limit an insurance company's liability in instances where there is a dispute as to the amount of insurance required for the actual operation of the carrier in contrast to the amount of insurance in the policy based upon the carrier's description of its operations. * * * The purpose of the endorsement is to give full security for the protection of the public up to the limits prescribed. The public should be permitted to rely upon the protection of the endorsement.

As stated previously, paragraphs (d)(1) and (d)(2) of Section 30 of the Motor Carrier Act of 1980 clearly place the responsibility for maintaining adequate amounts of financial responsibility coverage on the motor carrier. Clearly stating what the insurer's limit of liability will be in the endorsement will not mitigate the protection afforded the public in any way. Continuing the ICC policy of holding the insurer responsible, irrespective of the motor carrier's action, would be tantamount to regulating the insurance industry. Clearly, we do not have that authority. Further, Congress established a "tiered" system to require various levels of financial responsibility based on commodities transported by the motor carrier. The commenters representing the insurance industry have made it very clear that without a limiting clause in the endorsement and surety bond form, they would have no choice but to write policies of insurance and surety bonds at the maximum level of $5 million and refuse to underwrite any lesser amount. This action would effectively negate the congressional intent to "tier" the required coverage and would create an economic hardship on the small motor carriers and small insurance companies. Language limiting the insurer's liability will, therefore, appear on both the endorsement and the surety bond.

Environmental restoration—Commenters to the docket representing insurance companies and insurance associations took exception to the proposed definition that appeared in the NPRM. The AIA submitted comments which were endorsed by most of the respondents from the insurance industry. Its statement is as follows:

> The definition in the current rulemaking is all encompassing and overlaps the current protection afforded motor carriers. Coverage currently provides for "bodily injury" (defined as bodily injury, sickness or disease and includes death resulting from any of these) and "property damage" (defined as damage to or loss of use of tangible property). We believe that the addition of liability for "environment restoration" is intended to clarify that coverage. The current protection covers damage to natural resources, e.g. the oil spill is cleaned up. The definition advanced in the rulemaking would have environmental restoration afford protection for: loss of income, impairment of earning capacity, out-of-pocket medical expense, burial costs, and damage to real or personal property—all of which are encompassed in

bodily injury damage. The rulemaking would create a new liability system. Environmental restoration must be a coverage that falls within the purview of the current liability systems; it must not create the liability * * *.

The definition of environmental restoration should be limited to provide coverage "to restore the environment." The term environment (as defined by Webster) means "the complex of climatic, edaphic (of or relating to the soil), and biotic factors that act upon an organism or an ecological community and ultimately determine its form and survival." The intent of environmental restoration is to clarify protection of those natural resources that affect and determine the course of living creatures.

The comments submitted have merit and are reflected in the revised definition. Additionally, it is believed that Congress intended "environmental restoration" liability coverage to be limited to restitution for the loss, damage or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, water course or body of water of *any commodity transported by a motor carrier.*

Several commenters voiced concern about the interrelationship of Section 30 of the Motor Carrier Act of 1980 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (Pub. L. 96–510) (Superfund). The commenters were fearful of the potential for duplication and stacking of limits under both Acts. Section 108(b)(5) of Pub. L. 96–510 clearly precludes that possibility with the following language:

> The requirements for evidence of financial responsibility for motor carriers covered by this Act shall be determined under Section 30 of the Motor Carrier Act of 1980, Pub. L. 96–296.

For-hire carriage—The NPRM proposed to subject intercorporate hauling of property to the requirements of these rules applicable to for-hire carriage of nonhazardous materials regardless of whether such intercorporate hauling would be regulated by the ICC. (The carriage of hazardous materials is subject to section 30(b) without regard to whether it be by for-hire or private carriage.) Section 9 of the Motor Carrier Act of 1980 exempts from ICC regulation intercorporate hauling by one member of a corporate family for another member of that family when each member is 100 percent owned by the parent, provided the parent corporation notifies the ICC of its intent to provide such transportation, a notice to that effect is published in the Federal Register, and a copy of such notice is carried in the cab of all vehicles conducting such transportation.

In response to the ANPRM, the Private Carrier Conference, Inc., (PCC) of the American Trucking Associations, Inc. commented that intercorporate hauling between corporations with 100 percent common ownership should be considered private carriage for the purposes of section 30 of the Motor Carrier Act of 1980. This comment, as well as the reasons for our proposal, were discussed in detail in the NPRM (46 FR 8186, 8188). The PCC has not responded to the NPRM. However, other comments have been received on this subject. The National Industrial Traffic League (NITL) and the Private Truck Council of American (PTCA) both opposed the inclusion of this type of intercorporate hauling under the coverage of these rules. Essentially, PTCA repeats the arguments offered by the PCC and discussed in the preamble to the NPRM. These arguments are based primarily on its reading of the legislative history of section 9 of the Act.

The Bureau's view of the relevant legislative history has been set out in the NPRM and on this point remains unchanged. It is the position of the Bureau that the legislative history of section 9 makes clear that intercorporate hauling should be treated as private carriage for purposes of ICC regulation, but that the section does not address the issue of DOT safety regulation. Section 9 *does not* state that intercorporate hauling *is* private carriage, simply that such carriage is not subject to ICC regulation. In fact, section 9 requires intercorporate haulers to take certain actions in order to avail themselves of the exemption which private carriers need not take to avoid ICC regulation.

Other commenters including the American Trucking Associations, Inc. and the International Brotherhood of Teamsters, as well as a number of insurance companies, supported the proposal to include such intercorporate hauling under these rules. In fact, these latter commenters suggest that all private carriage should be included under these rules. Section 30(a) of the Motor Carrier Act of 1980 clearly precludes the inclusion of strictly private carriage. However, it is believed that intercorporate hauling which had been considered by the ICC as for-hire carriage prior to enactment of the Motor Carrier Act of 1980 and which now is exempted from ICC jurisdiction pursuant to an express provision in the Motor Carrier Act (section 9), should be, and was intended to be, covered by DOT's safety regulation under section 30. In this regard, we note that the Department's safety jurisdiction and the Federal Motor Carrier Safety Regulations (49 CFR Parts 390–399) promulgated under that jurisdiction extend to private carriage.

It is believed that Section 30(a)(1) was intended to apply equally to for-hire and intercorporate hauling situations. Clearly the scope of section 30 is beyond that which is regulated by the ICC. Notice, in point of fact, that section 29 of the Motor Carrier Act specifically provides that the ICC retains jurisdiction with respect to insurance over ICC regulated carriers; however the ICC is precluded from requiring levels of financial responsibility which are less than those established by the Secretary of Transportation pursuant to the provisions of section 30. It is believed that the legislative history of section 30, as discussed more fully in the NPRM indicates the intent of the Congress that the financial responsibility requirements established pursuant to section 30 should reach broadly. It was the intent of the Congress that section 30 should serve to prevent a deterioration in safety which some had argued would occur as a result of the freer entry permitted under the Motor Carrier Act. As a remedial legislative measure section 30 should be interpreted broadly.

Furthermore, it is believed that it is equitable to treat intercorporate hauling similarly to for-hire carriage. This will serve to keep these two segments of the industry on a relatively equal footing in this one respect. The NITL indicates that there is a strong policy consideration suggesting that section 30(a) should not be applied to "compensated intercorporate hauling." This argument appears to be based upon the example of cargo liability. The point appears to be that Federal requirements in that area are unnecessary because the "carrier" is carrying for itself and can best guard against cargo loss. Section 30 does not deal with cargo liability and the public to be protected shares no such special relationship with any segment of the industry whether injured by a for-hire, private, or intercorporate carrier. The NITL's assertion that "these firms (intercorporate haulers) already carry insurance coverages in the normal operation of their business, just as private carriers carry the necessary insurance," is not supported by the NITL submission and does not address the problem discussed below.

