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Monday
August 31, 1981

Highlights

CONTINUED INSIDE

Highlights

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Presidential Documents

Title 3—

The President

Proclamation 4854 of August 24, 1981

Women's Equality Day, 1981

By the President of the United States of America

A Proclamation

On August 26, 1920, the 19th Amendment to the Constitution became law, granting women the right to vote. On this, the 61st anniversary of that milestone, all Americans should reflect on the progress we have made toward the goal of equal opportunity.

Since ratification of the 19th Amendment, women have played increasingly important roles in guiding the Nation's basic institutions. While women continue to fulfill the irreplaceable and vitally important roles of wife and mother, increasing numbers of them have entered the professions and the work place as well, making steady, significant progress over the years.

Today, women faithfully shoulder responsibilities at all levels of government and in every area of employment and education and are opening up new opportunities every day. On this occasion, it is fitting that we honor the contributions women have made to every aspect of our development as a Nation and rededicate ourselves to maintaining a society in which the rights of all citizens are protected.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 26, 1981, as Women's Equality Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of August, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 81-25431
Filed 8-27-81; 2:11 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 419

[Amendment No. 3]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation is amending the Barley Crop Insurance Regulations effective with the 1982 crop year by changing the cancellation and termination for indebtedness dates in certain states to allow for the insuring of fall-seeded barley. The current regulations include cancellation and termination for indebtedness dates for spring-seeded barley only. This amendment will permit the insuring of both spring- and fall-seeded barley in certain states. In addition, an obsolete subsection is removed and reserved. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

The Final Impact Statement, describing the options considered in developing this final rule and the impact of implementing each option, is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). Wayne Fletcher, President and Acting Chairman of the Federal Crop Insurance Corporation (FCIC), has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

FCIC has consulted with the Office of Management and Budget (OMB) pursuant to Executive Order No. 12291 and received their clearance for this publication.

The information gathering and recordkeeping requirements of the regulations to which this action applies (7 CFR Part 419) have been approved by OMB under the following control numbers:

RMS OMB NBR
0563–0001
0563–0003
0563–0007

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), FCIC published a notice of proposed rulemaking in the **Federal Register** on Monday, May 4, 1981 (46 FR 24954), prescribing the change in cancellation and termination for indebtedness dates to allow for the insuring of fall-seeded barley, thus permitting the insuring of both spring-seeded and fall-seeded barley in certain States.

The Board of Directors of FCIC has approved the addition of barley as an insurable crop in several counties where fall-seeded barley is produced. This amendment will allow the insuring of fall-seeded barley with the proper cancellation and termination dates.

In addition, it was proposed that 7 CFR 419.3 of the Barley Crop Insurance Regulations be removed and reserved. This subsection required FCIC to annually post in each county courthouse a listing of indemnities paid in each county. Such provisions were contained in the Federal Crop Insurance Act. The 1980 amendments to the Act (Pub. L. 96–365, September 26, 1980) deleted this provision and the Corporation is no longer required to post such lists.

Under the provisions of Executive Order No. 12291, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the provisions of the proposed Amendment No. 3 to the Barley Crop Insurance Regulations are hereby issued as a Final Rule to be effective for the 1982 crop year.

The title and number of the Federal Assistance Program to which this Final Rule applies is: Title—Crop Insurance; Number 10.450. This action will not have a significant impact specifically on area and community development; therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that this action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). That review will be completed prior to the sunset review date of June 19, 1984.

Final Rule

PART 419—BARLEY CROP INSURANCE REGULATIONS

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), FCIC hereby amends the Barley Crop Insurance Regulations, 7 CFR Part 419, effective with the 1982 and succeeding crop years, in the following instances:

§ 419.3 [Reserved]

1. Remove and reserve § 419.3.

2. In § 419.7, revise item 12 in the "Terms and conditions" portion of the insurance policy to read as follows:

§ 419.7 The application and policy.

* * * * *

12. Life of contract: cancellation and termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Kansas, New Mexico, Oklahoma and Texas.	April 30	September 15.
Idaho:		
Idaho County and all counties lying north thereof, Canyon County and Owyhee County.	June 30	November 30.
All other Idaho counties.	December 31	March 31.
Oregon:		
Klamath County	December 31	March 31.
All other Oregon counties.	June 30	November 30.
Washington	June 30	November 30.
California:		
Humboldt, Trinity, Shasta, Plumas, Lassen, Modoc, Siskiyou and Del Norte Counties.	December 31	March 31.
All other California counties.	June 30	October 10.
Colorado:		
Kit Carson, Lincoln, Elbert, El Paso, Pueblo, Las Animas, and all counties lying south, and east thereof.	April 30	September 15.
All other Colorado counties.	December 31	March 31.
Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Utah, Wisconsin, and Wyoming.	December 31	March 31.
All other States	June 30	October 10.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

* * * * *

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

Approved by the Board of Directors on April 7, 1981.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: August 24, 1981.

Approved by:

Wayne A. Fletcher,

President and Acting Chairman.

[FR Doc. 81–25286 Filed 8–28–81; 8:45 am]

BILLING CODE 3410–06–M

Animal and Plant Health Inspection Service

9 CFR Part 92

Restrictions on Importation of Horses From Austria

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document extends to Austria the prohibitions previously placed on the importations into the United States of certain horses from or that have been in countries affected with contagious equine metritis (CEM). This action is necessary to protect the livestock of the United States from such disease.

DATES: Effective date: The foregoing amendment shall become effective August 25, 1981, except for horses then in transit to the United States from Austria (i.e., loaded aboard a commercial carrier and en route to the United States). Comments must be received on or before October 30, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 870, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 818, Hyattsville, MD 20782, 301–436–8170.

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

The Department has determined that this rule will have an annual effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impractical for the agency to follow the procedures in Executive Order 12291 with respect to this action.

Dr. M. J. Tillery, Director, National Program Planning Staffs, USDA, APHIS, VS, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim action because importation of horses from Austria, a country affected with contagious equine metritis (CEM), must be restricted in order to protect the livestock of the United States from the introduction and dissemination of CEM.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action are impracticable and contrary to the public interest; and good cause is found for making this emergency action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because only 5 horses have been imported into the United States from Austria since January 1, 1980.

On September 9, 1977 (42 FR 45895), a prohibition was placed on the importation into the United States of certain horses from England, Ireland, and France and the importation into the United States of certain horses that have been in such countries within the 60 days immediately preceding their export to the United States because of the existence of CEM in such countries. On September 16, 1977 (42 FR 48327–48328), the prohibition was extended to include Australia and all of the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man); on November 30, 1978 (43 FR 56876), it was extended to include Belgium and the Federal Republic of Germany; on October 12, 1979 (44 FR 58896–58897), it was extended to include Italy; on July 1, 1980 (45 FR 45888–45889), it was extended to include Japan; and on July 14, 1981 (46 FR 37240–37241) it was extended to include Denmark.

On December 8, 1977 (42 FR 63384–63385), an amendment extended the specified period as a condition for entry of such horses which have been in countries infected with CEM listed under § 92.2(i) of Title 9, Code of Federal Regulations from 60 days to 12 months. This action was taken to protect the livestock of the United States against the introduction and dissemination of CEM, a communicable disease of horses, into the United States. CEM has now been found to exist in Austria, and prohibitions on the importation of certain horses from or that have been in that country within 12 months

immediately preceding their export to the United States are hereby placed in effect. The same restrictions that now apply to horses from Australia, Denmark, Ireland, France, Japan, the United Kingdom, Belgium, Italy, and the Federal Republic of Germany are hereby placed on the importation of certain horses from or that have been in Austria.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, § 92.2(i)(1) of Title 9, Code of Federal Regulations, is revised to read as follows:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i)(1) Except as provided in paragraph (i)(2) of this section notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the importation of all horses which have been in any such country within the 12 months immediately preceding their export to the United States is prohibited because of the existence of CEM in such countries: Australia, Austria, Belgium, Denmark, Ireland, Italy, Japan, Federal Republic of Germany, France, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man).

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 25th day of August, 1981.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 81-25311 Filed 8-28-81; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 81-050F]

Designation of State of Rhode Island Under Federal Meat Inspection and Poultry Products Inspection Acts

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of Rhode Island under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. Representatives of the Governor of the State of Rhode Island have advised this Department that the State of Rhode Island will no longer be in a position to continue administering State meat and poultry inspection programs after September 30, 1981. Accordingly, effective October 1, 1981, all establishments operating under the Rhode Island meat inspection program shall be subject to the provisions of titles I and IV of the Federal Meat Inspection Act. Additionally, effective October 1, 1981, all establishments operating under the Rhode Island poultry inspection program shall be subject to sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. By this designation, the U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Rhode Island, of administering the meat and poultry inspection programs with respect to establishments operating, and intrastate operations and transactions, wholly within that State.

The provisions concerning designated States are found in Parts 331 and 381, Subchapters A and C, Chapter III, Title 9 of the Code of Federal Regulations.

EFFECTIVE DATES: This notice of designation is effective on August 31, 1981.

The effective date of this amendment is October 1, 1981.

As result of this amendment, the provisions of titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act will apply to the State of Rhode Island on and after October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Joe Blair, Director, Federal-State Relations Branch, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6313.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Rhode Island, of administering the meat and poultry inspection programs with respect to establishments operating, and intrastate operations and transactions, wholly within that State. This action is being taken because the State of Rhode Island indicated it was no longer in a position to enforce requirements with respect to said establishments at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since the State of Rhode Island has advised the United States Department of Agriculture that the State-operated meat and poultry inspection program will be discontinued due to lack of funding, the Federal Government is mandated by law to assume the responsibilities for the meat and poultry inspection program with respect to establishments operating, and intrastate operations and transactions, wholly within the State. Therefore, no alternative actions under the law are available to the Department.

Effect on Small Entities

Dr. Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Rhode Island, of administering the meat and poultry inspection programs with respect to establishments operating, and operations and transactions, wholly within that State. This action will affect approximately 35 heretofore State inspected meat and poultry establishments in Rhode Island, most, if not all, of which may be presumed to be

small businesses. However, this is not a substantial number of establishments given the approximately 10,000 small meat establishments and small poultry establishments nationwide, which are either federally or State inspected. Additionally, the application of certain Federal facility and other requirements to such establishments will be flexible insofar as each facility will be reviewed with regard to the circumstances peculiar to that establishment. Furthermore, it is not anticipated that significant costs will be incurred by these Rhode Island establishments as a result of this action. Those specific establishments for which some upgrading of facilities is indicated will be provided up to 36 months in which to make such changes.

Background

Representatives of the Governor of Rhode Island have advised this Department that the State of Rhode Island will no longer be in a position to continue administering a State meat inspection program after September 30, 1981, and have requested the Department to assume responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishements within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human foods, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat and meat food products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, representatives of the Governor of Rhode Island have advised this Department that Rhode Island will no longer be in a position to continue administering a State poultry inspection program after September 30, 1981, and have requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State of Rhode Island at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within the State, and with respect to operations and transactions wholly within the State concerning products or other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Rhode Island had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act, and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Rhode Island meat and poultry inspection programs, it is hereby determined that Rhode Island is not effectively enforcing requirements at least equal to those imposed under title I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On and after October 1, 1981, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State, and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Federal Meat Inspection Act, and any establishment in the State which conducts any slaughtering or preparation of carcasses or parts or products thereof, as described above, must have Federal meat inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on and after October 1, 1981, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Poultry Products Inspection Act, and any establishment in the State which conducts any slaughter or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after September 30, 1981, should immediately communicate with the Regional Director for Meat and Poultry Inspection Operations as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. M. C. McNay,
Director, Northeastern Region, Meat and Poultry Inspection Operations,
U.S. Department of Agriculture, Seventh Floor, 1421 Cherry Street,
Philadelphia, PA 19102, 215–597–4219.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Accordingly, Part 331 of the Federal meat inspection regulations (9 CFR 331) is amended as follows:

1. The authority citation for Part 331 reads as follows:

Authority: Secs. 21 and 301, 81 Stat. 584, 588, 592, 593, 595; 21 U.S.C. 621, 661.

§ 331.2 [Amended]

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

In the "State" column, "Rhode Island" is added immediately below "Puerto Rico".

In the "Effective date of application of Federal provisions" column, "October 1, 1981," is added on the line with "Rhode Island".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Further, Part 381 of the poultry products inspection regulations (9 CFR 381) is amended as follows:

1. The authority citation for Part 381 reads as follows:

Authority: Secs. 5(c) and 14, 71 Stat. 441, as amended; 21 U.S.C. 454(c), 463.

§ 381.221 [Amended]

2. The table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

In the "State" column, "Rhode Island" is added immediately below "Puerto Rico".

In the "Effective date of application of Federal provisions" column, "October 1, 1981," is added on the line with "Rhode Island".

Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that it is necessary to designate the State of Rhode Island immediately, in accordance with section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act, in order to carry out the Secretary's responsibilities under the Acts.

Therefore, it does not appear that additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to the public interest.

Done at Washington, DC, on August 17, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-25376 Filed 8-28-81; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-81-8]

Tertiary Incentive Program and Mechanism for Entitlements Adjustments for Periods Prior to Decontrol of Crude Oil; Technical Amendments

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a technical amendment to the final rule issued by ERA on July 9, 1981, which established an entitlements program clean-up mechanism. Today's amendment will correct the regulatory language of the post-clean-up procedures to make it clear when those procedures may be implemented following administrative orders for which there is no explicitly defined appeal period. Also, as a separate matter, the annual prepaid expenses report for the tertiary incentive program is being revised to require its submission by project operators, instead of individual producers.

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4055;

Daniel J. Thomas (Office of Program Operations), Economic Regulatory Administration, Room 7116, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4288;

Margaret Carroll (Office of Program Operations), Economic Regulatory Administration, Room 7202-G, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3254;

David Welsh (Entitlements Program Office), Economic Regulatory Administration, Room 6212, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3459;

Eugene Glass (Crude Oil Production/Allocation Branch), Economic Regulatory Administration, Room 6318-G, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3453;

William Funk or Peter Schaumberg, Office of General Counsel, U.S. Department of Energy, Room 6A-113, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-6736 (Funk); 252-6754 (Schaumberg).

SUPPLEMENTARY INFORMATION:

I. Amendments to Entitlements Cleanup Rule

On July 9, 1981, ERA issued a final rule, effective August 1, 1981, establishing a mechanism to liquidate rights and obligations of participants in the crude oil entitlements program that accrued before decontrol. (46 FR 36092, July 13, 1981). As part of that rule, we adopted a mechanism that does not require DOE participation for settling existing entitlements claims and obligations adjudicated by courts, DOE's Office of Hearings and Appeals (OHA) and the Federal Energy Regulatory Commission (FERC) after publication of the clean-up list.

This mechanism for settling post-clean-up claims and obligations provides in subsections (h)(1)(i) and (h)(2)(i) of § 211.69 that the post-clean-up procedures apply only to OHA, FERC and judicial orders "no longer subject to appeal." (46 FR 36099). The purpose of this limitation was to prevent multiple implementation of post-clean-up procedures as a single case moved through the administrative and judicial system.