The Bureau's view is that there is a stronger policy consideration for the purposes of section 30, in treating intercorporate hauling similar to for-hire carriage rather than to private carriage. In the instance of a public liability insurance requirement it must be

remembered that there is an important distinction between carriage by one member of a corporate family for another member of that corporate family and carriage by a division of a company for that company.

Private carriage is that carriage performed by a nontransportation service entity. In the case of private carriage, liability which may attach to the entity as a result of a commercial motor vehicle accident could be satisfied from the nontransportation assets of the entity. In the instance of intercorporate hauling, the entity has divided itself into separate corporate entities. Regardless of the other beneficial reasons for adopting such a structure, one result, in some instances, could be to shield the parent and other subsidiaries from liability for the claims against the transportation unit. In this regard, intercorporate hauling is more like for-hire carriage than private carriage. For this reason, the Bureau's position is that there is a stronger policy argument in the area of public liability insurance for maintaining that intercorporate hauling should be treated as for-hire carriage rather than private carriage.

Lastly, with respect to policy considerations, the Bureau notes that as a safety matter it is irrelevant whether a commercial motor vehicle is owned and operated by a for-hire carrier, an intercorporate hauler, or a private carrier. While section 30(a) is clear that its provisions do not extend to private carriers, section 30(e) of the Act specifically requires the Secretary to report to the Congress making recommendations with respect to the need for further legislation related to financial responsibility. While the Secretary has not yet completed this report nor formulated any recommendations to accompany it, the issue of the private carriage exemption will be addressed. The analysis above, however, may well explain why Congress exempted private carriage from the requirements of section 30(a). It is the position of the Bureau in this rulemaking simply to state that, as currently drafted, and given the current information available to the Bureau, it makes more sense to treat intercorporate haulers as for-hire carriers rather than private carriers.

In bulk—To eliminate any misunderstanding of the term *"in bulk"*, the proposed interim definition of *"in bulk (except Class A and B explosives)"* now means the transportation, as cargo, of property in containment systems with capacities in excess of 3,500 water gallons. This change now coincides with the language of Section 30 and the intent of the Congress. The term *"in bulk (Class A explosives)"* has been interpreted to include Class B explosives as well, and the interim definition has been eliminated. The potential danger presented by both Class A and Class B explosives is well known. The DOT's hazardous materials regulations require that motor vehicles transporting either class of explosives, in any quantity, be placarded. In line with this rule and in the interest of satisfactorily protecting the public, the term *"in bulk (Class A and B explosives)"* will mean the transportation, as cargo, of any Class A and B explosive(s) in any quantity.

Public liabilty—The definition as proposed in the NPRM has been changed to encompass the necessary and reasonable protection required under the Act for bodily injury, property damage, and environmental restoration. By redefining the term *"public liability"* as it now appears in the rule, the intent of the required endorsement (Form MCS–90) is made clear.

Financial Responsibility Required (§ 387.7)

Congress clearly mandated that no motor carrier subject to the Act will operate a motor vehicle until the motor carrier as obtained and has in effect the minimum levels of financial responsibility as required by the Secretary.

The NPRM rules would have required simultaneous cancellation of the endorsement (Form MCS–90) and the policy to which it is attached. This requirement has been deleted from the final rule to ease the burden on private motor carriers who may cease transporting hazardous materials for any of several reasons (e.g., a private motor carrier may cease to manufacture or process the hazardous materials or the motor carrier may hire another motor carrier for that part of its transportation needs). In those situations, a private motor carrier would no longer be subject to the rules of this part and, therefore, would no longer need the endorsement, but it may possibly still need a policy of insurance or surety bond to comply with State requirements.

The NPRM also proposed a 30-day cancellation period to commence to run on the day that such notice is received by either party. The NPRM proposed the 30-day cancellation period based on the reporting requirements of the ICC. The ICC requires that an insurer file a cancellation notice with it, and that the 30-day cancellation period not commence until the notice is received by the ICC. This method serves as a source of verification of receipt. In comments received on the NPRM, and at a public meeting held with representatives of the insurance industry, it was suggested that a 35-day cancellation period be used. Since the BMCS has no reporting requirements such as the ICC's and only the insurer and the motor carrier are affected, the 35-day, rather than the 30-day, notice period is a reasonable alternative. The extra 5 days should guarantee, in most cases, that the notice is received 30 days prior to cancellation. As a reasonable protection to the insured and the insurer, a statement has been added that proof of mailing will be sufficient proof of notice.

Exception. The rule allows the motor carrier the right to obtain adequate coverage for a finite period of time (e.g. coverage by binder) to cover any lapse in continuous compliance without triggering the 35-day cancellation requirement. This will afford assurance that the public is protected.

Policies of insurance and surety bonds may be replaced by other policies of insurance or surety bonds. The liability of the retiring insurer or surety, as to events after the termination date, shall be considered as having terminated on the effective date of the replacement policy of insurance or surety bond or at the end of the 35-day cancellation period. It is felt that this will give motor carriers greater latitude to shop the insurance marketplace for better rates and/or services while still affording adequate protection to the public.

The regulations require that an endorsement(s) (discussed above) be attached to a policy of insurance for the purpose of providing notice to the general public that all criteria of Section 30 have been met.

A surety bond (Form MCS–82) could be obtained in lieu of a policy(s) of insurance and the required insurance endorsement(s) (Form MCS–90). The endorsement(s) and the surety bond form will alleviate the oftentimes confusing translation and interpretation of an insurance policy of surety bond because they provide a clearly written single page verification of the motor carrier's coverage. Additionally, it is believed that this requirement will not create a significant paperwork burden on the insurance industry, as it is estimated that the time required for an insurer to complete either the endorsement form or the surety bond form will be approximately 3 minutes. An estimated 200,000 carriers will come under these new regulations; of those, approximately 30 percent will, for one reason or another, cancel their policies or bond in any given year. Therefore, an

estimated 260,000 endorsements will be generated in the first year. Based on this formula, it is estimated that approximately 13,000 burdenhours will be required of the insurance industry to complete the paperwork requirements of this regulation.

The proof of financial responsibility, whether it be an endorsement(s) attached to a policy of insurance, or a surety bond, will be required to be maintained at a motor carrier's principal place of business. This proof must be available to the public for review upon reasonable request. Such availability meets the intent of Congress to provide protection to the public. It will also provide the assurance needed by an owner-operator leasing a motor vehicle to the motor carrier that the minimum levels of financial responsibility have been met by the motor carrier.

Financial Responsibility, Minimum Levels (§ 387.9)

The NPRM proposed a sliding schedule of limits based on the number of power units controlled by a motor carrier. That is, small carriers (those with four or fewer power units) were initially scheduled to be responsible for the lowest limits as prescribed in the Act for the first year. During the second year, it was proposed that these levels be adjusted upward to an intermediate level. At the end of the two-year phase-in period the limits mandated in the Act would be required.

The rationale for proposing that small carriers be allowed a graduated phase-in over two years was threefold:

1. In the Motor Carrier Act, the Congress directed the Secretary to consider the impact of the regulation on small businesses;

2. Congress recently passed the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980; 5 U.S.C. 601 et seq.) which provides for a more flexible regulatory approach for small businesses; and

3. Comments received from small motor carriers and small insurance companies indicated that they would be forced out of business if faced with the highest limits immediately.