However, there appear to be no express time limits for appealing a FERC decision or an OHA grant of entitlements exception relief. It therefore could be several years before such an order might be deemed to be final. In the interim, a firm which had a claim determined in such an order would not be able to implement the provisions of § 211.69(h). Similarly, firms with post-clean-up obligations determined in such orders could not be required to pay any monies until the order became final.

To redress this potential uncertainty under § 211.69(h), we are adding a new subsection (3) to that section which will provide, for purposes of the post-clean-up rule, for the treatment of orders for which the period of appeal is not defined by statute or regulation. Specifically, such an order will be deemed to be "no longer subject to appeal" if the order is not appealed within 60 days of its issuance.[1] Therefore, 60 days after the order is issued, if no appeal is filed, a party will be able to implement the provisions of § 211.69(h)(1) to collect its claim, and the provisions of § 211.69(h)(2) may be implemented by other firms to collect their proportional shares of any obligation determined in that order. Of course, if an appeal subsequently is filed, the order resulting from such an appeal again could result in post-clean-up claims and obligations under § 211.69(h).

II. Tertiary Incentive Program Amendments

With respect to prepaid allowed expenses under the tertiary incentive program (originally set forth in 10 CFR 212.78), we have decided to amend the annual reporting requirement concerning such expenses. The existing 10 CFR 212.78 requires producers that have recovered prepaid allowed expenses to file annual reports with ERA until the producer has used all the goods or services to which the expenses relate. Since these reports concern the use of goods or services, a producer would have to obtain the information necessary to complete the report from the project operators of the enhanced oil recovery projects with respect to which it recovered the prepaid allowed expenses.

After reviewing the existing reporting procedure, we have determined that it will be less burdensome to have the project operators file the annual prepaid expenses reports directly. In addition, this action will reduce drastically the number of reports since there are many fewer project operators than producers. Accordingly, we are amending § 212.78 to require project operators, instead of producers, to file the prepaid allowed expense annual report. The information to be reported will remain the same, except that project operators will be required to indicate the identity of each qualified producer to which prepaid allowed expenses have been attributed and the amount of prepaid allowed expenses attributed to each such producer.

[1] This amendment is being adopted solely for purposes of the post-clean-up rule. It is not intended to and will not bar any proper party from appealing an order more than sixty days after the issuance of an order subject to § 211.69(h)(3) if such an appeal would be permissible in the absence of § 211.69(h)(3).

IV. Procedural Matters

A. Executive Order 12291

Under section 8(b) of Executive Order No. 12291 (46 FR 13193, February 19, 1981), the Director of the Office of Management and Budget ("Director") is authorized to exempt any class or category of regulations from any or all requirements of that Executive Order.

An exemption was requested of the Director for those regulations issued to implement Executive Order No. 12287. The request was granted.

B. Section 102 of NEPA

It has been determined by the Acting Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness that this regulation does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement for this regulation is not required.

C. Section 501 of the DOE Act

Under section 501(c) of the Department of Energy Organization Act (DOE Act), DOE is not bound by the prior notice and hearing requirements of subsections (b)–(d) with respect to a rule upon DOE's determination that no substantial issue of law or fact exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of the Administrative Procedure Act (APA).

DOE has made such a determination with respect to our actions here. Our action with respect to certain FERC and OHA orders merely removes an uncertainty that could have arisen with respect to when those orders became "no longer subject to appeal" so that the post-clean-up procedures could be implemented. This change preserves the intent of the clean-up regulations by eliminating an unintended ambiguity in the post-clean-up process. This is not a substantive issue nor will it have a substantial impact. Our action with respect to the reporting requirement does not represent a substantial change in the existing reporting requirement since project operators would have had to assemble the requested information for producers so that the producers could have complied with the existing requirement. This amendment only removes the unnecessary step of passing the information through producers before it is sent to DOE.

Section 553(b) of the APA provides that the notice requirements contained therein are inapplicable when the agency for good cause finds that notice and public procedure on a rule are impracticable, unnecessary or contrary to the public interest. DOE finds that the notice and public procedures of section 553(b) are unnecessary in this case, given the nature of DOE's actions, as described above.

D. Regulatory Flexibility Act

Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* provides that the provisions of Sections 603 and 604 of that Act pertaining to the preparation of regulatory flexibility analyses shall not apply to any proposed or final rule if the head of the issuing agency certifies that the rule would not, if promulgated, have a significant impact on a substantial number of small entities.

In view of the nature of today's actions, as discussed previously, ERA is hereby certifying that the rule will not have a significant impact on a substantial number of small entities.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–97; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 12287, 46 FR 9909)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations are amended as set forth below, effective September 30, 1981.

Issued in Washington, D.C., August 25, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

1. Section 211.69 is amended by adding a new paragraph (h)(3) to read as follows:

§ 211.69 Entitlements adjustment mechanism.

* * * * *

(h) *Post-clean-up claims and obligations.*

* * * * *

(3) For purposes of subsections (h)(1) and (h)(2), an order for which there is no explicit statutory or regulatory time limit on appeals shall be deemed to be "no longer subject to appeal" if the order is not appealed within 60 days from the date of issuance of the order.

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

2. Section 212.78 is revised to read as follows:

§ 212.78 Tertiary incentive crude oil.

Annual prepaid expenses report. By January 31 of each year after 1980, the project operator with respect to any enhanced oil recovery project for which a report had been filed previously with DOE pusuant to paragraph (h)(2)(i) of this section as that paragraph was in effect on January 27, 1981, shall file with DOE a report in which the operator shall certify to DOE (1) which of the expenses that had been reported previously to DOE pursuant to paragraph (h)(2)(i) of this section as that paragraph was in effect on January 27, 1981, were prepaid expenses; (2) the goods or services for which such expenses had been incurred and paid; (3) the dates on which such goods or services are intended to be used; (4) the dates on which such goods or services actually are used; (5) the identity of each qualified producer to which such prepaid expenses had been attributed; and (6) the percentage of such prepaid expenses attributed to each such qualified producer. An operator shall file an annual prepaid expenses report each year until it has reported the actual use of all the goods and services for which a prepaid expense had been incurred and paid. For purposes of this subsection, a prepaid expense is an expense for any injectant or fuel used after September 30, 1981, or an expense for any other item to the extent that IRS would allocate the deductions (including depreciation) for that item to the period after September 30, 1981.

[FR Doc. 81-25373 Filed 8-28-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 4

[Docket No. 81-16]

Description of Office, Procedures, Public Information

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Comptroller of the Currency is amending the regulation that outlines the organizational structure of its field offices to reflect the consolidation of two regional offices, the change of address of one regional office, and the change of geographic boundaries for two regional offices. The consolidation of the two regional offices was prompted by significant changes in the banking industry and bank regulatory practices. Specifically, the expansion of multinational banking activity, particularly in the western United States, has created more direct supervision of certain activities from the Comptroller's headquarters. Further modifications in examination procedures have reduced the overall workload in that geographic area. The consolidation will combine, by year-end 1981, the Regional offices in Portland, Oregon, and San Francisco, California, and the resulting office will be located in San Francisco. The combined region will be designated as Region 13. National banks and affected parties will be notified when the consolidation is completed.

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Craig M. Stirnweis, Director, Program Analysis Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, DC, 20219 (202) 447-1723.

SUPPLEMENTARY INFORMATION:

Special Studies

This is an amendment to an internal directive setting out the Office's procedures and, as such, is neither subject to Executive Order 12291 nor to the Regulatory Flexibility Act. The Comptroller has determined that this action does not significantly affect the environment. Therefore, no environmental impact statement is required under the National Environmental Policy Act of 1969.

PART 4—DESCRIPTION OF OFFICE PROCEDURES, PUBLIC INFORMATION

For the reasons given in this preamble, 12 CFR Part 4 is amended to read as follows:

1. The authority citation for 12 CFR Part 4 is:

Authority: 12 U.S.C. 1 *et seq.*, 5 U.S.C. 552, unless otherwise noted.

2. Section 4.1a, (b)(1) is revised to read as follows:

§ 4.1a Central and field organizations; delegations.

* * * * *

(b) Field Offices. (1) Thirteen National Bank Regions cover the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The Office address and the geographic composition of each is as follows:

Region No.	Area within region	Office address
1	Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island.	Harbor Plaza, Eighth Floor, 470 Atlantic Avenue, Boston, Mass. 02110.
2	New York, New Jersey, Puerto Rico, Virgin Islands.	1211 Avenue of the Americas, Suite 4250, New York, N.Y. 10036.
3	Pennsylvania, Delaware	Three Parkway, Suite 1800, Philadelphia, Pa. 19102.
4	Indiana, Ohio, Kentucky	One Erieview Plaza, Cleveland, Ohio 44114.
5	West Virginia, Maryland, Virginia, North Carolina, District of Columbia.	F & M Center, Suite 21-51, Richmond, Va. 23277.
6	South Carolina, Georgia, Florida.	Peachtree Cain Tower, Suite 2700, 229 Peachtree Street, N.E., Atlanta, Ga. 30303.
7	Illinois, Michigan (excluding the Upper Peninsula of Michigan).	Sears Tower, Suite 5750, 233 South Wacker Drive, Chicago, Ill. 60606.
8	Arkansas, Tennessee, Louisiana, Mississippi, Alabama.	165 Madison Avenue, Suite 800, Memphis, Tenn. 38103.
9	North Dakota, South Dakota, Minnesota, Wisconsin, Upper Peninsula of Michigan.	600 Marquette Avenue, Suite 1100, Minneapolis, Minn. 55402.
10	Nebraska, Kansas, Iowa, Missouri.	911 Main Street, Suite 2616, Kansas City, Mo. 64105.
11	Texas, Oklahoma	1201 Elm Street, Suite 3900, Dallas, Tex. 75270.
12	Wyoming, Colorado, Utah, New Mexico, Arizona.	1405 Curtis Street, Suite 3000, Denver, Colo. 80202.
13	Washington, Oregon, Idaho, Montana, Alaska, Nevada, California, Hawaii, Guam, and the Northern Mariana Islands.	One Market Plaza, Steuart Street Tower, Suite 2101, San Francisco, Calif. 94105.

* * * * *

Dated: August 26, 1981.

Charles E. Lord,

Acting Comptroller of the Currency.

[FR Doc. 81-25313 Filed 8-28-81; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 532

[No. 81-492]

Ownership of NOW Accounts; Postponement of Effective Date

Dated: August 26, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; postponement of effective date.

SUMMARY: On August 13, 1981 the Board issued a final rule regarding the eligibility of various types of depositors to maintain negotiable order of withdrawal ("NOW") accounts at member institutions (Resolution No. 81-460, 46 FR 42250, Aug. 20, 1981). The rule was to take effect on August 19, 1981; however, the effective date was postponed for a ten day period by a judicial order issued August 19, 1981 (*see* 46 FR 42651, Aug. 24, 1981). Due to pending litigation concerning Resolution No. 81-460, the Board has determined to postpone the effective date of the rule until September 15, 1981.

DATES: This Board action postponing the effective date of Resolution No. 81-460 takes effect on August 26, 1981. The effective date of Resolution No. 81-460 is postponed until September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6444).

(Sec. 303, Pub. L. 96-221, 94 Stat. 132 (1980); 12 U.S.C. 1437, 1464, 1724, 1725, 1726, 1728; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 81-25374 Filed 8-28-81; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-CE-4-AD; Amendment 39-4196]

Airworthiness Directives; Beech Models 99, 99A, A99A, A99 and B99 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech Models 99, 99A, A99A, A99 and B99 airplanes. The AD requires the deletion of the Minimum Equipment List (MEL) and Configuration Deviation List (CDL) from the FAA Approved Airplane Flight Manual (AAFM) and the insertion therein of a new document entitled Kinds of Operations Equipment List (KOEL) for these Beech model airplanes. This action is necessary since some items of equipment which the present Beech 99 series MEL and CDL allow to be inoperative could result in the unsafe operation of these airplanes.

EFFECTIVE DATE: October 3, 1981. Compliance: Within the next 100 hours time-in-service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT: Paul A. Cormaci, Aerospace Engineer, Airworthiness Standards Program, Room 1639, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374-6942.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Beech Models 99, 99A, A99A, A99 and B99 airplanes and published it in the **Federal Register** on April 30, 1981 (46 FR 24189-24192). The proposal would require deletion of the Minimum Equipment List (MEL) and Configuration Deviation List (CDL) from the FAA Approved Airplane Flight Manual (AAFM) and the insertion therein of a new document entitled Kinds of Operations Equipment List (KOEL) for those Beech Model airplanes. The action was prompted because some items of equipment which the present Beech 99 series airplane MEL and CDL allow to be inoperative could result in the unsafe operation of those airplanes.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. Comments were received from interested persons, operators and agencies, all of whom objected or offered alternatives to the proposed AD.

Three commenters petitioned the Administrator for an extension to the Notice of Proposed Rulemaking (NPRM) comment period, citing the need for time to further revise the MMELs (Master Minimum Equipment Lists) and MELs and also the need to compile economic impact data. The FAA processed those petitions under the provisions of FAR Part 11 by letters of denial to the petitioners as not being in the public interest.

Seven commenters questioned the fact that an unsafe condition exists with the present MEL/CDL in the AAFM. Commenters cited satisfactory Beech 99 service history and an accident-free record. One commenter stated there has been no single known accident attributable to an MEL deficiency and further, that an unsafe condition could come about only in those cases where an operator or pilot intentionally violated the requirements of the existing MEL. The FAA disagrees that MEL items have not been factors in any previous Beech 99 accidents and/or incidents. The National Transportation Safety Board (NTSB) aircraft accident report on a Beech 99 accident at Richland, Washington, on February 10, 1978, cited certain MEL items as factors in that accident. The April 30, 1981, NPRM relevant to this action stated the basis for an airworthiness directive and those conditions have not changed. The FAA is concerned about pilots intentionally/unintentionally operating to an MEL that is in conflict with existing ADs or to an MEL that provides a lower level of safety than the airplane was type certificated to achieve, or by relying on operating procedures and preflight inspections in lieu of design integrity and the airplane's airworthiness.

Several comments cited an undue economic burden in complying with the proposed AD and operating to the KOEL. Some cost impact data was provided by the commenters which listed costs per hour of maintenance, aircraft downtime, lost ticket revenue and airplane cost per flight hour. Also, some typical costs were presented on replacing specific aircraft equipment. The FAA does not question the cost figures presented but the Agency does not agree that the total cost presented by commenters would be due to an AD adopted from the NPRM. Economic impact would be only those costs due to the differences between revised, updated or new MEL resulting from AD action to the existing MEL in the AAFM or those existing MELs approved under FAR 135.179. It is not appropriate to include hardware, equipment and labor costs to replace failed components in the economic impact analyses for this AD. That cost is mandated by the necessity to replace the failed component and will not be affected by the AD. One commenter estimated a minimum of 50 hours of revenue time lost per airplane per year because of the additional MEL criteria. Another commenter stated it would be costly to process new MELs. The FAA does not agree with this estimate of revenue time lost based on the malfunction or defects service difficutly reports for the last 5 years and also on the FAA analysis of the differences that may exist between updated or new MELs and present MELs in service. The FAA does agree that operators may have to reassess and modify maintenance procedures especially on those aircraft systems where there may be little relief from a fully-operational system. The FAA did consider increases in preventive maintenance costs in the economic impact on operators. The FAA agrees there could be some inconvenience and cost involved to revise and update MELs; however, this cost can be minimized by following the MMEL available through the local FAA General Aviation District Office.

Two commenters questioned the lead paragraph to the KOEL in that the wording could be misinterpreted so as to disallow dispatch with any listed equipment inoperative regardless of relaxation provided by an FAA-approved MMEL or MEL. Further, one commenter gave alternative wording to make it clear that the KOEL applies to those persons not authorized to use an MEL while persons authorized to operate to an MEL would not have to comply with the kinds of operation statement in the limitations section of the AFM. Because of these comments, the FAA wants the purpose of the AD clearly understood. First, the AD is necessary on the basis of safety as stated in the NPRM. Second, the KOEL defines the equipment items necessary for the airplane to comply with the type certification airworthiness requirements, and Federal Aviation Regulation 23.1583(h) requires that this list be presented in the limitations section of the AFM.

Third, one purpose of the AD is to separate the MEL from the AFM since the MMEL and MEL are separate and distinct from, but dependent on, the KOEL. From the comments received to the NPRM it appears that many persons do not understand the type certification procedures, the type certification basis of an airplane and who is authorized to

grant equivalencies to airworthiness requirements. Equivalencies can only be granted after there are findings made by the FAA in accordance with FAR Section 21.21(b)(1) that any airworthiness requirements not complied with are compensated for by factors that provide an equivalent level of safety. Regardless of who evaluates a design feature toward an equivalency, the certification basis remains the same as that to which the airplane was certificated. The comments indicate that there are those who feel that a basis different than the type certification requirements can be used to determine that an equivalent level of safety exists. This, as indicated above, is not correct.

Finally, the AD, with its provided KOEL, recognizes that there will be circumstances where findings of equivalent levels of safety can be made and, therefore, the MEL will contain items that will supersede comparable items on the KOEL. To provide for such situations where the KOEL can be superseded by the MEL, the following wordage is included on the KOEL provided in this AD:

> However, certain operations may be authorized with certain listed equipment and/or systems inoperative under certain conditions and under provisions defined by a current Minimum Equipment List (MEL) approved by the FAA which is dated concurrently with, or after, this AFM revision and authorized under an operating regulation which provides for use of an MEL.

Two commenters stated the Beech 99 safety record does not indicate any deficiencies in the present AAFM and where incidents related to an MEL or CDL item have occurred, that those incidents have been due to a failure to follow the procedures required when items were inoperative. Further, in such cases, the use of a KOEL would not have prevented an accident. The agency has determined that a failure to follow procedures required when items are inoperative is a significant factor in the FAA's decision for removing the MEL and CDL from the AAFM and to list the required equipment.

This action is being taken to eliminate conflicts between airworthiness certificated items and those MEL procedures intended to provide equivalent safety.

One commenter expressed concern that the operator is liable for revising the AAFM for compliance with the AD and that the manual cannot be modified without Beech Aircraft's approval. The FAA does not understand the commenter's concern since airplane operators/owners are responsible to comply with applicable ADs and the FAA can impose revisions and deletions to the AAFM through, or coordinated with, the manufacturer.

Several commenters proposed alternatives to the proposed AD as follows:

(1) Leave the Beech MEL in the AAFM, revised to remove conflicts with ADs and waive the Part 135 rule to allow the current Beech MEL to be used/or;

(2) Reactivate the Flight Operations Evaluation Board (FOEB) and revise the current FAA MMEL to include those items the Beech 99 MEL has allowed the operator to use/or;

(3) Consider adding a CDL and ferry certificate authorization for all Part 135 operators.

(4) Permit day VFR operation with one DC generator, one DC loadmeter, one DC generator warning light and one inverter inoperative.

(5) Delete flap position indicator, trim tab indicators, horizontal stabilizer position indicator, oil temperature indicator, and low oil pressure warning light from the equipment list.

The FAA had already given careful consideration, including comments at a public meeting, to the foregoing alternatives, and the NPRM was based on the conclusion of those efforts.

Accordingly, the FAA has determined that sufficient evidence exists in the public interest of aviation safety to adopt the proposed rule with only minor changes. Additionally, the individual named in the "For Further Information Contact" caption has been changed to Paul A. Cormaci of the Airworthiness Standards Program Office in Kansas City, Missouri. Since these changes are clarifying and relaxatory in nature, additional notice and public procedure hereon under 5 U.S.C. 553(b) are unnecessary and impracticable.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

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

Beech: Applies to Models 99, 99A, A99A and A99 (Serial Numbers U-1 through U-145 and U-147) and Model B99 (Serial Numbers U-146, U-148 and subsequent) airplanes certificated in all categories.

Compliance: required as indicated, unless previously accomplished.

To preclude operations with inoperative systems which are required to be functioning for safe flight, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Make the following revisions to the applicable approved Airplane Flight Manual (AAFM) and operate the airplane in accordance with the revised manual.

1. In P/N 99-590012-ID, FAA Approved Airplane Flight Manual for Beechcraft 99 Airliner:

(a) Delete from page 4-1 the entry "Minimum Equipment List * * * 4-35" and the entry "Configuration Deviation List * * * 4-44."

(b) Remove and destroy pages 4-35 through 4-46.

2. In P/N 99-590019-1C, FAA Approved Flight Manual for the Beechcraft 99A Airliner:

(a) Delete from page 4-1 the entry "Minimum Equipment List * * * 4-31" and the entry "Configuration Deviation List * * * 4-40."

(b) Remove and destroy pages 4-31 through 4-42

3. In P/N 99-590023-1, FAA Approved Flight Manual for the Beechcraft A99A Airliner:

(a) Delete from page 4-1 the entry "Minimum Equipment List * * * 4-33" and the entry "Configuration Deviation List * * * 4-42."

(b) Remove and destroy pages 4-33 through 4-44

4. In P/N 99-590024-1, FAA Approved Flight Manual for the Beechcraft A99 Airliner:

(a) Delete from page 4-1 the entry "Minimum Equipment List * * * 4-29" and the entry "Configuration Deviation List * * * 4-38."

(b) Remove and destroy pages 4-29 through 4-40

5. In P/N 99-590026-1, FAA Approved B99 Airliner Airplane Flight Manual:

(a) Delete from page 4-1 the entry "Minimum Equipment List * * * 4-33" and the entry "Configuration Deviation List * * * 4-42."

(b) Remove and destroy pages 4-33 through 4-44

(B) In the applicable FAA Approved Airplane Flight Manual identified in paragraph A of this AD:

1. In section 1, Limitations, delete in its entirety, the paragraph which reads as follows:

"This airplane is approved for the following types of operation when required equipment is installed and operational as defined herein.

1. VFR day and night.

2. IFR day and night.

3. Known icing conditions.

4. FAR 135 operations when all pertinent limitations and performance considerations are complied with.

5. FAR 91 operations when all pertinent limitations and considerations are complied with."

2. In Section 1, Limitations, insert the Kinds of Operations Equipment List (KOEL), a copy of which is attached hereto and identified as Appendix I for temporary insertion until an identical permanent list is provided by the manufacturer, and operate the airplane in accordance with that Equipment List.

(C) This AD may be accomplished by the holder of at least a private pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by that person provided the airplane is not used in air carrier service. An entry must be made in the Aircraft

Maintenance Records indicating compliance with this AD.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979) and will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves changes to manuals affecting operations used on only a few aircraft owned by small entities. A draft evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified 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 by only the Court of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on August 17, 1981.

James O. Robinson,

Acting Director, Central Region.

Appendix I—Kinds of Operations Equipment List (KOEL)

This airplane may be operated in day or night VFR, day or night IFR and icing conditions when the appropriate equipment is installed and operable. The following equipment list identifies the systems and equipment upon which type certification for each kind of operation was predicated and must be installed and operable for the particular kind of operation indicated. However, certain operations may be authorized with certain listed equipment and/or systems inoperative under certain conditions and under provisions defined by a current Minimum Equipment List (MEL) approved by the FAA which is dated concurrently with or after this AFM revision and authorized under an operating regulation which provides for use of an MEL.

	VFR day	VFR night	IFR day	IFR night	Icing
Electrical power:					
1. Battery	1	1	1	1	1
2. D.C. generator	2	2	2	2	2
3. D.C. loadmeter	2	2	2	2	2
4. D.C. generator warning light	2	2	2	2	2
5. Inverter	2	2	2	2	2
6. Inverter warning light	1	1	1	1	1
7. Feeder limiter warning light	1	1	1	1	1
8. Battery monitor system	1	1	1	1	1
Equipment/ furnishings:					
1. Exit signs—self-illuminated	3	3	3	3	3
Fire protection:					
1. Engine fire detector	2	2	2	2	2
2. Firewall fuel shutoff	2	2	2	2	2
Flight controls:					
1. Flap system	1	1	1	1	1
2. Flap position indicator	1	1	1	1	1
3. Horizontal stabilizer trim system—main	1	1	1	1	1
4. Horizontal stabilizer trim system—standby	1	1	1	1	1
5. Stabilizer out-of-trim aural warning indicator	1	1	1	1	1
6. Trim-in-motion aural indicator	1	1	1	1	1
7. Horizontal stabilizer position indicator	1	1	1	1	1
8. Stall warning horn	1	1	1	1	1
9. Trim tab indicator—rudder	1	1	1	1	1
10. Trim tab indicator aileron	1	1	1	1	1
Fuel:					
1. Fuel boost pumps (4 are installed)	[1]	[1]	[1]	[1]	[1]
2. Fuel quantity indicator	2	2	2	2	2
3. Fuel quantity gauge selector switch	1	1	1	1	1
4. Nacelle not-full warning light	2	2	2	2	2
5. Crossfeed light	1	1	1	1	1
6. Fuel boost pump low pressure warning light	2	2	2	2	2
7. Fuel flow indicator	2	2	2	2	2
8. Jet transfer pump	2	2	2	2	2
Ice and rain protection:					
1. Engine inlet scoop deicer boot	2	2	2	2	2
2. Engine inlet scoop/ deicer/ propeller deicer indicator	2	2	2	2	2
3. Engine inertial anti-icing system	2	2	2	2	2
4. Pitot heat	0	0	2	2	2
5. Alternate static air source	0	0	1	1	1
6. Engine auto-ignition system	2	2	2	2	2
7. Propeller deicer	0	0	0	0	2
8. Windshield heat (left)	0	0	0	0	1
9. Surface deicer system	0	0	0	0	1
10. Stall warning mounting plate heater	1	1	1	1	1
11. Wing ice light (left)	0	0	0	0	1
12. Windshield wiper (left)	1	1	1	1	1
Landing gear:					
1. Landing gear position indicator lights	3	3	3	3	3
2. Landing gear handle light	1	1	1	1	1
3. Flap-controlled landing gear aural warning	1	1	1	1	1
4. Nose steering disconnect actuator	1	1	1	1	1
Lights:					
1. Cockpit and instrument (required illumination)	0	1	0	1	0
2. Anti-collision	0	2	0	2	0
3. Landing light assembly (two lamps)	0	1	0	1	0
4. Position lights (system)	0	1	0	1	0
5. Cabin door warning light	1	1	1	1	1
6. Baggage door warning light	1	1	1	1	1
Navigation (instrument):					
1. Altimeter (left)	1	1	1	1	1
2. Airspeed (left)	1	1	1	1	1
3. Magnetic compass	1	1	1	1	1
4. Outside air temperature	1	1	1	1	1
Vacuum system:					
1. Suction gauge	1	1	1	1	1
Propeller:					
1. Autofeather system	2	2	2	2	2
2. Low pitch light (PT6A-20 engine only)	2	2	2	2	2
3. Do not reverse warning light	2	2	2	2	2
Engine indicating:					
1. Tachometer indicator (propeller)	2	2	2	2	2
2. Tachometer indicator (gas generator)	2	2	2	2	2
3. ITT indicator	2	2	2	2	2
4. Torque indicator	2	2	2	2	2
Engine oil:					
1. Oil temperature indicator	2	2	2	2	2
2. Oil pressure indicator	2	2	2	2	2
3. Low oil pressure light	2	2	2	2	2
4. Engine chip detector	2	2	2	2	2

[1] PER AFM limitations.

Note 1: The zeros (0) used in the above list mean that the equipment and/or system was not required for type certification for that kind of operation.

Note 2: The above system and equipment list is predicated on a crew of one pilot.

Note 3: Equipment and/or systems in addition to those listed above may be required by operating regulations (FAR

Part 135) that may specify certain items of equipment for more than one pilot.

[FR Doc. 81-25142 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-50-AD; Amdt. 39-4201]

Airworthiness Directives: British Aerospace Corporation Model HS748 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 10, 1981, the FAA issued a Telegraphic Airworthiness Directive, (AD) T81-15-52, to all known operators of British Aerospace Model HS748 airplanes, effective upon receipt, requiring operators to institute a preflight procedure to ensure the passenger and cargo doors are closed and locked prior to takeoff. This action was prompted by a fatal accident which may have been caused by a baggage door becoming detached in flight and striking the horizontal stabilizer. This AD is hereby published in the **Federal Register** to make it effective to all persons. Further, this document amends T81-15-52 to require an inspection and reinstallation, if required, of the door lock viewing windows. Incorrect installation of the windows could give a misleading indication of the door lock status.

DATES: Effective date September 9, 1981.

This AD was effective earlier to all recipients of Telegraphic AD T81-15-52 dated July 10, 1981.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Product Support Manager, British Aerospace Corporation, Woodford, England, or may be examined at the FAA Northwest Region, 9010 E. Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Project Engineer, Foreign Aircraft Certification Branch, ANW-150S, Federal Aviation Administration, Aircraft Certification Office, 9010 E. Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: It is speculated that a fatal accident was caused when the right-hand rear baggage door of an HS748 airplane became detached during flight and struck the horizontal stabilizer. British Aerospace Corporation Alert Service Bulletin A52/90 dated July 10, 1981, was issued by the manufacturer to require a preflight check of all doors by a qualified crew member to ensure they are properly secured. The bulletin also required additional mechanical and electrical checks of the door lock indication system as well as the deletion of external markings and indicators. A telegraphic AD T81-15-52 was issued July 10, 1981, to require compliance with the service bulletin. On August 3, 1981, an amendment to the service bulletin was issued which required an additional inspection of all door windows to ensure they are correctly installed. These windows are located adjacent to indicator drums which show the status of the door locking mechanism. If a window is improperly installed, parallax errors may result which could give a false reading of the door locking mechanism position. This AD requires an inspection to ensure the windows are properly installed as well as publishes the original telegraphic AD in the **Federal Register**.

Since this condition was likely to exist or develop on other airplanes of the same type design, a telegraphic airworthiness directive was issued which requires inspections and modifications to British Aircraft Corporation HS748 airplanes. It is now published to make it effective to all persons.

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

PART 39—AIRWORTHINESS DIRECTIVES

Adoption of the Amendment

§ 39.13 [Amended]

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

British Aerospace Corporation: Applies to all operators of HS-748 airplanes certified in all categories.