It was also indicated in the draft regulatory evaluation and the initial regulatory flexibility analysis that medium and small insurance companies may be forced to drop the business of underwriting liability coverage for motor carriers if the higher limits are imposed as of July 1, 1981. The primary reason for withdrawing from this area of underwriting would be the inability to secure sufficient reinsurance treaty protection at the higher limits. Also, certain States have requirements that preclude an insurance company from underwriting coverage in excess of 10 percent of its surplus (policyholder premium retention). These requirements might greatly curtail participation of medium and small insurance companies in the underwriting of motor carrier insurance.

As proposed in the NPRM, large motor carriers (those with five or more power units) were scheduled to carry the maximum limits as prescribed in the Act from the onset. The comments received from the large motor carriers in response to the ANPRM indicated that acquiring the coverage to meet the highest limits would present no problems nor would it cause a disruption of services. This proposal was further justified by comments received from the large insurance companies who initially indicated that they would have no problem providing the highest limits.

One commenter who took exception to the belief that the insurance industry could easily handle, from the onset, the highest limits was the AIA. In its comments, the AIA indicated that time was needed to prepare for the potential surge of new motor carriers requiring new limits of financial responsibility. It further explained that the two year phase-in was needed to make it possible for the insurance industry to move in the most orderly fashion possible toward meeting the coverage requirements of motor carriers with the smallest possible impact on either the motor carrier or insurance industries.

Comments filed in response to the NPRM indicated that, upon further research, the large insurance companies found that the impact may be greater than they had originally anticipated. In the comments received from the majority of large insurers, it is evident that there is a great deal of concern as to what impact the highest limits, if required, would have upon their industry.

The primary concern expressed by almost all insurance companies and representative associations was the need for more time to deal with the administration of the new regulations. It was made clear that the proposed regulation created confusion by differentiating between small and large motor carriers on the basis of the number of power units operated. Potential insurers stated that they would be unable to know on a daily basis whether an insured motor carrier has rented, leased or hired an extra power unit to meet some special demand of the business. In some cases the use of an extra power unit would change the motor carrier's status from small to large and would in turn increase the financial responsibility coverage required five-fold, from $1 million to $5 million in some instances. In response to this particular confusing issue, most insurance companies indicated that they would be forced to write policies for the highest limits so as to protect themselves from the unknown changes in their insured's status.

It was also requested by the insurance industry that the minimum statutory limits be adopted for the full two year period to minimize exposure from possible errors and omissions and to allow the industry time to establish operating parameters that would be within the scope of the Act.

Less than 10 percent of the trucking industry's 72 comments received in response to the NPRM generally favored the proposed schedule of limits. The American Trucking Associations Inc. (ATA) was among those favoring the proposed limits with the exception of the lowered limits for small carriers. In its comments, the ATA strongly urged the adoption of the highest limits for all carriers regardless of size. This argument was based upon several factors. The primary basis for their contention was the results of a questionnaire sent to 501 motor carriers in an effort to determine current insurance practices. A majority of the respondents to the survey indicated that they already have coverage equal to or greater than the highest limits prescribed by the Act.

The ATA also stated the belief that reduction of the statutory limits could affect the public safety and that such a reduction is not needed to prevent a serious disruption in transportation service. Finally, the ATA went on to point out that it is not a question of fleet size when an accident occurs on the highways, because generally only one of a motor carrier's vehicles is involved in each occurrence. As indicated in the comments from both the insurance and the motor carrier industries, the proposal to differentiate between large and small carriers did not meet with favorable response.

Due consideration was given to whether lowering the limits would affect the public safety, as suggested by the ATA. It was determined that, if any limits above the minimums were required and the insurance industry, as they have stated, could not provide the coverage, one of two things would happen: either, (1) many motor carriers would be forced out of business, or (2) they would risk driving without coverage. The latter is certainly not in the interest of public safety.

Consideration was also given to the question of whether a reduction of limits would prevent a serious disruption in transportation service. Based on the comments from the insurance industry and many small carriers (other than those in the ATA survey) it is evident that the implementation of any limits above the minimums would indeed have a serious affect on transportation service since the insurance industry is unable to provide the coverage and the small carriers maintain that they could not afford it.

It is deemed both reasonable and responsible to establish limits the insurance industry will be able to provide and motor carriers, large and small, will be able to afford. With all things considered, primarily the public safety, as intended by the Congress, the limits established by this rulemaking action will generally be the lowest levels permitted by the Act, for the full two-year phase-in period. By establishing the lowest limits, the public will be afforded protection which is substantially greater than required in the past by either the ICC or any of the individual States, and access to that coverage will be more affordable to motor carriers which will prevent a serious disruption in transportation service. Finally, by establishing the lowest limits, more insurance companies will be able to provide the required coverage and this in turn will afford the motor carriers a greater marketplace in which to shop for coverage.

Hence, for the first and second year, motor carriers, depending upon the commodity transported, will be required to maintain the levels as set forth in the Schedule of Limits (§ 387.9).

A lengthy discussion concerning the minimum levels of financial responsibility required for tow truck operators was presented in the NPRM. It was proposed at that time that the appropriate level of financial responsibility would depend upon the type of cargo in or on the disabled vehicle at the time of towing. The Interstate Towing Association responded to the NPRM clearly stating that tow truck operators would have no choice but to refuse to tow vehicles transporting hazardous materials because they would be unable to afford the coverage required. It is apparent that it would not be in the interest of the public safety to allow a disabled vehicle which contains a hazardous material to sit idle on the roadside if tow truck operators refuse to remove it. As stated in the NPRM, tow truck operations, by their very nature, must be considered "emergency services." A tow truck performing such an emergency service typically operates with warning lights flashing and at a relatively slow rate of speed. In the interest of public safety it has been determined that tow truck operators, in the act of removing a vehicle from the roadway, regardless of the cargo in or on the vehicle being towed, will be considered to be transporting property (nonhazardous), and will be required to maintain the levels of financial responsibility set forth for that category in the Schedule of Limits.

The subject of the transportation of small quantities of hazardous materials has been raised in comments by the National Oil Jobbers Council (NOJC) and the American Fertilizer Institute (AFI). They expressed concerns about small motor carrier operations such as farmers hauling nurse tanks and the "mom and pop" operations, who for the most part transport hazardous materials in cargo tanks with capacities of less the 3,500 water gallons. Under the proposed rules, these operations would have been required to maintain the highest levels of financial responsibility. It was made clear in the comments that these small operations could not bear the expense of the highest limits. In addition to the comments, the AFI submitted data which revealed that the accident history of the small farm service operations is not indicative of a need for the highest limits.

In response to the needs of these small operations, it has been decided to revise the definition of "*in bulk*" which can be found in Section 387.5. This revision will not affect public safety and will prevent a serious disruption in transportation service as it relates to these groups.

Congress directed the Secretary to establish minimal levels of financial responsibility sufficient to satisfy liability amounts covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (named by the Secretary) by motor vehicle in interstate or intrastate commerce. The House Committee on Public Works and Transportation provided specific guidance to the Secretary in its report to the Whole House (H.R.Rept. 96–1069, p. 44). The Committee is quoted below:

> With respect to the hazardous materials not subject to the $5,000,000 minimum, the minimum level of financial responsibility that can be established by the Secretary is $1,000,000. The Committee wants to emphasize its strong belief that many of these hazardous materials should also be subject to at least a $5,000,000 minimum, especially hazardous materials in bulk. However, the Secretary was given the discretion to set the minimum level as low as $1,000,000 in recognition of the fact that some of the materials on the Department's hazardous materials list may not require a $5,000,000 minimum. For instance, the list included burlap bags and charcoal briquettes. These are examples of items which would not appear to require a $5,000,000 minimum, especially when not transported in bulk.

It is clear that Congress intended the Secretary to name many hazardous materials, not mentioned in subsection (b)(2) of section 30, and require a $5 million minimum for them when transported in bulk. Because of the limited time available and the substantial amount of time needed to review the thousands of hazardous materials however, the Secretary has decided that these materials will be subject to the $500,000/$1 million minimum until specific commodity determinations can be made, if necessary, to require different levels of coverage. The Department solicits information identifying any hazardous materials which, because of their risk or hazard, should be required to carry different limits of liability coverage.

Finally, the definition of oil has been clarified in the Schedule of Limits (§ 387.9) to make clear that the oils which are covered by category (3) of the schedule are those oils which, because of the risk or hazard they pose, appear in the Department's Hazardous Materials Table located at 49 CFR 172.101.

Qualifications (§ 387.11) (Deleted)

The NPRM contained a proposal that would allow a motor carrier to be a self-insurer. It also contained a proposal that would allow a motor carrier to use "other securities or agreements" to satisfy the financial responsibility requirements of Section 30 of the Motor Carrier Act of 1980 so long as those securities or agreements would afford the security for the protection of the public contemplated by the Act.

The language regarding "other securities or agreements" used in the NPRM was taken from the rules and regulations promulgated by the ICC and currently in effect (49 CFR 1043.5). The legislative history of the Interstate Commerce Act has been researched as has that of the Motor Carrier Act of 1980. No mention of what was meant by "other securities or agreements" was made in the legislative histories of either Act. It is also interesting to note that since the inception of the ICC rule covering this area, no motor carrier has applied for consideration of "other securities or agreements" to satisfy the

financial responsibility requirements of the ICC. In view of the above, it has been decided that applications for approval of "other securities or agreements" will not be accepted.

The alternative of self-insurance to obtaining a policy of insurance (even one with a high deductible) or a surety bond has raised special problems. The principal problem is how to guarantee payment of unspecified liabilities for at least 5 years in the future. It is not uncommon for complex personal injury or environmental restoration claims to take up to 5 years to pass through all available legal processes prior to payment. In fact, relatively small damage claims may take 2 years from the time they are filed until they are settled and paid.

When a person obtains self-insurance authority the public has no protection for any outstanding claims if that person should subsequently encounter financial difficulty. In order for the government to ensure that a change in a self-insurer's financial condition does not pose a possibility that injured parties will go uncompensated as a result of such a change, the government would have to undertake periodic audits and require certain reporting or filings, in addition to the initial application. This is what is, in fact, done by State insurance commissions, which currently grant self-insurance authority for much lower levels of financial responsibility and by surety companies in the analogous situation of writing surety bonds.

There is evidence that well-known entities can encounter financial reversals within a 5-year or shorter period. Most, if not all, of these companies were able to obtain credit months or several years prior to encountering dire financial trouble. A governmental agency cannot be expected to predict future solvency more efficiently than major lending institutions, stock brokers, and investors.

It must be recognized that a self-insurer is, in effect, operating as an insurance company. This means, among other things, that the self-insured motor carrier must set aside substantial claims reserves *and* establish a claims handling capability within the company. When the extensive controls, safeguards and regulations existing for insurance companies are acknowledged, the problems inherent with self-insurance become obvious.

At this time it might be well to mention the difference between "self-insurance" and "self-retention." When "self-insurance" is involved, there is no security for the protection of the public other than the self-insured's financial strength, whereas "self-retention" involves a motor carrier and its insurer agreeing between themselves that the motor carrier will be responsible for claims up to an amount specifically agreed upon. In effect, this is a large deductible. However, the insurer does issue the prescribed regulatory form and, accordingly, is fully liable for all claims to the public. This is a very common practice for large motor carriers, and is permitted by these rules.

Another major item to be reviewed when considering self-insurance is the saving of substantial monies. The ICC has considered this whenever reviewing a self-insurance application. Unless a motor carrier could present evidence that self-insurance would produce substantial savings, any request for self-insurance approval would be refused. A motor carrier is required by the ICC to demonstrate that it thoroughly analyzed all other available avenues of insurance or surety programs. Examples of these programs would be the use of a high deductible or an open-end retrospective plan with a very low minimum and a very high maximum. Such programs would allow a motor carrier to handle the bulk of its own claims, yet the insurer would make any required filings *at no extra charge.* In such instances, self-insurance authority would provide no savings to the motor carrier. Conversely, it is felt that there may be no need for Federal involvement in this area.

Surety bonds are also available for motor carriers with good financial statements who desire to process their own claims. The premium, or service charge, assessed by surety companies for these bonds is nominal in relation to the total claim expenditures. However, the saving of a bond premium only would be insufficient justification to grant self-insurance authority and jeopardize the public's protection afforded by the surety bond.

The ICC has granted a limited number of motor carriers the authority to self-insure. It is interesting to note that such authority is for a limited amount per claim, with a requirement that the motor carrier maintain excess insurance for claims above the self-insured's retention. Also of interest is the fact that no such self-insured has a retention at or above the minimum limits of liability required by these rules. It is also important to note that the evidence of excess insurance filed with the ICC is not made via a regulatory form but rather via an insurance company form of certificate of insurance. Such a certification provides only limited protection to the public as all the policy limitations, exclusions, and conditions are applicable unlike a regulatory form of certification.

Section 30 of the Act does refer to the possible use of self-insurance as a means of compliance with it. The BMCS is afraid that the implementation of a self-insurance program will require substantial commitment of resources over and above what is currently available. Further, it is believed that a number of viable alternatives exist which would adequately safeguard the public while providing motor carriers with considerable flexibility.

It is recognized that self-insurance could be a viable alternate way of providing the required levels of financial responsibility. In response to question No. 10 of the ANPRM, regarding self-insurance, most of the commenters did not offer definitive information concerning the criteria that should be used when considering a self-insurance application. Most commenters agreed that the BMCS should be "conservative" in approving applications for self-insurance. None favored voluntary compliance. Most favored a requirement that self-insurers deposit securities. The BMCS, therefore, specifically solicits comments, data, and detailed information concerning this matter. Answers to the following specific questions are sought.

1. Considering the economic conditions that must be faced by motor carriers today, is self-insurance a viable alternative to "pure" insurance, self-retention, or surety bonds?

2. Specifically, what criteria should be used in considering an application for self-insurance (e.g., net worth, cash flow, liquid assets, current and long term liabilities, claims handling capability, costs involved in the administration of a self-insurance program, etc.)?

3. Is the deposit of securities or irrevocable letters of credit necessary to successfully administer a self-insurance program that will adequately protect the public? Please explain.

4. If security deposits are considered necessary, are there any legal or technical problems likely to be encountered by the Government when accepting such security deposits?

5. What mechanisms and structures might be developed to successfully implement and administer a self-insurance program?

6. What audit procedures should be established, both for financial statements and claims handling, including adequacy of reserves?

7. Can specific examples of self-insurance programs be cited that would

be applicable to the needs of the motor carrier industry and would satisfy the intent of section 30 of the Act?