To ensure all entry and cargo doors are properly secured, accomplish the following unless already accomplished:

1. Within 2 days after the receipt of this AD, accomplish a preflight check procedure including log book entry in accordance with paragraph 2A of British Aerospace Corporation Alert Service Bulletin A52/90 dated July 10, 1981, or a later FAA approved revision.

2. Within 14 days after the receipt of this AD, remove external markings and indicators in accordance with paragraph 2B of British Aerospace Corporation Alert Service Bulletin A52/90 dated July 10, 1981, or a later FAA approved revision.

3. Within 14 days after the receipt of this AD, perform checks of the mechanical locking system in accordance with paragraph 2C1 of British Aerospace Corporation Alert Service Bulletin A52/90 dated July 10, 1981, or a later FAA approved revision.

4. At the next "A" check or within 14 days, whichever comes first, and at each "A" check thereafter or 14 day-period, perform electrical indication system checks in accordance with paragraph 2C2 of British Aerospace Corporation Alert Service Bulletin A52/90 dated July 10, 1981, or a later FAA approved revision.

5. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and FAR 21.199.

6. Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

7. Within ten days after the effective date of this AD, unless already accomplished, inspect the windows adjacent to indicator drums for correct installation in accordance with British Aerospace Corporation Alert Service Bulletin A52/90 dated August 3, 1981, or a later FAA approved revision. If windows are found improperly installed, they must be removed and refitted correctly.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective September 9, 1981, and was effective earlier to those recipients of Telegraphic AD T81-15-52 dated July 10, 1981.

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

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

the caption "FOR FURTHER INFORMATION CONTACT."

In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this regulation will not have a significant economic impact on a substantial number of small entities since few, if any, are affected.

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

Issued in Seattle, Washington, on August 20, 1981.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-25274 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-WE-15-AD; Amdt. 39-4202]

Airworthiness Directives; Fairchild Model C-119 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement if necessary of the inboard and outboard aileron systems and support structure on Fairchild Model C-119 Series airplanes. The AD is needed to prevent possible wing failure due to loads induced by a failure in the aileron system.

DATES: Effective September 10, 1981.

Compliance required within the next 100 hours' time in service after the effective date of this AD, or within 60 days from the effective date of this AD, whichever occurs earlier.

ADDRESSES: The applicable service information may be reviewed at, and a copy obtained from:

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

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

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

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating the probable cause of a fatal accident involving a Fairchild C-119C airplane certificated in the restricted category, under a type certificate held by Aero Union Corporation, involved wing structural failure initiated by aileron control system failure.

Post crash investigation revealed that the failed left hand aileron bellcrank (magnesium) demonstrated severe corrosion. The nature and degree of the corrosion is such that the FAA has reason to question the adequacy of the maintenance and inspection programs on these airplanes.

Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires visual, dye penetrant and X-ray inspections of the inboard and outboard aileron and aileron control linkage on Fairchild Model C-119 series airplanes under various type certificates.

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

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

§ 39.13 [Amended]

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

Fairchild: Applies to Model C-119 series airplanes certificated in all categories under various type certificates including, but not limited to:

Pacific International Foods, Inc., A6NW
William Waara, A32CE
Starbird, Inc., A5NW
Aero Union Corporation, A21WE
Hawkins and Powers, Inc., A24WE

Compliance required as indicated, unless already accomplished.

To prevent possible wing failure due to loads induced by a free aileron, accomplish the following:

(a) Within 100 hours' time in service or within 60 days from the effective date of this AD, whichever occurs earlier, conduct inspections of the inboard and outboard aileron, aileron control system, and all aileron attachment fittings of the outer wing panel using the applicable inspection instructions of Section III Wing Group and Section X Control Systems Group of USAF Technical Order T.O. 1C-119G-36 and additional inspection procedures given below.

(b) Remove the left and right hand inboard and outboard ailerons and inspect for evidence of cracks, corrosion, pitting; loose, distorted or corroded fasteners; excessive wear and elongated holes in accordance with the visual, dye penetrant and X-ray procedures of T.O. 1C-119G-36, paragraphs 3-25 through 3-36.

(c) Inspect the aileron flight control linkage in the left and right hand wing outer panel for evidence of cracks, corrosion, pitting; loose, distorted or corroded fasteners; excessive wear and elongated holes in accordance with visual, magnetic and dye penetrant procedures of T.O. 1C-119G-36, paragraphs 10-11 through 10-14, with the following exceptions for the bellcrank item C-30 of T.O. 1C-119G-36.

(1) Remove the left and right hand inboard aileron bellcrank assembly, P/N 110-727202-21 and P/N 110-727202-22, indicated as item C-30 in T.O. 1C-119G-36, Figure 10-3, page 10-25.

(2) Conduct a dye penetrant inspection in accordance with T.O. 1C-119G-36, paragraph 10-14(c)(2), after removal of the bushings and bearings. Particular attention should be directed to the exterior and interior surfaces of the central hub of the bellcrank.

(d) Using a 10X magnifier, inspect the truss support assembly which is attached to the upper and lower rear wing spar cap and inner aileron bellcrank inter-rib support bracket in left and right outer wing panels for evidence of corrosion, cracks or loss of structural integrity caused by erosion of tubular wall thickness.

Note.—Part numbers found on some C-119 model aircraft are: P/N 78-135106-0005R and P/N 78-135106-0008L.

(e) If any cracks, corrosion, pitting; loose, distorted or corroded fasteners; excessive wear or elongated holes are detected during the inspections, repair in accordance with T.O. 1C-119B-3 or replace with like serviceable part in accordance with the procedures of the applicable paragraphs in T.O. 1C-119G-36, prior to further flight.

(f) Prior to return to service, after accomplishing other inspections required by this AD, conduct a balance inspection of all four ailerons per procedures specified in the applicable maintenance instructions. Any out-of-limit condition must be corrected prior to further flight.

(g) Repeat the inspections required by paragraph (c), (d) and (f) of this AD at intervals not to exceed 3000 hours' time in service or one (1) year from the last such inspection, whichever occurs earlier.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

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

(j) The specifications and procedures identified and described in this directive are incorporated herein and made a part hereof

pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive, who have not already received these documents may obtain copies upon request to: FAA Western Region Office, 15000 Aviation Boulevard, Hawthorne, California 90261, and at: FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591.

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

This amendment becomes effective September 10, 1981.

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

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

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 Los Angeles, California on August 21, 1981.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 81-25275 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-WE-12-AD; Amdt. 39-4203]

Airworthiness Directives; Hiller Model UH-12 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection of tail rotor blades for cracking and/or clogging of vent holes, and prescribes corrective action on Hiller Model UH-12 series helicopters. The AD is needed to detect cracks which, if undetected, could result in loss of directional control.

DATES: Effective September 10, 1981.

Initial compliance required prior to further flight after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from: Hiller Aviation, 2075 W. Scranton Avenue, Porterville, California 93257.

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

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

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

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

SUPPLEMENTARY INFORMATION: There have been reports of skin cracks in the tail rotor blades of Hiller Model UH-12 series helicopters. Three of these reports are recent and one such instance of cracking resulted in an accident (non-fatal). The blade skins on these three rotorcraft blades were found cracked after 7 hours, 10 hours and 77 hours time in service respectively. In each instance it was determined that the vent holes on the root end were clogged. As a result, pressure fluctuations can be created within the blade cavity causing the skin to vibrate in flexure resulting in the initiation of skin fatigue cracks. All Hiller UH-12 tail rotor blades P/N 55073 can be affected by this phenomenon. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires a one time inspection of the tail rotor blades for skin cracks and a repetitive check of the tail rotor vent holes for clogging and replacement if neccessary, of the tail rotor blades on Hiller Model UH-12 series helicopters.

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

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

§ 39.13 [Amended]

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

Hiller Aviation: Applies to Hiller Model UH-12 series helicopters including military models H-23F and OH-23G, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent tail rotor skin cracks, accomplish the following:

(a) Prior to further flight after the effective date of this AD;

(1) Visually inspect the tail rotor blades for skin cracks or loose rivets. If cracks or loose rivets are found, replace with like serviceable part prior to return to service.

(2) Inspect the four vent holes in the tail rotor blades for obstruction as indicated in Part 2 of Hiller Aviation Service Bulletin UH-12-55-1 dated August 11, 1981. If either of the vent holes at the root end are found to be obstructed, remove the blade from service and replace with like serviceable part. If the root vent holes are found to be unobstructed, inspect the tip vent holes and clear of any obstruction prior to return to service.

(b) Prior to each flight after the inspections required by paragraph (a) of this AD, conduct a visual check to determine that the four vent holes are clear of obstruction. If obstructions are found, perform the appropriate corrective actions of paragraph (a) of this AD prior to further flight.

Note.—The checks required by paragraph (b) of this AD may be performed by the pilot.

Note.—For the requirements regarding recording compliance and method of compliance with this AD in the aircraft's permanent maintenance records, see FAR 91.173.

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

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to: Hiller Aviation, 2075 W. Scranton Avenue, Porterville, California 93257, Telephone: (209) 781-8000, Telex 682454.

These documents may also be examined at: FAA Western Region Office, 15000 Aviation Boulevard, Hawthorne, California 90261, and

at: FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591.

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

This amendment becomes effective September 10, 1981.

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

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

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 appeal of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Los Angeles, California on August 21, 1981.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 81-25273 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-WE-13-AD; Amdt. 39-4204]

Airworthiness Directives; Volpar, Inc., Beech Model 18 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement if necessary of a certain bolt in the main landing gear system on Beech 18 series aircraft incorporating modifications per Volpar, Inc. Supplemental Type Certificates SA4-1531, SA111WE or SA1832WE. The AD is needed to prevent bolt failure which could result in landing gear collapse.

DATES: Effective September 10, 1981.

Compliance schedule—As prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Volpar, Incorporated, Van Nuys, California 91406.

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

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

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

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

SUPPLEMENTARY INFORMATION: There have been reports of bolt failures in the main landing gear of Beech 18 series aircraft modified by Volpar, Inc. STCs SA4-1531, SA111WE and SA1832WE. The bolt is failing at the head radius due to high repetitive loads. Separation of the bolt shank from its bushing could cause gear collapse. Since this condition is likely to exist or develop in other aircraft of the same supplementally certificated type design, an airworthiness directive is being issued which requires inspection of the bolt and replacement if necessary with a bolt of improved design. In addition eventual replacement of the failing bolt is required by the AD.

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

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

§ 39.13 [Amended]

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

Volpar, Incorporated: Applies to Beech Models C-45G, TC-45G, C-45H, TC-45H, TC-45J (SNB-5), RC-45J (SNB-5P), D18C, D18S, E18S-9700, G18S, H18, JRB-6, 3N, 3NM, and 3TM Aircraft with Volpar Tricycle Landing Gear, (STC SA4-1531, STC SA111WE, STC SA1832WE or any other STC modification incorporating the provisions of this installation), certificated in all categories.

Compliance required as indicated unless already accomplished. To prevent possible main landing gear collapse due to bolt failure, accomplish the following:

(a) Prior to further flight after the effective date of this AD, visually inspect the main landing gear Walking Beam upper attach bolt P/N AN179-46A for integrity and for adequate installation as specified in "Accomplishment Instructions", Part 1, Paragraphs (a) and (b) of Volpar, Inc. Service Bulletin Number 22 dated June 1, 1981. If the bolt has failed, replace with like serviceable part (or replacement part per paragraph (b) of this AD) prior to return to service.

(b) Prior to the accumulation of 200 additional hours' time in service, or at the next annual inspection, whichever occurs sooner, remove AN 179-46A bolt and associated hardware and install NAS 149-80 bolt and associated hardware as specified in "Description of Change" section of Volpar, Inc. Service Bulletin Number 22, dated June 1, 1981.

(c) At intervals not to exceed 3,000 hours' time in service since the installation of Bolt P/N NAS 149-80, visually inspect the bolt installation for integrity and replace with like serviceable part, if necessary.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to: Volpar, Incorporated, Van Nuys, California 91406, Phone: (213) 994-5023, Telex 651419.

These Documents may also be examined at: FAA Western Region Office, 15000 Aviation Boulevard, Hawthorne, California 90261, and at: FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591.

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

This amendment becomes effective September 10, 1981.

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

Note.—The FAA has determined that due to the emergency nature of this AD, it is impracticable to follow the regulatory

procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

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 appeal of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Los Angeles, California on August 21, 1981.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 81-25276 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2530

Rules and Regulations for Minimum Standards for Employee Benefit Plans; Suspension of Benefit Rules—Deferral of Effective Date

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Interim deferral of effective date of final rule and request for comments.

SUMMARY: This document defers until October 1, 1981, the effective date of 29 CFR 2530.203-3, Suspension of Benefit Rules, and proposes deferring the effective date of this regulation until action is taken on proposed amendments to it. This regulation had been due to take effect on September 1, 1981. These actions are taken in order to permit proposed rulemaking which appears elsewhere in this issue of the **Federal Register.**

DATE: The effective date of 29 CFR 2530.203-3 is deferred until October 1, 1981. Comments on the proposal to defer the effective date of this regulation until action is taken on today's proposed amendments to the regulation must be received by the Department on or before September 14, 1981.

ADDRESSES: Written comments (preferably at least three copies) should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, U.S. Department of Labor, Washington, D.C. 20216. Attention: Suspension of Benefits—Deferral. All Written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Office of the Solicitor; 200 Constitution Avenue NW., Washington, D.C. 20216; Room C-4508; 202-523-8658.

SUPPLEMENTARY INFORMATION: On January 27, 1981, the Department of Labor published in the **Federal Register** (46 FR 8894) a final regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA) governing the circumstances under which it is permissible for a plan to suspend the payment of pension benefits (29 CFR 2530.203-3). As published, this regulation was due to take effect May 27, 1981.

On May 26, 1981, June 30, 1981, and July 31, 1981, the Department published documents (46 FR 28151, 33517, 39138) which announced its decision to defer the effective date of the suspension of benefits regulation until July 1, 1981, August 1, 1981, and September 1, 1981, respectively. These actions were taken in order to permit reconsideration of this regulation in accordance with Executive Order 12291, and to coordinate review by the Office of Management and Budget, as required by the Executive Order.

The Department has now determined to propose certain technical amendments to this regulation. A Notice describing these proposals appears elsewhere in today's issue of the **Federal Register.** In view of this action, it appears desirable to obtain public comment on whether the regulation should be permitted to take effect before a final decision is made regarding adoption of the amendments proposed today. Accordingly, the Department has decided to defer the effective date of the suspension of benefits regulation until October 1, 1981; and to propose for public comment deferring the effective date until action is taken on the proposed amendments published today.

For these reasons, and because this regulation is scheduled to become effective very shortly, the Department finds, pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)), that additional notice and public procedure on this change of effective date would be impracticable, unnecessary and contrary to the public interest.

Accordingly, pursuant to the authority set forth in sections 203(a)(3)(B) and 505

of ERISA, the effective date of 29 CFR 2530.203–3 is hereby deferred until October 1, 1981.

Signed at Washington, D.C., this 27th day of August, 1981.