Comments and information received in response to this request will be incorporated, as appropriate, in the Secretary's report to the Congress pursuant to section 30(e) and will also be used to determine whether a new rulemaking action should be initiated.

State Authority and Designation of Agent (§ 387.11)

The regulations state that a policy of insurance or surety bond will only satisfy the financial responsibility requirements of this part if the insurer or surety furnishing the policy or bond is:

(a) legally authorized to issue such policies or bonds in each State in which the motor carrier operates;

(b) legally authorized to issue such policies or bonds in the State in which the motor carrier has its primary place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding of law or equity brought in any State in which the motor carrier operates; or

(c) legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

The only change to the proposed rules is the addition of subparagraph (c) of this section. It is the Department's view that the inclusion of insurers authorized by any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written will enlarge the marketplace in which motor carriers will be able to purchase the required coverage. Additionally, it allows those insurers the opportunity to enter the motor carrier insurance market.

Forms (§ 387.15)

Endorsements for policies of insurance (Form MCS–90) and surety bonds (Form MCS–82) may be in the form prescribed in the two attachments. Both forms may specify that coverage thereunder will remain in effect continuously until terminated and may be issued in the exact name of the motor carrier. Both forms are currently under review by the Office of Management and Budget according to the Paperwork Reduction Act of 1980. Final action on these forms by OMB is expected by July 1, 1981.

The BMCS recognizes the problem that the insurance industry will have in trying to get the required endorsements into the hands of its motor carrier clients. Time is needed to satisfy the endorsement requirement. In view of this, the BMCS does not intend to enforce the requirement that motor carriers have the endorsement(s) attached to their policies of insurance for 90 days from either the effective date of July 1, 1981 or the date OMB approves the forms, whichever is later.

It should be understood that this is in no way a relaxation of the minimum levels of financial responsibility. All motor carriers must have the required minimum levels of financial responsibility as of July 1, 1981.

The DOT believes that good cause exists for not providing 30 days notice prior to the effective date of this rule. Section 30 of the Motor Carrier Act of 1980 provides that certain minimum levels of financial responsibility will be required of motor carriers on July 1, 1981 unless the Secretary has established different levels by then. These statutory limits are higher than those prescribed in this rule. The trucking and insurance industries would encounter serious hardship if they were to be required to obtain and provide one level of financial responsibility on July 1, 1981 and another level soon thereafter. As stated above, the Bureau does not intend to enforce the requirement that motor carriers have the required endorsements attached to their policies of insurance for 90 days. This policy should substantially mitigate the impact of this rule becoming effective July 1, 1981.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Subtitle B, Chapter III is amended by establishing a new Part 387 as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on June 8, 1981.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

Part 387 is added to read as follows:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Sec.

387.1 Purpose and scope.
387.3 Applicability.
387.5 Definitions.
387.7 Financial responsibility required.
387.9 Financial responsibility, minimum levels.
387.11 State authority and designation of agent.
387.13 Fiduciaries.
387.15 Forms.
387.17 Violation and penalty.

Authority: Sec. 30, Pub. L. 96–296, 94 Stat. 793; Sec. 108(b)(5), Pub. L. 96–510, 94 Stat. 2767; 23 U.S.C. 315; 49 CFR 1.48 and 301.60.

§ 387.1 Purpose and scope.

This part prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of property operating motor vehicles in interstate, foreign, or intrastate commerce. The purpose of these regulations is to create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

§ 387.3 Applicability.

(a) This part applies to for-hire motor carriers operating motor vehicles transporting property in interstate or foreign commerce.

(b) This part applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate or intrastate commerce.

(c) *Exception.* (1) The rules in this part do not apply to those motor vehicles that have a gross vehicle weight rating (GVWR) of less than 10,000 pounds.

(2) The rules in this part do not apply to the transportation of nonbulk oil, hazardous materials, substances, or wastes in intrastate commerce.

§ 387.5 Definitions.

As used in this part—*Accident*—includes continuous or repeated exposure to the same conditions resulting in public liability which the insured neither expected nor intended.

Bodily injury—means injury to the body, sickness, or disease including death resulting from any of these.

Cancellation of insurance—the withdrawal of insurance coverage by either the insurer or the insured.

Endorsement—an amendment to an insurance policy.

Environmental restoration—restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health,

the natural environment, fish, shellfish, and wildlife.

Evidence of security—a surety bond or a policy of insurance with the appropriate endorsement attached.

Financial responsibility—the financial reserves (e.g., insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this part covering public liability.

For-hire carriage—transportation of property by motor vehicle except when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of, the person.

In bulk—the transportation, as cargo, of property, except Class A and B explosives and poison gases, in containment systems with capacities in excess of 3,500 water gallons.

In bulk (Class A and B explosives)—the transportation, as cargo, of any Class A or B explosive(s) in any quantity.

In bulk (poison gas)—the transportation, as cargo, of any poison gas in any quantity.

Insured and principal—the motor carrier named in the policy of insurance, surety bond, endorsement, or notice of cancellation, and also the fiduciary of such motor carrier.

Insurance premium—the monetary sum an insured pays an insurer for acceptance of liability for public liability claims made against the insured.

Motor carrier—a common, contract, or private carrier of property by motor vehicle.

Property damage—damage to or loss of use of tangible property.

Public liability—liability for bodily injury or property damage and includes liability for environmental restoration.

§ 387.7 Financial responsibility required.

(a) No motor carrier shall operate a motor vehicle until the motor carrier has obtained and has in effect the minimum levels of financial responsibility as set forth in § 387.9 of this part.

(b)(1) Policies of insurance, surety bonds, and endorsements required under this section shall remain in effect continuously until terminated. Cancellation may be effected by the insurer or the insured motor carrier giving 35 days' notice in writing to the other. The 35 days' notice shall commence to run from the date the notice is mailed. Proof of mailing shall be sufficient proof of notice.

(2) *Exception.* Policies of insurance and surety bonds may be obtained for a finite period of time to cover any lapse in continuous compliance.

(c) Policies of insurance and surety bonds required under this section may be replaced by other policies of insurance or surety bonds. The liability of the retiring insurer or surety, as to events after the termination date, shall be considered as having terminated on the effective date of the replacement policy of insurance or surety bond or at the end of the 35 day cancellation period required in paragraph (b) of this section, whichever is sooner.

(d) Proof of the required financial responsibility shall be maintained at the motor carrier's principal place of business. The proof shall consist of—

(1) and "Endorsement(s) for Motor Carrier Policies of Insurance for Public Liability Under Section 30 of the Motor Carrier Act of 1980" (Form MCS-90) issued by an insurer(s); or

(2) a "Motor Carrier Surety Bond for Public Liability Under Section 30 of the Motor Carrier Act of 1980" (Form MCS-82) issued by a surety

(e) The proof of minimum levels of financial responsibility required by this section shall be considered public information and be produced for review upon reasonable request by a member of the public.

§ 387.9 Financial responsibility, minimum levels.

The minimum levels of financial responsibility referred to in § 387.7 of this part are hereby prescribed as follows:

Schedule of Limits—Public Liability

[Freight vehicles with gross vehicle weight rating of 10,000 pounds or more]

Type of carriage	Commodity transported	Single limit requirement	
		July 1, 1981	July 1, 1983
(1) For hire	Property (non-hazardous)	$500,000	$750,000
(2) For hire and private	Hazardous substances, as defined in 49 CFR 171.8 and designated by the letter E in the first column of the Hazardous Materials Table found at 49 CFR 172.101, transported in cargo tanks, portable tanks, or hopper-type vehicles with capabilities in excess of 3,500 water gallons; or in bulk Class A and B explosives, poison gas (Poison A), liquefied compressed gas, compressed gas, or large quantity radioactive materials as defined in 49 CFR 173.389.	1,000,000	5,000,000
(3) For hire and private	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above.	500,000	1,000,000

§ 387.11 State authority and designation of agent.

A policy of insurance or surety bond does not satisfy the financial responsibility requirements of this part unless the insurer or surety furnishing the policy or bond is—

(a) Legally authorized to issue such policies or bonds in each State in which the motor carrier operates; or

(b) Legally authorized to issue such policies or bonds in the State in which the motor carrier has its principal place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

§ 387.13 Fiduciaries.

The coverage of fiduciaries shall attach at the moment of succession of such fiduciaries.

§ 387.15 Forms.

Endorsements for policies of insurance (Illustration I) and surety bonds (Illustration II) must be in the form prescribed by the BMCS and approved by the OMB. Endorsements to policies of insurance and surety bonds shall specify that coverage thereunder will remain in effect continuously until terminated, as required in § 387.7 of this part. The endorsement and surety bond shall be issued in the exact name of the motor carrier.

§ 387.17 Violation and penalty.

Any person (except an employee who acts without knowledge) who knowingly violates the rules of this part shall be liable to the United States for civil penalty of no more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation will constitute a separate offense. The

amount of any such penalty shall be assessed by the Director, Bureau of Motor Carrier Safety, by written notice. In determining the amount of such penalty, the Director shall take into account the nature, circumstances, extent, the gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

BILLING CODE 4910-22-M

Form MCS - 90
(7/81)

[ILLUSTRATION I]

Form Approved
OMB No.

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTION 30 OF THE MOTOR CARRIER ACT OF 1980

DEFINITIONS AS USED IN THIS ENDORSEMENT

ACCIDENT includes continuous or repeated exposure to the same conditions resulting in public liability which the insured neither expected nor intended.

BODILY INJURY means injury to the body, sickness or disease including death resulting from any of these.

ENVIRONMENTAL RESTORATION means restitution for the loss, damage or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health, the natural environment, fish, shellfish and wildlife.

PROPERTY DAMAGE means damage to or loss of use of tangible property.

PUBLIC LIABILITY means liability for bodily injury or property damage and includes liability for environmental restoration.

The policy to which this endorsement is attached is an insurance policy providing automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Section 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Highway Administration's Bureau of Motor Carrier Safety.

In consideration of the premium stated in the policy to which this endorsement is attached, the Insurer (the Company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles, regardless of whether such motor vehicles are specifically described in the policy or not and whether or not occurring on the route or in the territory authorized to be served by the insured or elsewhere. Such insurance as is afforded for public liability does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo.

Within the limits of liability herein described, it is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability or from the payment of any such final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is understood and agreed that, upon failure of the Company to pay any final judgment recovered against the Insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the Company to compel such payment.

The limits of the Company's liability for the amounts provided in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the Company for the payment of final judgments resulting from any other accident.

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "X", for the limits shown:

☐ This insurance is primary and the Company shall not be liable for amounts in excess of $_____ for each accident.

☐ This insurance is excess and the Company shall not be liable for amounts in excess of $_____ for each accident in excess of the underlying limit of $_____ for each accident.

Whenever required by the Bureau the Company agrees to furnish the Bureau a duplicate original of said policy and all its endorsements. The Company also agrees, upon telephone request by an authorized representative of the Bureau to verify that the policy is in force as of a particular date. The telephone number to call is _____.

Cancellation of this endorsement may be effected by the Company or the insured by giving thirty five (35) days notice in writing to the other party, said thirty five (35) days notice to commence to run from the date notice is mailed, proof of mailing shall be sufficient proof of notice.

Issued to _____ of _____

Dated at _____ this _____ day of _____, 19__

Amending Policy No. _____

Countersigned by _____

Authorized Company Representative

The Motor Carrier Act of 1980 requires limits of financial responsibility according to type of carriage and commodity transported by the motor carrier. It is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility.
THE SCHEDULE OF LIMITS SHOWN BELOW DOES NOT PROVIDE COVERAGE.
The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS

Public Liability

Freight Vehicles With Gross Vehicle Weight Rating of 10,000 Pounds or More

Type of Carriage	Commodity Transported	Single Limit Requirement	
		July 1, 1981	July 1, 1983
(1) For - hire	Property (non-hazardous)	$ 500,000	$ 750,000
(2) For - hire and Private	Hazardous substances, as defined in 49 CFR 171.8 and designated by the letter E in the first column of the Hazardous Materials Table found at 49 CFR 172.101, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A and B explosives, poison gas (Poison A), liquefied compressed gas, compressed gas, or large quantity radioactive materials as defined in 49 CFR 173.389	$1,000,000	$5,000,000
(3) For - hire and Private	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above	$ 500,000	$1,000,000

Form MCS - 82
(7/81)

[ILLUSTRATION II]

Form Approved
OMB No.

MOTOR CARRIER PUBLIC LIABILITY SURETY BOND UNDER SECTION 30 OF THE MOTOR CARRIER ACT OF 1980

PARTIES

Surety Company and Principal Place of Business Address

Motor Carrier Principal, I.C.C. Docket No., and Principal Place of Business Address

PURPOSE

This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability, property damage, and environmental restoration liability claims in the sums prescribed herein, subject to the governing provisions and following conditions.

GOVERNING PROVISIONS

(1) Section 30 of the Motor Carrier Act of 1980

(2) Rules and regulations of the Federal Highway Administration's Bureau of Motor Carrier Safety

CONDITIONS

The Principal is or intends to become a motor carrier subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final jugement or judgments against the Principal for public liability, property damage, or environmental restoration liability claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety for each accident shall not exceed $_____, and shall be a continuing one notwithstanding any recovery hereunder.

The surety agrees, upon telephone request by an authorized representative of the Bureau, to verify that the surety bond is in force as of a particular date. The telephone number to call is: _____.

This bond is effective from _____ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described herein. The Principal or the Surety may at anytime terminate this bond by giving thirty five (35) days written notice as prescribed in the applicable governing provisions. Said thirty five (35) days notice to commence to run from the date notice is mailed. Proof of mailing shall be sufficient proof of notice. The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability, property damage, or environmental restoration claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

_____
Date

(AFFIX CORPORATE SEAL)

_____
Surety

_____, _____
City *State*

By _____

ACKNOWLEDGMENT OF SURETY

STATE OF _____ COUNTY OF _____

On this _____ day of _____, 19____, before me came _____, who, being by me duly sworn, did depose and say that he resides in _____; that he is the _____ of the _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

_____

(OFFICIAL SEAL)

_____
Title of official administering oath

Surety Company File No. _____

[FR Doc. 81-17438 Filed 6-10-81; 8:45 am]
BILLING CODE 4910-22-C

federal register

Thursday
June 11, 1981

Part IV

Office of Management and Budget

Budget Rescission and Deferral

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescission and Deferral

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four proposals to rescind a total of $114.1 million in budget authority previously provided by the Congress. The rescission proposals affect programs in the Environmental Protection Agency and the National Endowments for the Arts and Humanities. These proposals are a part of my continuing effort to help reduce government spending.

The details of the rescission proposals are contained in the attached reports.