Donald L. Dotson,

Assistant Secretary, Labor-Management Services Administration.

[FR Doc. 81–25460 Filed 8–28–81; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USS ATLANTA (SSN 712) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS ATLANTA (SSN 712) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 29, 1981.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, Alexandria, Virginia 22332; Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS ATLANTA (SSN 712) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS ATLANTA (SSN 712) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS ATLANTA (SSN 712).

Moreover, it has been determined, in accordance with CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
* * *	*	*
USS ATLANTA	SSN 712	3.5
* * *	*	*

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
USS ATLANTA	SSN 712				4.3	6.1	3.4	1.6 below

(Executive Order 11964; 33 U.S.C. 1605)

Dated: 29 June 1981.

John Lehman,

Secretary of the Navy.

[FR Doc. 81-25332 Filed 8-28-81; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 79-120]

Regulated Navigation Area; Chesapeake Bay Entrance

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule to remove § 162.50 of its regulations which covers navigation in Thimble Shoal Channel, Chesapeake Bay. This removal is necessary to resolve a conflict over the minimum draft of vessels allowed to navigate the Thimble Shoal Channel. In § 162.50, vessels must have a draft of 20 feet or more. In § 128.501(c)(4) the requirement is that vessels using the channel for navigation must have a draft not less than 25 feet. The conflict between these two regulations has caused much confusion. The removal of the 20 foot limitation as stated in § 162.50 should eliminate this confusion.

EFFECTIVE DATE: This final rule is effective October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G-WWM-2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-4958 between 7:00 a.m. and 4:30 p.m., Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: On June 4, 1981, the Coast Guard published a proposed rule (46 FR 29954) concerning this amendment. Interested persons were given until July 20, 1981 to submit comments. No comments were received. No public hearing was held.

Drafting Information: The principal persons involved in the drafting of this regulation are Ensign Edward G. LeBlanc, Project Manager, Office of Marine Environment and Systems, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion of the Comments: No comments were received.

Summary of Final Evaluation: This regulation has been evaluated under Executive Order 12291 and the Coast Guard has determined that this is not a major regulation. This regulation has also been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations" dated May 22, 1980 and has been determined to be nonsignificant. The reason for this determination is that this amendment is primarily editorial, the impact is minimal, and the only requirement on vessels with 20-25 foot drafts is that they use the immediately adjacent channels instead of the main channel. The impact is considered so minimal that a regulatory evaluation is not required.

Final Regulations: In consideration of the above, Part 162 of Title 33, Code of Federal Regulations is amended as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for Part 162 is revised to read as follows:

Authority: Sec. 12, Pub. L. 95-474, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4).

§ 162.50 [Removed]

2. Part 162 is amended by removing § 162.50.

Dated: August 18, 1981.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 81-25370 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 4

Schedule for Rating Disabilties; Endocrine System

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration has amended that portion of the Schedule for Rating Disabilities dealing with the endocrine system. The revisions are based upon our review of claims, recommendations of the national service organizations, comments from the staff of the Department of Medicine and Surgery of the VA, analysis of correspondence and our experience with claims.

The amendment to the Schedule for Rating Disabilities reflects increased evaluations for nontoxic adenoma of the thyroid gland, hypopituitarism and Addison's disease. In addition, the criteria for most of the endocrinopathies listed in the rating schedule have been revised for the purpose of updating laboratory techniques used in their diagnostication, to rephrase the criteria used in the evaluation process, and to provide minimum ratings of 10 percent when continuous medication is required.

EFFECTIVE DATE: August 13, 1981. An amendment to Appendix A, Table of Amendments and Effective Dates Since 1946, is added to include this date.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acquadro, 202-389-3864.

SUPPLEMENTARY INFORMATION: On pages 23085-23086 of the **Federal Register** of April 23, 1981 the Veterans Administration published proposed amendments to 38 CFR 4.119. Interested persons were given until June 5, 1981, to submit comments, suggestions or objections to the proposal. One comment signed by two persons was received.

The commentators object to the criteria on which higher ratings are based and feel that veterans will not comply with treatment in order to increase severity of their condition and thereby be given 100 percent disability for a disability which in other respects would be free from complications if a treatment regimen was faithfully adhered to. The problem raised by the commentators is not a new problem, but one that was already raised and considered before. The element of secondary gain while admittedly a motivation is generally not nearly as strong as the motivation for self-preservation. Secondary gain is a factor in our compensation program to which we give attention.

We find no need to change the present basis for disability rating.

The amendments to the Schedule for Rating Disabilities are adopted as proposed.

The agency has determined that these proposed regulations are non-major in accordance with Executive Order No. 12291, Federal Regulation.

The Administrator hereby certifies that this final rule will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are

defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the final regulatory flexibility analyses requirements of Parts 603 and 604. The reason for this certification is that this rule will regulate only individual VA benefit recipients. It will therefore have no significant direct impact on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance number is 64.109.

Approved: August 13, 1981.

Robert P. Nimmo,

Administrator.

PART 4—SCHEDULE FOR RATING DISABILITIES

§ 4.97 [Amended]

1. In § 4.97, the center title preceding diagnostic code 6701 is corrected to read "Ratings for Pulmonary Tuberculosis Entitled on August 19, 1968".

2. Section 4.119 is revised as follows:

§ 4.119 Schedule of ratings—endocrine system.

	Rating
7900 Hyperthyroidism	
Pronounced; with thyroid enlargement, severe tachycardia, increased levels of circulating thyroid hormones (T_4 and/or T_3 by specific assay) with marked nervous, cardiovascular, or gastrointestinal symptoms; muscular weakness and loss of weight; or postoperative with poor results, the symptoms under "pronounced" persisting	100
Severe; with marked emotional instability, fatigability, tachycardia and increased pulse pressure or blood pressure, increased levels of circulating thyroid hormones (T_4 and/or T_3 by specific assays)	60
Moderately severe; with the history shown under "severe," but with reduced symptoms; or postoperative, with tachycardia and increased blood pressure or pulse pressure of moderate degree and tremor	30
Moderate or postoperative with tachycardia which may be intermittent, and tremor	10
In remission; or operated; cured	0
NOTE 1.—If disease of the heart predominates, rate as hyperthyroid heart disease diagnostic code 7008.	
NOTE 2.—If opthalmopathy only exists, rate under impairment of field vision diagnostic code 6080, diplopia diagnostic code 6090 or central visual acuity diagnostic codes 6061–6079.	
NOTE 3.—When continuous medication is required for control of hyperthyroidism, a minimum rating of 10 percent will be assigned.	
7901 Thyroid gland, toxic adenoma of	
Rate as hyperthyroidism under diagnostic code 7900.	
7902 Thyroid gland, nontoxic adenoma of	
With pressure symptoms or marked disfigurement	20
Nonsymptomatic	0
NOTE.—For higher ratings, see organs whose function is affected.	
7903 Hypothyroidism	
Pronounced; with a long history and slow pulse, decreased levels of circulating thyroid hormones (T_4 and/or T_3 by specific assays), sluggish mentality, sleepiness, and slow return of reflexes	100
Severe; the symptoms under "pronounced" somewhat less marked, decreased levels of circulating thyroid hormones (T_4 and/or T_3 by specific assays)	60
Moderately severe; sluggish mentality and other indications of myxedema, decreased levels of circulating thyroid hormones (T_4 and/or T_3 by specific assays)	30
Moderate; with fatigability	10
In remission	0
NOTE.—When continuous medication is required for control of hypothyroidism, a minimum rating of 10 percent will be assigned.	
7904 Hyperparathyroidism (osteitis fibrosa cystica)	
Pronounced; with generalized decalcification of bones, high blood and urinary calcium, marked loss of weight and weakness	100
Severe; with symptom combinations less than under "pronounced" and manifestations of hypercalcemia and urinary calcium, but with marked weight loss and muscle weakness	60
Following operation or treatment	
Rate as residual of benign tumor, considering especially bones and kidneys under appropriate diagnostic code	
7905 Hypoparathyrodism	
Postoperative; following thyroidectomy, with painful muscular spasms (tetany), or with marked neuromuscular excitability	100
For lesser degree rate by analogy with hyperthyroidism under diagnostic code 7900	
NOTE.—When continuous medication is required for control of hypoparathyroidism, a minimum rating of 10 percent will be required.	
7907 Hyperpituitarism (pituitary basophilism, Cushing's syndrome)	
As active progressive disease with marked loss of muscle strength, areas of osteoporosis with pathological fractures and enlargement of sella turcica, pituitary or adrenal glands	100
Severe; with symptom combination less than for the 100 percent rating with only partial control by treatment	60
NOTE.—With recovery or control, rate residuals such as adrenal insufficiency, cardiac, skin and bony complications under appropriate diagnostic code.	
7908 Hyperpituitarism (acromegaly or gigantism)	
Pronounced; hypofunctional stage following stage of hyperfunction, with intracranial pressure, hypertension, genital decline and atrophy, hypotrichosis, hypoglycemia, obesity and asthenia	100
Severe; bone and joint pains, hyperglycemia and glycosuria, symptoms of intracranial pressure in optic region	60
Moderate; enlargement of acral parts, or overgrowth of long bones, with X-ray evidence of enlarged sella turcica	30
7909 Hypopituitarism (diabetes insipidus)	
Pronounced; excessive thirst with intake of water and severe polyuria with episodes of syncope, systolic and diastolic blood pressure below normal, requiring parenteral replacement therapy	100
Severe; excessive thirst with intake of water and polyuria with dehydration with increased serum osmality > 295 mOsm/kg with decreased urine osmality < 38 mOsm/kg	60
Moderately severe; polyuria with increase in urinary chlorides, etc	40
Moderate; with polyuria and polydipsia	20
7910 Hyperadrenia (adrenogenital syndrome)	
Postoperate; rate for residuals.	
7911 Addison's disease (adrenal cortical hypofunction)	
Four or more crises during the past year each substantiated by clinical findings of increasingly severe hypotension, dehydration and pronounced weakness with laboratory evidence such as hyponatremia, hyperpotassemia, azotemia, hypoglycemia and cortisol deficiency	60
Three crises substantiated as for the 60 percent rating during the past year; or episodes of lesser symptomatology manifested by vomiting, diarrhea, hypotension and marked weakness occurring 5 or more times during the past year	40
Well-established Addison's disease with fewer than 3 crises or less than 5 episodes of the lesser symptomatology during the past year; or with symptoms such as weakness and fatigability, continuous medication for control	20
NOTE.—Tuberculous Addison's disease will be rated as active or inactive tuberculosis. See §§ 4.88b and 4.89. On attainment of inactivity, the ratings under Code 7911 are not to be combined with the graduated ratings of 50 percent and 30 percent in § 4.89, assign the higher rating.	
7912 Pluriglandular syndromes	
Rate according to major manifestations.	
7913 Diabetes mellitus	
Pronounced, uncontrolled, that is, with repeated episodes of ketoacidosis or hypoglycemic reactions, restricted diet and regulation of activities; with progressive loss of weight and strength, or severe complications	100
Severe; with episodes of ketoacidosis or hypoglycemic reactions, but with considerable loss of weight and strength and with mild complications, such as pruritis ani, mild vascular deficiencies, or beginning diabetic ocular disturbances	60
Moderately severe; requiring large insulin dosage, restricted diet, and careful regulation of activities, i.e., avoidance of strenuous occupational and recreational activities	40
Moderate; with moderate insulin or oral hypoglycemic agent dosage, and restricted (maintenance) diet; without impairment of health or vigor or limitation of activity	20
Mild; controlled by restricted diet, without insulin; without impairment of health or vigor or limitation of activity	10
NOTE.—Definitely established complications such as amputations, impairment of central visual acuity, peripheral neuropathy with definite sensory or motor impairment or definitely established arteriosclerotic focalizations will be separately rated under the applicable diagnostic codes. When the diagnosis of diabetes mellitus is definitely established it is neither necessary nor advisable to request glucose tolerance tests for rating purposes.	
7914 New growths, malignant, any specified part of endocrine system	100
NOTE.—The rating under Code 7914 will be continued for 1 year following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. At this point, if there has been no local recurrence or metastases, the rating will be made on residuals	
7915 New growths, benign, any specified part of endocrine system	
The rating will be based on interference with endocrine functions, using any applicable endocrine analogy	

(38 U.S.C. 355)

3. Appendix A to Part 4 is revised to read as follows:

Appendix A.—Table of Amendments and Effective Dates Since 1946

* * * * *

Sec.

4.119 Diagnostic Code 7900—10% Evaluation; and Notes (2) and (3); August 13, 1981.

Diagnostic Code 7902—20% Evaluation; August 13, 1981.

Diagnostic Code 7903—10% Evaluation; August 13, 1981.

Diagnostic Code 7905—10% Evaluation; August 13, 1981.

Diagnostic Code 7907—60% Evaluation; August 13, 1981.

Diagnostic Code 7909—40% and 20% Evaluation; August 13, 1981.

Diagnostic Code 7911—Evaluations and Note; March 1, 1963; 40% and 20% Evaluations; August 13, 1981.

Diagnostic Code 7913—Note; September 9, 1975.

Diagnostic Code 7914—Note; March 10, 1976.

[FR Doc. 81-25325 Filed 8-28-81; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Veterans Education; Advance Payment of Educational Assistance Allowance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending two regulations to permit the advance payment of educational assistance allowance to veterans and eligible persons following breaks in enrollment of more than 30 days. Previously, a break had to be more than a calendar month before the Veterans Administration could make an advance payment. This resulted in some instances where a veterans or eligible person could not be paid for the interval between terms and could not receive an advance payment for the next term. These amended regulations eliminate this inequity.

EFFECTIVE DATE: August 13, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On page 26499 of the **Federal Register** of May 13, 1981, there was published a notice of intent to amend part 21 to change the rules governing advance payments.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposal. The Veterans Administration received two letters containing comments. These letters approved the proposal and urged that it be adopted. Accordingly, the agency is adopting the proposal without change.

The Administrator hereby certifies that these final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these final rules therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the rules will regulate only individual Veterans Administration benefit recipients. They will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The agency has also determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation.

The catalog of Federal Domestic Assistance number is 64.111.

The proposed changes to §§ 21.4136 and 21.4137 are deemed proper and are hereby approved.

Approved: August 13, 1981.

Robert P. Nimmo,

Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

§ 21.4136 [Amended]

1. Section 21.4236 is amended as follows:

(a) By removing "38 U.S.C. 1780(d)(5)(B) and (C) and (6)" and inserting "38 U.S.C. 1780(d)(4) (B) and (C) and (5)" in the first sentence of paragraph (j)(2)(iii).

(b) By revising § 21.4136 paragraph (j)(2)(iv) as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

* * * * *

(j) *Advance payment.* * * *

(2) *Payment.* * * *

(iv) *Time of payment.* The Veterans Administration will authorize advance payment only at the beginning—

(A) Of an ordinary school year, or

(B) Of any other enrollment period which begins after a break of 30 days or more, provided the veteran is not eligible for payment for the break. See § 21.4138(d) for payments made after advance payments. (38 U.S.C. 1780(d))

* * * * *

§ 21.4137 [Amended]

2. Section 21.4137 is amended as follows:

(a) By removing "38 U.S.C. 1780(d)(5)(B) and (C) and (6)" and inserting "38 U.S.C. 1780(d)(4)(B) and (C) and (5)" in the first sentence of paragraph (g)(4).