Ronald Reagan

THE WHITE HOUSE,
June 8, 1981.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
R81-156	Environmental Protection Agency Research and development.....	56,300
R81-157	Environmental Protection Agency Abatement, control, and compliance....	43,700
R81-158	National Endowment for the Arts.....	6,650
R81-159	National Endowment for the Humanities..	7,417
	Total, Rescission proposals.....	114,067

SUMMARY OF SPECIAL MESSAGES FOR FY 1981
(in thousands of dollars)

	Rescissions	Deferrals
Effect of tenth special message.....	114,067	---
Previous special messages.....	14,753,870	8,607,977
Total amount proposed in special messages.....	14,867,937 a/	8,607,977 b/

a/ This amount represents budget authority except for $751.8 million involving authority to incur obligations for direct loans.

b/ This amount represents budget authority except for $61,756 thousand involving the deferral of outlays only (D81-198).

Rescission Proposal No: R81-156

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Environmental Protection Agency

Bureau:

Appropriation title & symbol:
Research & Development
68l/20107

OMB identification code:
68-0107-0-1-999

Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☒ Multiple-year September 30, 1982 (expiration date)
☐ No-year

New budget authority (P.L. 96-526) $ 253,520,000
Other budgetary resources -2,535,000
Total budgetary resources 250,985,000

Amount proposed for rescission $ 56,300,000

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification

In order to offset a significant increase in FY1981 expenditures, the President has directed Federal Agencies to identify lower priority areas in which outlay reductions can be achieved. After a careful examination of the remaining unobligated Research and Development appropriation, $56.3 million in funds for lower priority research activities have been identified for rescission. This action will defer lower priority research projects that are not immediately needed, or are not required to meet the Agency's statutory mandates or health mission. This action will not only reduce 1981 outlays, but will further contribute to the objective of reducing outlays in fiscal years 1982-1984.

Estimated Effects

Since only unobligated funds are being proposed for rescission, minimal disruption will be felt by contractors.

Outlay Effect (in millions of dollars)

1981 Outlay Estimate		Outlay			
Without Rescission	With Rescission	1981	1982	1983	1984
230	224	6	22	22	6

RSI-156

ENVIRONMENTAL PROTECTION AGENCY

Research and Development

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981, $56,300,000 are rescinded.

Rescission Proposal No: RSI-157

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Environmental Protection Agency	New budget authority (P.L. 96-526) $ 545,183,000
Bureau	Other budgetary resources -5,436,900
Appropriation title & symbol: Abatement Control & Compliance 681/20108	Total budgetary resources 539,747,100
	Amount proposed for rescission $ 43,700,000
OMB identification code: 68-0108-0-1-304	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1982 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

In order to offset a significant increase in FY1981 expenditures, the President has directed Federal agencies to identify lower priority areas in which outlay reductions can be achieved. After a careful examination of the remaining unobligated Abatement, Control and Compliance funds, $43.7 million of lower priority projects have been identified for rescission. This represents only 28 percent of the remaining unobligated balance in this account, and will only reduce or eliminate those projects not immediately needed or not required at this time to meet the Agency's statutory mandate or health mission. This action will leave more than $112 million in unobligated funds, which can be applied toward the Agency's programs. Grant funds to State, interstate and local governments are not included in this reduction.

Estimated Effects

Since only unobligated funds are being proposed for rescission, minimal disruption at most will be felt by contractors. No significant programmatic effects are anticipated since over two thirds of the remaining unobligated balances remain.

Outlay Effect (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
495	491	4	22	14	4

RSI-157

ENVIRONMENTAL PROTECTION AGENCY

Abatement, Control and Compliance

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981, $43,700,000 are rescinded.

Rescission Proposal No: RSI-158

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: National Endowment for the Arts	New budget authority (P.L. 96-514): $125,860,000
Bureau:	Other budgetary resources: 12,400
Appropriation title & symbol: Salaries and Expenses 8810100	Total budgetary resources: 125,872,400
	Amount proposed for rescission: $6,650,000
OMB identification code: 59-0100-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The National Endowment for the Arts awards discretionary grants to State and local arts agencies, cultural institutions, organizations and individuals. Grants are aimed at: (1) encouraging creative efforts by artists; (2) enhancing access to the arts; (3) supporting arts institutions; (4) providing leadership in the arts; and (5) maintaining the artistic heritage of diverse cultural and ethnic groups. The Arts Endowment supports 19 programs ranging from Dance and Music to Folk Arts and Literature, and within these programs, some 120 funding categories.

The Administration seeks this rescission in order to begin the transition to fiscal 1982 levels of support for arts activities, which emphasize a greater role for private philanthropy and State and local support for cultural activities.

The Administration proposes to rescind a total of $6.65 million in Definite program funds.

Estimated Effects:

Rescinding $6.65 million of the funds appropriated for the National Endowment for the Arts will reduce the number of grant awards made to various artists and arts organizations and institutions nationwide. This proposal will reduce outlays by $2.9 million in fiscal year 1981.

Outlay Effects: (In millions of dollars)

1981 Outlay Estimate					
Without Rescission	With Rescission	1981	1982	1983	1984
159.1	156.2	2.9	3.2	.5	--

R81-158

NATIONAL ENDOWMENT FOR THE ARTS

SALARIES AND EXPENSES

Of the funds appropriated for the National Endowment for the Arts in Public Law 96-514 for fiscal year 1981, $6,650,000 of the amount appropriated for support of projects and productions in the arts pursuant to section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, is rescinded.

Rescission Proposal No: R81-159

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency National Endowment for the Humanities	New budget authority (P.L. 96-514) $ 117,799,000
Bureau	Other budgetary resources 100,000
Appropriation title & symbol: Salaries and Expenses - 5910200	Total budgetary resources 117,899,000
	Amount proposed for rescission $ 7,417,000
MB identification code: 59-0200-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION: The National Endowment for the Humanities awards grants on a competitive basis to state and local humanities agencies, cultural institutions, historical organizations, and individuals. Awards are aimed at (1) strengthening the scholarly foundation for study in the humanities and supporting research activity which enriches the life of the mind in America; (2) improving the quality of teaching in the humanities and its responsiveness to new intellectual currents and changing social concerns; (3) promoting public understanding of the value of the humanities; and (4) nurturing the future well being of those essential institutional and human resources which make possible the study of the humanities.

The Humanities Endowment supports 31 programs ranging from fellowships and research activity to strengthen the scholarly foundation of the humanities to improving the quality of teaching in the humanities and its responsiveness to new intellectual currents and changing social concerns.

The Administration seeks this rescission in order to begin the transition to Fiscal Year 1982 levels of support for humanities activities, which emphasize a greater role for private philanthropy, State and local support.

Estimated Effect: The Administration proposes to rescind a total of $7,417,000 in Definite program funds. This proposal will reduce outlays by $2.5 million in FY 1981.

Outlay Effect:

(in millions)

1981 Outlay Estimates

Without Rescission	Rescission	Outlay Savings 1981	1982	1983	1984
151.2	148.7	2.5	3.0	1.9	—

[FR Doc. 81-17464 Filed 6-10-81; 8:45 am]

BILLING CODE 3110-01-C

R81-159

NATIONAL ENDOWMENT FOR THE HUMANITIES

SALARIES AND EXPENSES

Of the funds appropriated for the National Endowment for the Humanities in Public Law 96-514 for fiscal year 1981, $7,417,000 of the amount appropriated for support of activities in the humanities pursuant to section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, is rescinded.