(b) By revising § 21.4137 paragraph (g)(5) as follows:

§ 21.4137 Rates; education assistance allowance; 38 U.S.C. Ch. 35.

* * * * *

(g) *Advance payment.* * * *

(5) *Time of payment.* The Veterans Administration will authorize advance payment only at the beginning—

(i) Of an ordinary school year, or

(ii) Of any other enrollment period which begins after a break of 30 days or more, provided the eligible person is not eligible for payment for the break. See § 21.4138(d) for payments made after advance payments. (38 U.S.C. 1780(d))

* * * * *

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

[FR Doc. 81-25346 Filed 8-28-81; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 36

Loan Guaranty; Implementation of New Legislation

AGENCY: Veterans Administration.

ACTION: Final regulations with request for comments.

SUMMARY: The VA (Veterans Administration) is amending its regulations applicable to the guaranteed and direct loan programs for conventionally built homes, the guaranteed loan program for mobile homes, and the specially adapted housing grant program for service-connected severely disabled veterans. These amendments increase the loan guaranty entitlement for home and mobile home loans, establish refinancing loans for the purpose of an interest rate reduction as an additional eligible purpose for guaranteed home and mobile home loans; establish a new class of specially adapted housing grant benefits and make minor editorial changes. The amendments are for the primary purpose of implementing the loan guaranty provisions of the Veteran's Disability Compensation and Housing Benefits Amendments of 1980.

DATES: Effective date October 1, 1980 or October 7, 1980, as appropriate. Comments on or before September 30, 1981.

ADDRESS: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420 (202) 389-3042.

SUPPLEMENTARY INFORMATION: Title III and Title IV of the Veteran's Disability Compensation and Housing Benefits Amendments of 1980, Pub. L. 96-385 (94 Stat. 1528) revised chapters 21 and 37 of title 38, United States Code, as it relates to specially adapted housing grants, guaranteed home and mobile home loans and direct loans. The new law thus requires substantial modification of the § 36.4200 series of VA Regulations which govern the guaranty of mobile home loans, the § 36.4300 series of VA Regulations which govern the guaranty

of home and condominium loans, the § 36.4400 series of VA Regulations which govern specially adapted housing grants, and the § 36.4500 series of VA Regulations which govern direct home loans.

The Administrator is now authorized to guarantee 50 percent of the principal amount of a mobile home loan not to exceed a guaranty of $20,000. Previously, the maximum dollar amount of guaranty for mobile home loans was $17,500, (there currently is no maximum mobile home loan amount). The amendments to § 36.4205 (a) and (b) implement this statutory provision.

The Administrator also is now authorized to guarantee 60 percent of the principal amount of a home loan not to exceed a guaranty of $27,500. Previously, the maximum dollar amount of guaranty for home loans was $25,000, (there currently is no maximum guaranteed home loan amount). The amendments to §§ 36.4302 (a), (c), and 36.4306(a) implement the provision with respect to guaranteed home and condominium loans. Conforming amendments to the direct loan regulations are required at §§ 36.4502 and 36.4503(a) to assure that a veteran obtaining a VA direct loan is charged an appropriate amount of loan guaranty entitlement.

The Act authorizes a new type of home, condominium, and mobile home refinancing loan for the purpose of reducing the interest rate payable by the veteran on his/her VA loan. A veteran may now refinance an existing VA guaranteed or direct home or mobile home loan with a VA guaranteed loan without any additional charge against the veteran's loan guaranty entitlement. This new type of refinancing loan is for the sole purpose of reducing the interest rate payable by the veteran on his/her VA loan. The refinancing loan amount is limited to the balance of the VA loan being refinanced plus allowable closing costs, including discounts, as specified in the regulations. The amendments to §§ 36.4204, 36.4205, 36.4206, 36.4209(e), 36.4212, 36.4223, 36.4232, and 36.4254 implement this new loan purpose relative to the mobile home program. Amendments to §§ 36.4301(aa), 36.4302 (a), (i), 36.4303(g), 36.4306, 36.4306a, 36.4308, 36.4311, 36.4312, and 36.4336, implement this new loan purpose relative to the home and condominium loan program.

In addition, the Act prohibits making a direct loan for the purpose of reducing the interest rate payable on an existing direct loan. The Act does authorize a veteran to refinance a VA direct loan with a VA guaranteed loan for the purpose of reducing the interest rate. The amendments to §§ 36.4507 and 36.4519 implement this restriction upon the VA direct loan program.

The final major amendments establish specially adapted housing benefits for veterans with permanent and total service-connected disability for blindness in both eyes or the anatomical loss or loss of use of both hands. Specially adapted housing benefits for eligible veterans will be payable for necessary home adaptations, including installation costs, not to exceed $5,000. The amendments to §§ 36.4401 (e), (h), 36.4402, 36.4403, 36.4404, and 36.4410 implement this provision of the Act.

Several minor editorial amendments are also being made to the loan guaranty regulations. Sections 36.4209 and 36.4220(a) are being amended to liberalize loan reporting requirements from 30 to 60 days for VA mobile home loans. The reporting requirement for home loans was previously liberalized on August 6, 1980 (see August 13, 1980 **Federal Register**, 45 FR 53807). This amendment places a conforming requirement in the mobile home loan regulations. An amendment is also made to § 36.4232(c) to insert current VA requirements conc erning fees and charges for appraisals and compliance inspections for used mobile home loans into the VA Regulations.

Editorial amendments are made to §§ 36.4301(ff) and 36.4302(e), to correct or revise inappropriate terminology. Subsections (g) and (h) of § 36.4324 are deleted to eliminate obsolete regulatory provisions. An editorial change is made to § 36.4343 to revise the title of the regulation.

An additional editorial amendment to § 36.4401(f) revises an inappropriate word. Sections 36.4505 and 36.4506 are amended to revise the maximum loan term and loan recasting requirements to reflect current law. Sections 36.4221, 36.4342, 36.4408, and 36.4520 are amended to revise the titles of certain positions designated to act on behalf of the Administrator and to correct the title of certain field offices.

Sections 36.4214, 36.4329, and 36.4523 are revised to incorporate the Commonwealth of the Northern Mariana Islands into the eligible geographic areas for VA loans.

Finally, §§ 36.4216 (g), (i), 36.4220(a), 36.4233 (a), (b), (d), 36.4234(a), 36.4235 (a), (b), (d), 36.4254(a), 36.4324(f), 36.4401 (a), (c), (e), 36.4402(a), 36.4403, 36.4405, 36.4406, 36.4409, 36.4410, 36.4501 (a), (e), 36.4505, 36.4506, 36.4507 (a), (c), 36.4508 (a), (b), (c), and 36.4525 are revised to reflect the agency policy of using precise terms to denote gender.

These regulations come within exceptions to the general VA policy of prior publication of proposed rules, as contained in 38 CFR § 1.12. The substantive changes implement statutory mandates. Those changes not required by statute are editorial in nature. Publication for advance notice and comment would serve little purpose and would not be in the public interest as it would delay implementation of a statute that liberalizes benefits.

These regulations have been reviewed pursuant to Executive Order 12291, entitled Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164). The proposed rules have been found to be nonmajor with respect to the Executive Order and nonsignificant with respect to the Regulatory Flexibility Act.

Concerning Executive Order 12291, a major rule is defined as one having an annual effect on the economy of 100 million or more dollars; causing a major increase in costs or prices for consumers, individual industries, Federal State, or local government agencies; or having significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These regulations implementing the Veteran's Disability Compensation and Housing Benefits Amendments of 1980 with respect to the Loan Guaranty program will not impact on the public or private sectors as a major rule as defined by the Executive Order.

Concerning the Regulatory Flexibility Act, each agency must analyze the effects of regulatory requirements on small business; Government jurisdictions and organizations, (collectively referred to as small entities). The regulations should have no impact upon small Government jurisdictions or organizations, and the regulations will impose little compliance costs and no reporting burdens upon small businesses participating in the Loan Guaranty program. We have concluded, therefore, that the regulations will have a nonsignificant economic impact upon small entities, and the Administrator so certifies. Moreover, these regulations are not subject to the Regulatory Flexibility Act in any case since they are not within the definition of a rule as defined in that Act. The official program numbers and titles of the VA programs affected by this action as setforth in OMB Circular A-89, Catalog of Federal Domestic Assistance, are: (1) 64.106, Specially Adapted Housing for Disabled Veterans (2) 64.113, Veterans Housing—Direct

Loans and Advances (3) 64.114, Veterans Housing—Guaranteed and Insured Loans (4) 64.118, Veterans Housing—Direct Loans for Disabled Veterans and (5) 64.119, Veterans Housing—Mobile Home Loans.

These amendments are adopted under authority granted the Administrator by sections 210(c), 801 (a) and (b), 1803(c)(1), and 1819(g) of title 38, United States Code.

COMMENT INFORMATION: Interested persons are invited to submit written comments, suggestions or objections regarding these regulatory amendments to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All material received will be considered, and appropriate regulatory revisions will be published, if necessary. These amendments, however, will remain effective until further amended. All written comments received will be available for public inspection at the above address only between 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until October 13, 1981. Any person visiting Central Office for the purpose of inspecting any comments received should visit the VA Central Office Veterans Services Unit in room 132. Visitors to any VA field station seeking to review the public comments will be informed that the records are available only in the Central Office Veterans Services Unit and will be furnished the appropriate address and room number.

Approved: August 7, 1981.

Robert P. Nimmo,

Administrator.

PART 36—LOAN GUARANTY

Part 36, Title 38, Code of Federal Regulations is amended as follows:

§ 36.4204 [Amended]

1. Section 36.4204 is amended as follows:

(a) By removing the word "or" at the end of paragraph (a)(4) and inserting the word "or" at the end of paragraph (a)(5).

(b) By removing the words "paragraph (a) of this section" and inserting the words "paragraph (a)(1) through (5) of this section" in paragraph (b).

2. By adding subparagraph (6) to paragraph (a) and subparagraph (7) to paragraph (d) and by revising paragraph (e) to read as follows:

§ 36.4204 Loan purposes, maximum loan amounts and terms.

(a) A mobile home loan may be guaranteed if the loan is for one of the following purposes:

* * * * *

(6) To refinance in accordance with § 36.4223 an existing mobile home loan guaranteed, insured or made under subparagraphs (1) through (5) of this paragraph.

(38 U.S.C. 1819(a)(1))

* * * * *

(d) The loan amount in an individual case shall not exceed the following:

* * * * *

(7) In the case of an interest rate reduction refinancing loan (38 U.S.C. 1819(a)(1)(F)) the maximum loan may not exceed:

(i) The balance of the Veterans Administration loan being refinanced;

(ii) Closing costs (excluding prepaid items) as authorized by § 36.4232 or 36.4254, as appropriate; and

(iii) Allowable discounts provided:

(A) The loan is submitted to the Administrator for prior approval;

(B) The amount of discount is disclosed to the Administrator and the veteran prior to the issuance of the certificate of commitment by the Administrator. Said certificate of commitment shall specify the discount to be paid by the veteran, and this discount may not be increased once the commitment has been issued without the approval of the Administrator;

(C) The discount has been determined by the Administrator to be reasonable in amount; and

(D) All powers of the Administrator under this subparagraph, except the authority to revise the discount after the commitment is issued, are hereby delegated to those officials designated by § 36.4221(b). The power of the Administrator to approve an increase in the discount after the commitment is issued is delegated to those officials designated by § 36.4220(a).

(38 U.S.C. 1819(a)(4) and (g))

(e) The cost of the transaction which will not be paid from the proceeds of the loan must be paid by the veteran in cash from the veteran's own resources. Except for interest rate reduction refinancing loans pursuant to paragraph (a)(6) of this section closing costs and prepaid items incident to the real estate portion of any mobile home loan must be paid in cash and may not be included in the loan amount. Prepaid items must be paid in cash and may not be included in the loan amount when a veteran obtains an interest rate reduction refinancing loan.

3. In § 36.4205, paragraphs (a), (b) and (f) are revised to read as follows:

§ 36.4205 Computation of guaranty.

(a) The amount of guaranty in respect to a loan guaranteed under 38 U.S.C. 1819 shall be fifty (50) percent of the original principal amount of the loan or $20,000 whichever is less. With respect to a loan guaranteed under 38 U.S.C. 1819(a)(1)(F), the dollar amount of guaranty may not exceed the original dollar amount of guaranty on the loan being refinanced.

(b) Subject to the provisions of paragraph (c) of § 36.4203, the following formulas will determine the amount of guaranty entitlement which remains available to an eligible veteran after prior use of entitlement:

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from $27,500. The sum remaining is the amount of available entitlement for use not to exceed $20,000 for mobile home purposes.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from $27,500. The sum remaining is the amount of available entitlement for use not to exceed $20,000 for mobile home purposes.

(3) If a veteran previously secured a mobile home loan, the amount of entitlement used for mobile home purposes is subtracted from $27,500. The sum remaining is the amount of available entitlement for use for home loan purposes only. To determine the amount of additional entitlement available for mobile home purposes, the amount of entitlement previously used for mobile home purposes is subtracted from $20,000. The sum remaining is the amount of available entitlement for use for mobile home purposes.

* * * * *

(f)(1) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such surviving spouse, issued by the Administrator, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity.

(38 U.S.C. 1801(a)(2), 1819(c)(4))

(2) For the purpose of obtaining an interest rate reduction refinancing loan purusant to 38 U.S.C. 1819(a)(1)(F), an unmarried suviving spouse who was a co-obligor under an existing Veterans Administration guaranteed loan shall be considered to be eligible for the 38 U.S.C. 1819(a)(1)(F) benefit.

(38 U.S.C. 1819(a)(4)(C))

* * * * *

4. Section 36.4206 is revised as follows:

§ 36.4206 Income, credit, occupancy, and nondiscrimination requirements.

(a) Except for refinancing loans pursuant to 38 U.S.C. 1819(a)(1)(F), no loan shall be guaranteed unless the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(b) No loan shall be guaranteed pursuant to 38 U.S.C. 1819(a)(1) unless:

(1) The veteran certifies, in such form as the Administrator shall prescribe, that he or she will personally occupy the property as his or her home. For the purposes of this section, the words "personally occupy the property as his or her home" mean that the veteran as of the date of his or her certification actually lives in the property personally as his or her residence or actually intends upon completion of the loan and acquisition of the mobile home to move into the home personally within a reasonable time and to utilize the home as his or her residence.

(2) The veteran certifies, in such form as the Administrator shall prescribe that:

(i) Neither the veteran, nor anyone authorized to act for the veteran, will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the dwelling or property covered by this loan to any person because of race, color, religion, sex or national origin;

(ii) The veteran recognizes that any restrictive covenant on the property relating to race, color, sex, religion, or national origin is illegal and void and any such covenant is specifically disclaimed; and

(iii) The veteran understands that civil action for preventive relief may be brought by the Attorney General of the United States in any appropriate U.S. district court against any person responsible for a violation of the applicable law.

5. In § 36.4209, the introductory portion of paragraph (b) preceding subparagraph (1), and paragraphs (e) and (g) are revised as follows:

§ 36.4209 Reporting requirements.

* * * * *

(b) Except as provided in paragraph (c) of this section, a certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing such fact and:

* * * * *

(e) Subject to compliance with the regulations concerning guaranty of mobile home loans to veterans, the Certificate of Guaranty will be issuable within the available entitlement of the veteran on the basis of the loan reported, except for refinancing loans for interest rate reductions. No certificate of commitment shall be issued, and no loan shall be guaranteed, unless the lender, the veteran, and the loan are shown to be eligible; nor shall guaranty be issued on any mobile home loan unless the Administrator determines that there has been compliance by the veteran with the certification requirements of 38 U.S.C. 1819(e)(5).

(38 U.S.C. 1819(a)(4), (c)(2), (e)(5))

* * * * *

(g) Approval by the Administrator pursuant to 38 U.S.C. 1819(c)(1) is required before a lender may close mobile home loans or mobile home lot loans on the automatic basis. Evidence of guaranty will be issuable if the loan closed on the automatic basis is reported to the Administrator within 60 days of full disbursement, and upon certification of the lender that no default exists thereunder which has continued for more than 30 days and that the loan complies with paragraphs (b)(2), (3), (4), and (5), (e), and (f) of this section. Upon the failure of the lender to report in accordance with this paragraph the loan will not be eligible for guaranty unless the lender submits with the report a certification that the loan is not in default and an explanation as to why the loan was not timely reported.

(38 U.S.C. 1819 (c)(1) and (g))

6. In § 36.4212, paragraph (d) is added as follows:

§ 36.4212 Interest rates and late charges.

* * * * *

(d) Refinancing loans for the purpose of an interest rate reduction (38 U.S.C. 1819(a)(1)(F)) may specify an interest rate in excess of the rate specified in paragraph (a)(1), or (2), or (3) of this section provided the interest rate of the refinancing loan is less than the interest rate of the Veterans Administration loan being refinanced.

(38 U.S.C. 1819 (f) and (g))

7. Section 36.4214 is revised as follows:

§ 36.4214 Geographical limits.

The site for any mobile home purchased with a guaranteed loan must be located within the United States of America, which for the purposes of 38 U.S.C. 1819 comprises the several States, the Territories and possessions of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

§ 36.4216 [Amended]

8. Section 36.4216 is amended by removing the words "his decision" and inserting the words "the Administrator's decision" in paragraph (g) and by removing the word "his" in the last sentence of paragraph (i).

9. In § 36.4220, paragraph (a) (introduction) and (a)(1) is revised as follows:

§ 36.4220 Substantive and procedural requirements; waiver.

(a) Notwithstanding any requirement, condition, or limitation stated in or imposed by the regulations concerning the guaranty of mobile home loans to veterans, the Chief Benefits Director, or the Director, Loan Guaranty Service, within the limitations and conditions prescribed by the Administrator, is hereby authorized, if the Chief Benefits Director or Director, Loan Guaranty Service finds the interests of the Government are not adversely affected, to relieve undue prejudice to a debtor, holder, or other person, which might otherwise result, provided no such action may be taken which would impair the vested rights of any person affected thereby. If such requirement, condition, or limitation is of an administrative or procedural (not substantive) nature, any employee designated in § 36.4221 is hereby authorized to grant similar relief if the designated employee finds the failure or error of the lender was due to misunderstanding or mistake and that the interests of the Government are not adversely affected. Provisions of the regulations considered to be of an administrative or procedural (nonsubstantive) nature are limited to the following:

(1) The requirement in § 36.4209(b) that a lender originating a loan under a certificate of commitment report the loan for issuance of guaranty evidence within 60 days following actual payment

of the full proceeds of the loan. In such cases it is not necessary that a finding be made that the loan is not in default.

* * * * *

§ 36.4221 [Amended]

10. Section 36.4221 is amended by removing the words "VA Center" and inserting the words "VA Regional Office and Insurance Center" in paragraph (b) and by removing the words "VA center" and inserting the words "regional office and insurance center" in the first sentence of paragraph (d).

11. Section 36.4223 is added as follows:

§ 36.4223 Interest rate reduction refinancing loan.

(a) A veteran may refinance [38 U.S.C. 1819(a)(1)(F)] an existing Veterans Administration guaranteed loan to reduce the interest rate payable on the Veterans Administration loan provided the following requirements are met:

(1) The loan must be submitted to the Administrator for prior approval;

(2) The loan must be secured by the same real and/or personal property as the loan being refinanced and the mobile home (or a mobile home on a lot) must be owned and occupied by the veteran as such veteran's home;

(3) The amount of the refinancing loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as authorized in § 36.4232 or § 36.4254, as appropriate, and a reasonable discount as authorized in § 36.4204(d)(7);

(4) The dollar amount of the guaranty of the 38 U.S.C. 1819(a)(1)(F) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(5) The term of the refinancing loan 38 U.S.C. 1819(a)(1)(F) may not exceed the original term of the loan being refinanced.

(b) Notwithstanding any other regulatory provision, the interest rate reduction refinancing loan may be guaranteed without regard to the amount of guaranty entitlement for mobile home purposes available for use by the veteran, and the amount of the veteran's remaining guaranty entitlement for mobile home purposes shall not be charged for an interest rate reduction refinancing loan. The interest rate reduction refinancing loan will be guaranteed with the entitlement used by the veteran to obtain the loan being refinanced. The veteran's loan guaranty entitlement originally used for a purpose as enumerated in 38 U.S.C. 1819(a)(1)(A) through (E) and subsequently transferred for use on an interest rate reduction refinancing loan 38 U.S.C. 1819(a)(1)(F) shall be eligible for restoration when the interest rate reduction refinancing loan or subsequent interest rate reduction refinancing loan on the same property meets the requirements of § 36.4203(a).

(c) Title to the security which is refinanced for the purpose of an interest rate reduction must be in conformity with § 36.4234, and/or § 36.4253, as appropriate.

(38 U.S.C. 1819(a)(1)(F) and (4))

12. Section 36.4232 is amended as follows:

(a) By inserting the word ", and" following paragraph (a)(4).

(b) By adding paragraph (a)(5) and by revising paragraph (c) to read as follows:

§ 36.4232 Allowable fees and charges; mobile home unit.

(a) Incident to the origination of a guaranteed loan for the purchase of a mobile home unit only, no charge shall be made against, or paid by, the veteran-borrower without the express prior approval of the Administrator except as follows:

* * * * *

(5) For the purpose of obtaining a refinancing loan for interest rate reduction, the cost of a credit report and an appraisal.

(38 U.S.C. 1819(a)(4)(A) and (g))

* * * * *

(c)(1) Costs of a credit report (except for 38 U.S.C. 1819(a)(1)(F) refinancing loans), such additional insurance as the veteran may desire, and any other expenses normally charged to a mobile home purchaser under local customs may be paid by the borrower other than from the loan proceeds.

(2) For the purchase of a used mobile home unit, the fee of a Veterans Administration appraiser and of compliance inspectors designated by the Veterans Administration, except appraisal fees incurred for the predetermination of reasonable value requested by others than veteran or lender, may be paid by the borrower from other than the loan proceeds.

(38 U.S.C. 1819(e)(4) and (g))

§ 36.4233 [Amended]

13. Section 36.4233 is amended as follows:

(a) By removing the word "his" and inserting the word "the" in paragraph (a)(3) and in the last sentence of paragraph (d).

(b) By removing the words "he deems it feasible to do so" and inserting the words "deemed feasible" and by removing "as he deems" in the second sentence of paragraph (b).

§ 36.4234 [Amended]

14. Section 36.4234 is amended by removing the word "his" in the introductory portion of paragraph (a).

§ 36.4235 [Amended]

15. Section 36.4235 is amended as follows:

(a) By removing the word "he" and inserting the words "the Administrator" in the last sentence of paragraph (a).

(b) By removing the words "he deems it feasible to do so" and inserting the words "deemed feasible" and removing the words "he deems" in the second sentence of paragraph (b).

(c) By removing the word "his" and inserting the word "the" in the last sentence of paragraph (d).

16. Section 36.4254 is amended as follows:

(a) By removing the word "his" and inserting the word "an" in paragraph (a)(4).

(b) By revising paragraph (c) to read as follows:

§ 36.4254 Fees and charges.

* * * * *

(c) Except for a refinancing loan pursuant to 38 U.S.C. 1819(a)(1)((F), fees and charges specified in this section may not be included in the loan.

17. Section 36.4301 is amended as follows:

(a) By removing the word "occupation" and inserting the word "occupancy" in paragraph (ff)(2).

(b) By revising paragraph (aa) as follows:

§ 36.4301 Definitions.

* * * * *

(aa) *Real-estate loan.* Any obligation incurred for the purchase of real property or a leasehold estate as limited in §§36.4300 to 36.4375, inclusive, or for the construction of fixtures or appurtenances thereon or for alterations, improvements, or repairs thereon required by §§ 36.4300 to 36.4375, inclusive, to be secured by a lien on such property or is so secured. Loans for the purpose specified in 38 U.S.C. 1810(a)(5) (refinancing of mortgage loans or other liens on a dwelling or farm residence), loans for the purpose specified in 38 U.S.C. 1810(a)(8) (refinancing of a Veterans Administration guaranteed, insured or direct loan to lower the interest rate), and loans to purchase one-family residential units in condominium housing developments or projects within the purview of 38 U.S.C. 1810(a)(6) and

§§ 36.4356 through 36.4360a shall also be considered real-estate loans.

* * * * *

18. Section 36.4302 is amended as follows:

(a) By removing the words "made by an insurable lender" and inserting the words "eligible for insurance" in paragraph (e).

(b) By revising paragraphs (a), (c) and (i) as follows:

§ 36.4302 Computation of guaranties or insurance credits.

(a) In respect to a loan to a veteran guaranteed under 38 U.S.C. 1810 the guaranty may not exceed sixty (60) percent of the original principal amount or $27,500 whichever is less. With respect to a loan guaranteed under 38 U.S.C. 1810(a)(8), the dollar amount of guaranty may not exceed the original dollar amount of guaranty on the loan being refinanced.

(38 U.S.C. 1803(a), 1810(c))

* * * * *

(c) Subject to the provisions of paragraph (g) of § 36.4303, the following formulas shall govern the ascertainment of the amount of the guaranty or insurance entitlement which remains available to an eligible veteran after prior use of entitlement:

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from $27,500. The sum remaining is the amount of available entitlement for use, except that entitlement for mobile home loan purposes may not exceed $20,000.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from $27,500. The sum remaining is the amount of available entitlement for use, except that entitlement for mobile home loan purposes may not exceed $20,000.

(3) If a veteran previously secured a mobile home loan, the amount of entitlement used for mobile home loan purposes is subtracted from $27,500. The sum remaining is the amount of available entitlement for home loan purposes only. To determine the amount of entitlement available for mobile home purposes, the amount of entitlement previously used for mobile home purposes is subtracted from $20,000. The sum remaining is the amount of available entitlement for use for mobile home loan purposes.

(38 U.S.C. 1810(c), 1819(c)(4))

* * * * *

(i)(1) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such surviving spouse, issued by the Administrator, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity.

(38 U.S.C. 1801(a))

(2) An unmarried surviving spouse who was a co-obligor under an existing Veterans Administration guaranteed, insured or direct loan shall be considered to be a veteran eligible for an interest rate reduction refinancing loan pursuant to 38 U.S.C. 1810(a)(8).

(38 U.S.C. 1810(e)(3))

19. In § 36.4303, the introductory portion of paragraph (g) preceding subparagraph (1) is revised as follows:

§ 36.4303 Reporting requirements.

* * * * *

(g) Subject to compliance with the regulations concerning guaranty or insurance of loans to veterans, the certificate of guaranty or the evidence of insurance credit will be issuable within the available entitlement of the veteran on the basis of the loan stated in the final loan report or certification of loan disbursement, except for refinancing loans for interest rate reductions. The available entitlement of a veteran will be determined by the Administrator as of the date of receipt of an application for guaranty or insurance of a loan or of a loan report. Such date of receipt shall be the date the application or loan report is date stamped into the Veterans Administration. Eligibility derived from the most recent period of service.

* * * * *

20. In § 36.4306, the introductory portion of paragraphs (a) and (b) preceding subparagraph (1) and paragraph (c) are revised as follows:

§ 36.4306 Refinancing of mortgage or other lien indebtedness.

(a) Except as provided in paragraph (e) of this section any loan for the purpose of refinancing (38 U.S.C. 1810(a)(5)) an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied by an eligible veteran as the veteran's home shall be submitted to the Administrator for prior approval. A loan for such purpose shall be eligible for guaranty in an amount not to exceed sixty (60) percent of the loan amount or $27,500, whichever is less, provided that—

(38 U.S.C. 1810(c))

* * * * *

(b) A refinancing loan (38 U.S.C. 1810(a)(5)) for an amount which exceeds the sum due the holder of the mortgage or other lien indebtedness (the excess loan proceeds to be paid to the veteran) but does not exceed the reasonable value of the property may also be approved for guaranty provided that—

* * * * *

(c) Nothing shall preclude guaranty of a loan to an eligible veteran having home loan guaranty entitlement to refinance under the provisions of 38 U.S.C. 1810(a)(5) a Veterans Administration guaranteed or insured (or direct) mortgage loan made to him or her which is outstanding on the dwelling or farm residence owned and occupied by the veteran as a home.

* * * * *

21. Section 36.4306a is added as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) Pursuant to 38 U.S.C. 1810(a)(8), a veteran may refinance an existing Veterans Administration guaranteed, insured or direct loan to reduce the interest rate payable on the Veterans Administration loan provided the following requirements are met:

(1) The loan must be submitted to the Administrator for prior approval;

(2) The loan must be secured by the same dwelling or farm residence as the loan being refinanced and such dwelling or farm residence must be owned and occupied by the veteran as such veteran's home;

(3) The amount of the refinancing loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as authorized by § 36.4312(d) and a reasonable discount as authorized in § 36.4312(d)(6);

(4) The dollar amount of the guaranty of the 38 U.S.C. 1810(a)(8) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(5) The term of the refinancing loan (38 U.S.C. 1810(a)(8)) may not exceed the original term of the loan being refinanced.

(b) Notwithstanding any other regulatory provision, the interest rate reduction refinancing loan may be guaranteed without regard to the amount of guaranty entitlement

available for use by the veteran, and the amount of the veteran's remaining guaranty entitlement, if any, shall not be charged for an interest rate reduction refinancing loan. The interest rate reduction refinancing loan will be guaranteed with the entitlement used by the veteran to obtain the loan being refinanced. The veteran's loan guaranty entitlement originally used for a purpose as enumerated in 38 U.S.C. 1810(a) (1) through (7) and subsequently transferred to an interest rate reduction refinancing loan (38 U.S.C. 1810(a)(8)) shall be eligible for restoration when the interest rate reduction refinancing loan or subsequent interest rate reduction refinancing loans on the same property meets the requirements of § 36.4302(h).