Reader Aids

Federal Register

Vol. 46, No. 112

Thursday, June 11, 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
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
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, JUNE

29239-29452.....1
29453-29690.....2
29691-29920.....3
29921-30072.....4
30073-30326.....5
30327-30480.....8
30481-30622.....9
30623-30796.....10
30797-30996.....11

CFR PARTS AFFECTED DURING JUNE

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:
May 9, 1898 (Revoked by PLO 5949).....29939
February 6, 1926 (Revoked by PLO 5948).....29938
April 17, 1926 (Revoked in part by PLO 5950).....29939
February 14, 1933 (Revoked by PLO 5944).....29710
5451 (Revoked by PLO 5947).....29938
11476 (Amended by EO 12306).....29693
11835 (See EO 12306).....29693
12018 (See EO 2306).....29693
12198 (Amended by EO 12306).....29693
12233 (See EO 12306).....29693
12285 (Amended by EO 12307).....30481
12306.....29693
12307.....30483
12308.....30485

Proclamations:
4846.....29691
4847.....30483

Administrative Orders:
Presidential Determinations:
No. 81-8 of June 2, 1981.....30797
No. 81-9 of June 2, 1981.....29921

5 CFR

Ch. XIV.....30327

7 CFR

28.....30073
700.....29453
800.....30322
907.....29923, 30799
910.....30012
917.....30075, 30077
953.....29454, 30487
979.....29693
991.....29693
1425.....30327
1944.....29239

Proposed Rules:
102.....30620
201.....30780
989.....30645
993.....29271

8 CFR

204.....29923, 30078
214.....29456

9 CFR

78.....30487
82.....29456, 30488
92.....29239, 29240

10 CFR

2.....30328
51.....29457
376.....29680
390.....29680
440.....29242
1500.....29924
1502.....29924
1534.....29924

Proposed Rules:
2.....30349
30.....29712
40.....29712
70.....29712

12 CFR

303.....30079
552.....30488
570.....30079

Proposed Rules:
213.....29245
226.....29246
526.....30113
545.....30114
569a.....29246
701.....29247, 29482
720.....29248

13 CFR

124.....29251

Proposed Rules:
124.....29276

14 CFR

39.....29252, 29253, 29924-29926, 30332-30334, 30799, 30800
71.....29254-29256, 29927, 30335, 30801-30806
73.....29256, 30806
97.....29257, 30807
135.....30968
152.....30808

Proposed Rules:
Ch. I.....30352
71.....29278-29281, 29947-29951, 30353, 30354, 30833
73.....30833
75.....29280, 29281
323.....29282
302.....29718
399.....29285, 29719, 29727

15 CFR

370 29457
806 30336
Proposed Rules:
330 29662
331 29662
332 29662
340 29662
341 29662
342 29662
343 29662
350 29662
351 29662
352 29662
353 29662
354 29662
373 30623

16 CFR

13 ..... 29458, 29928, 30337
460 29256
1031 29928
1032 29928
1212 29696
Proposed Rules:
Ch. II 29951, 30115
13 30646

17 CFR

15 29931
16 29931
17 29931
18 29931
21 29931
Proposed Rules:
Ch. I 29952

18 CFR

141 29459
271 ..... 29697, 29699, 30489–30491
284 30491
375 29700
1309 30811
Proposed Rules:
157 30505
271 30833
375 30505

19 CFR

101 29462
134 30338
Proposed Rules:
Ch. I 29953
200 29729

20 CFR

Proposed Rules:
404 29953

21 CFR

172 30080
173 ..... 30492, 30493
193 ..... 30338, 30494
520 29464
561 30339
573 30081
Proposed Rules:
161 30505
430 30115
436 30115
440 30115
444 30115
448 30115
452 30115
1308 29484

22 CFR

41 30082
Proposed Rules:
171 30649

24 CFR

235 29256
570 29908

26 CFR

1 29465
7a 30495
11 29465
35 30495

27 CFR

4 29260
19 29261
70 29261
240 29261
245 29261
250 29261
270 29261
275 29261

28 CFR

0 ..... 29704, 29931
16 30495
Proposed Rules:
31 29438

29 CFR

Proposed Rules:
530 29485

30 CFR

250 29932

31 CFR

51 29261
535 30340

32 CFR

199 29704
294 29705
Proposed Rules:
298a 29486

33 CFR

25 29933
165 29933
204 29934
Proposed Rules:
100 29288
117 ..... 30354, 30834
160 30835
162 29954
402 30838

36 CFR

Proposed Rules:
1190 30839

37 CFR

Proposed Rules:
201 30649
202 30651

38 CFR

21 29474

39 CFR

601 30623
Proposed Rules:
10 30505

40 CFR

52 ..... 29707, 30082, 30496
60 29262
61 29262
62 30496
86 30497
122 ..... 29708, 30624
123 29935
162 29708
180 ..... 30342, 30499, 30624
260 29708
261 29708
264 ..... 29708, 30624
265 ..... 29708, 30624
413 30625
Proposed Rules:
52 ..... 29289, 29488, 30116, 30355–30366, 30653–30655
60 29955
81 ..... 29281, 30368, 30655
123 29292
180 ..... 30506, 30662
408 30663
773 30300

41 CFR

Ch. 12 30816
15–1 29709
51–4 30084
51–5 30084
Proposed Rules:
Ch. 1 30369
1–4 30369
101–11 30369
101–37 30369
104–4 29955

43 CFR

5420 29262
Public Land Orders:
1281 (Revoked by 5883) 29263
5169 (Amended by PLO 5396 and 5951) 29937
5179 (Amended by PLO 5250 and 5951) 29937
5180 (Amended by PLO 5418 and 5951) 29937
5250 (Amended by PLO 5951) 29937
5396 (Amended by PLO 5951) 29937
5418 (Amended by PLO 5951) 29937
5865 30500
5866 30500
5883 29263
5943 29710
5944 29710
5945 29939
5946 29939
5947 29938
5948 29938
5949 29939
5950 29939
5951 29937
5952 30086
5953 30817
Proposed Rules:
35 29955

44 CFR

64 ..... 29940, 29942, 30626
67 ..... 30500, 30628
Proposed Rules:
55 29292
61 29292
67 ..... 29729–29732, 29956, 30116, 30124, 30507, 30663, 30665
300 29264

45 CFR

3 30343
46 29883
74 30500
235 29264
Proposed Rules:
71 29732
301 30372
304 29964

46 CFR

Proposed Rules:
310 30507
502 30666
547 30667

47 CFR

1 30818
61 ..... 29264, 30818
64 29474
73 ..... 30086–30091, 30343, 30344
Proposed Rules:
Ch. I 30516, 30668
2 30124
23 30124
31 ..... 30150, 30152
73 ..... 29488, 30153, 30154, 30372, 30516–30518
94 30124

49 CFR

Ch. X 30092
1 29269
172 29392
387 30974
531 29944
575 29269
1000 30502
1033 ..... 29480, 30502, 30632
1056 ..... 29711, 29945
1100 30832
1137 30832
Proposed Rules:
171 29967
172 ..... 29968, 29973
173 ..... 29967, 29968, 29973
175 29968
178 29973
1047 30668
1127 30156
1201 30839
1241 30839
1248 30839

50 CFR

17 29481
91 30633
301 30345
651 30348
661 ..... 29733, 30633
Proposed Rules:
17 29490
653 30674
682 30674

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
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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 June 10, 1981



Advance Orders are now Being Accepted for Delivery in About 6 Weeks

Code of Federal Regulations

Revised as of January 1, 1981

Quantity	Volume	Price	Amount
_____	Title 4—Accounts	$6.50	$_____
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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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