(c) Title to the estate which is refinanced for the purpose of an interest rate reduction must be in conformity with § 36.4350. (39 U.S.C. 1810(a)(8) and (e).)

22. In § 36.4308, paragraph (b) is revised as follows:

§ 36.4308 Transfer of title by borrower or maturity by demand or acceleration.

* * * * *

(b) The term of payment of any guaranteed or insured obligation shall bear a proper relation to the borrower's present and anticipated income and expenses, (except loans pursuant to 38 U.S.C. 1810(a)(8)). In addition the terms of payment of any guaranteed or insured obligation shall provide for discharge of the obligation at a definite date or dates or intervals, in amount specified on or computable from the face of the instrument. A loan which is payable on demand, or at sight, or on presentation, or at a time not specified or computable from the language in the note, mortgage, or other loan instrument, or which contemplates periodic renewals at the option of the holder to satisfy the repayment requirements of this section, is not eligible for guaranty or insurance, except as provided in paragraph (d) of this section.

* * * * *

23. In § 36.4311, paragraph (d) is added as follows:

§ 36.4311 Interest rates.

* * * * *

(d) Refinancing loans for the purpose of an interest rate reduction (38 U.S.C. 1810(a)(8)) may specify an interest rate in excess of the rate specified in paragraphs (a) and (b) of this section provided the interest rate of the refinancing loan is less than the interest rate of the current Veterans Administration loan being refinanced.

(38 U.S.C. 1803(c)(1) and 1810(e))

§ 36.4312 [Amended]

24. Section 36.4312 is amended by removing the reference to "38 U.S.C. 1810(a)(5)" and inserting the reference to "38 U.S.C. 1810(a) (5) or (8)," in paragraph (d)(6)(i)(A).

§ 36.4324 [Amended]

25. Section 36.4324 is amended as follows:

(a) By removing the word "his" and inserting the words "the assuming veteran's" in paragraph (f)(3).

(b) By removing paragraphs (g) and (h).

26. Section 36.4329 is revised as follows:

§ 36.4329 Geographical limits.

Any real property purchased, constructed, altered, improved, or repaired with the proceeds of a guaranteed or insured loan shall be situated within the United States which for purposes of 38 U.S.C. ch. 37 is here defined as the several States, Territories and possessions, and the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

27. In § 36.4336(a), subparagraphs (1) and (2) are revised as follows:

§ 36.4336 Eligibility of loans; reasonable value requirements.

(a) Evidence of guaranty or insurance shall be issued in respect to a loan for any of the purposes specified in 38 U.S.C. 1810(a) only if:

(1) The proceeds of such loan have been used to pay for the property purchased, constructed, repaired, refinanced, altered, or improved and

(2) Except as to refinancing loans pursuant to 38 U.S.C. 1810(a)(8), the loan does not exceed the reasonable value of the property as determined by the Administrator and

* * * * *

§ 36.4342 [Amended]

28. Section 36.4342 is amended by removing the words "VA Center" and inserting the words "VA Regional Office and Insurance Center" in paragraph (b) and by removing the words "VA center" and inserting the words "regional office and insurance center" in the first sentence of paragraph (d).

§ 36.4343 [Amended]

29. Section 36.4343 is amended by removing the headnote "Loans which may not be processed automatically" and inserting the headnote "Cooperative loans."

30. Section 36.4401 is amended as follows:

(a) By removing the words "by him" and by removing the words "his stead" and inserting the words "the Administrator's stead" in paragraph (a).

(b) By removing the word "his" in paragraph (c) and by removing the word "occupation" and inserting the word "occupancy" in paragraph (f).

(c) By revising paragraph (e) and adding paragraph (h) to read as follows:

§ 36.4401 Definitions.

* * * * *

(e) *Special fixtures and necessary adaptations.* Construction features which are specially designed to overcome the physical limitations of the individual beneficiary and which are allowed or required by the Chief Medical Director or designee as necessary by nature of the qualifying disability.

* * * * *

(h) *Veteran's family.* Persons related by blood, marriage, or adoption.

(38 U.S.C. 801(b))

31. Sections 36.4402, 36.4403 and 36.4404 are revised to read as follows:

§ 36.4402 Eligibility.

(a) *Eligibility, housing grants.* No beneficiary shall be eligible for assistance under section 801(a) of chapter 21 for the purpose of reimbursing the veteran for the cost of an existing structure acquired by the veteran prior to applying for assistance or for constructing or remodeling a dwelling or for otherwise acquiring a suitable housing unit, unless it is determined pursuant to §§ 36.4401 through 36.4410 that:

(1) It is medically feasible for such beneficiary to reside in the existing or proposed housing unit and in the locality where such is or will be situated;

(2) The nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes;

(3) Such unit bears a proper relation to the veteran's present and anticipated income and expenses;

(4) The veteran has or will acquire an interest in the housing unit which is—

(i) A fee simple estate, or

(ii) A leasehold estate, the unexpired term of which, including renewals at the option of the lessee, is not less than 50 years, or

(iii) An interest in a residential unit in a cooperative or a condominium type development which in the judgment of the Chief Benefits Director or the Director, Loan Guaranty Service, provides a right of occupancy for a period of not less than 50 years;

Provided, The title to such estate or interest is or shall be such as is acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community;

(5) The veteran has certified, in such form as the Administrator shall prescribe, that

(i) Neither the veteran, nor anyone authorized to act for the veteran, will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the dwelling or property acquired by this benefit to any person because of race, color, religion, sex, or national origin;

(ii) The veteran recognizes that any restrictive covenant on the property relating to race, color, religion, sex, or national origin is illegal and void and any such covenant is specifically disclaimed;

(iii) The veteran understands that civil action for preventive relief may be brought by the Attorney General of the United States in any appropriate U.S. District Court against any person responsible for a violation of the applicable law; and

(6) The housing unit, if located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Program, is or will be covered by flood insurance for the lesser of the full insurable value of the property or the maximum flood insurance available under the National Flood Insurance Program.

(b) *Eligibility, adaptations grants.* No beneficiary shall be eligible for assistance under section 801(b) of chapter 21, for the cost of reasonably necessary adaptations to an existing structure or for the inclusion of such adaptations in proposed construction unless it is determined pursuant to §§ 36.4401 through 36.4410 that:

(1) The veteran has not been declared eligible for assistance under section 801(a) of chapter 21;

(2) The veteran has not been provided the particular type of adaptation, improvement, or structural alteration under section 612(a) of title 38, United States Code;

(3) The veteran is or will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family;

(4) The adaptations are reasonably necessary because of the veteran's disability; and

(5) If the veteran is the owner or part-owner of the housing unit, the veteran must comply with paragraph (a) (5) and (6) of this section.

(38 U.S.C. 801(b), 804)

§ 36.4403 Joint ownership of housing unit.

The construction or remodeling of a housing unit, or reimbursement to a veteran who has acquired a suitable unit at the veteran's own expense pursuant to section 801(a) of chapter 21, shall be permissible notwithstanding that title to the home is or will be vested in an eligible veteran and spouse. If an undivided interest is or will be owned by a person other than the spouse of the veteran the cost of the unit to the veteran shall be computed to be such part of the total cost of the unit as is proportionate to the undivided interest of the veteran in the entire property, and the percentages and amounts prescribed in section 801(a) of chapter 21 shall be calculated only upon such cost to the veteran.

§ 36.4404 Computation of cost.

(a) *Computation of cost of housing unit.* Under section 801(a) of chapter 21, for the purpose of computing the amount of benefits payable to a veteran-beneficiary, there may be included in the total cost to the veteran the following:

(1) The cost of the necessary land and the grading, landscaping, and improvement thereof for use for residential purposes.

(2) The cost of the improvement erected thereon and the appurtenances thereto, including such heating, cooking, laundry, and refrigeration equipment as may be suitable to equip a housing unit for residential use.

(3) The cost of remodeling a housing unit.

(4) The cost of movable facilities and special fixtures.

(5) Reasonable architects' and attorneys' fees for services rendered to the veteran which are necessary to and are in connection with the transaction.

(6) Any charges for the customary necessary connections to or extensions of public facilities and improvements.

(7) Such other reasonable costs or expenses incurred in closing a loan or financing the aquisition of the housing and land, including unpaid taxes, ground rents, or assessments, which are normally required to be paid by a lienor or a purchaser.

(b) *Computation of cost of adaptations.* Under section 801(b) of chapter 21, for the purpose of computing the amount of benefits payable to a veteran-beneficiary, the assistance is limited to the lesser of:

(1) The actual cost of the adaptations, including installation costs, determined to be reasonably necessary, or

(2) $5,000.

(38 U.S.C. 802(b))

§ 36.4405 [Amended]

32. Section 36.4405 is amended by removing the word "he" and inserting the words "the Administrator."

§ 36.4406 [Amended]

33. Section 36.4406 is amended by removing the word "his" and inserting the words "the Administrator's" in the first sentence.

34. In § 36.4408, paragraph (b) is revised to read as follows:

§ 36.4408 Delegation of authority.

* * * * *

(b) Designated positions:

Chief Benefits Director.
Director, Loan Guaranty Service.
Assistant Director for Construction and Valuation.
Chief, Specially Adapted Housing Unit, Loan Guaranty Service.
Director, Medical and Regional Office Center.
Director, VA Regional Office and Insurance Center.
Director, VA Regional Office.
Loan Guaranty Officer.
Assistant Loan Guaranty Officer.

* * * * *

§ 36.4409 [Amended]

35. Section 36.4409 is amended by removing the word "his" and inserting the words "the veteran's."

36. In § 36.4410, the introductory portion preceding paragraph (a) and paragraph (b) are revised to read as follows:

§ 36.4410 Allocation of the funds of the grant.

Any amount payable as a grant under section 801(a), chapter 21 may be required by the Administrator to be utilized as the Administrator deems advisable for payment of any of the following costs or debts which are obligations of the veteran before any part of the grant may be paid to the veteran directly:

* * * * *

(b) Cost of constructing, adapting, or remodeling a housing unit.

* * * * *

§ 36.4501 [Amended]

37. Section 36.4501 is amended as follows:

(a) By removing the words "by him" and by removing the word "his" and

inserting the words "the Administrator's" in paragraph (a).

(b) By removing the word "his" and inserting the words "the veteran's" in paragraph (e).

38. Section 36.4502 is revised as follows:

§ 36.4502 Use of guaranty entitlement.

The guaranty entitlement of the veteran obtaining a direct loan which is closed on or after October 1, 1980, shall be charged with an amount which bears the same ratio to $27,500 as the amount of the loan bears to $33,000. The charge against the entitlement of a veteran who obtained a direct loan which was closed prior to the aforesaid date, shall be the amount which would have been charged had the loan been closed subsequent to such date.

(38 U.S.C. 1811(d)(2)(A))

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

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 16½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 17 percent per annum.

(38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

40. Sections 36.4505 and 36.4506 are revised to read as follows:

§ 36.4505 Maturity of loan.

(a) The maturity of a loan shall not exceed 25 years and 32 days. If the Veterans Administration determines the income and expenses of a veteran-applicant under customary credit standards would prevent the veteran from making the required loan payments for a loan which matures in 25 years and 32 days, but the veteran would be able to make the loan payments over a longer period of time, the loan may be made with a maturity not in excess of 30 years and 32 days.

(b) Every loan shall be repayable within the estimated economic life of the property securing the loan.

(c) Nothing in this section shall preclude extension of the loan pursuant to the provisions of § 36.4506.

(38 U.S.C. 1803(c)(1), (d)(1))

§ 36.4506 Recasting.

In the event of default or to avoid imminent default, the Veterans Administration may at any time enter into an agreement with the borrower which will permit the latter temporarily to repay the obligation on a basis appropriate to the borrower's apparent current ability to pay or may enter into an appropriate recasting or extension agreement: *Provided.* That no such agreement shall extend the ultimate repayment of a loan beyond the expiration of 30 years and 32 days from the date of the loan. *Provided further.* That nothing in this section shall be deemed to limit the forbearance or indulgence which the Administrator may extend in an individual case pursuant to the provisions of 38 U.S.C. 1820(f).

41. In § 36.4507, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraph (c) are revised to read as follows:

§ 36.4507 Refinancing of mortgage or other lien indebtedness.

(a) Loans may be made for the purpose of refinancing (38 U.S.C. 1810(a)(5)) an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied by an eligible veteran as the veteran's home, provided that—

* * * * *

(c) Nothing shall preclude making a loan pursuant to the provisions of 38 U.S.C. 1810(a)(5) to an eligible veteran having home loan guaranty entitlement to refinance a loan previously guaranteed, insured or made by the Administrator which is outstanding on the dwelling or farm residence owned and occupied by the veteran as the veteran's home.

* * * * *

§ 36.4508 [Amended]

42. Section 36.4508 is amended as follows:

(a) By removing the word "he" and inserting the words "the veteran" in paragraph (a).

(b) By removing the words "obtained by him" and inserting the word "obtained"; by removing the words "relieving him" and inserting the words "relieving the borrower"; and removing "38 U.S.C. 1817" and inserting "38 U.S.C. 1817(a)" in the first sentence of paragraph (b).

(c) By removing the words "obtained by him" and inserting the word "obtained" and by removing the word "he" and inserting the words "the Administrator" in the introductory portion of paragraph(c) and by removing the word "he" and inserting the words "the transferee" in paragraph (c)(3).

43. In § 36.4519, subparagraph (6) is added to paragraph (a) (immediately following subparagraph (5)) and a new paragraph (c) is added to read as follows:

§ 36.4519 Eligible purposes and reasonable value requirements.

(a) A loan may be made only for the purpose hereinafter set forth, and the loan may not exceed the reasonable value of the property as established by the Veterans Administration:

* * * * *

(6) To refinance (38 U.S.C. 1810(a)(5)) existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home;

(38 U.S.C. 1811(b))

* * * * *

(c) No direct loan may be made for the purpose of an interest rate reduction refinancing loan pursuant to 38 U.S.C. 1810(a)(8).

(38 U.S.C. 1811(b))

§ 36.4520 [Amended]

44. Section 36.4320 is amended by removing the words "VA Center" and inserting the words "VA Regional Office and Insurance Center" in paragraph (b) and by removing the words "VA center" and inserting the words "regional office and insurance center" in the first sentence of paragraph (d).

45. Section 36.4523 is revised to read as follows:

§ 36.4523 Geographical limits.

Any real property purchased, constructed, or improved with the proceeds of a loan under 38 U.S.C. 1811 shall be situated in the United States, which for purposes of 38 U.S.C. ch. 37 is here defined as the several States, Territories, and possessions, and the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands: *Provided.* That no loan shall be made pursuant to 38 U.S.C. 1811 unless the real property is located in one of the areas designated from time to time by the Veterans Administration as an area in which private capital is not available under 38 U.S.C. ch. 37 to eligible veterans for financing of the purchase,

construction, repairs, alterations, or improvement of a farm residence or other dwelling, as the case may be.

§ 36.4525 [Amended]

46. Section 36.4525 is amended by removing the words "his valuation" and inserting the words "the valuation."

[FR Doc. 81-25331 Filed 8-28-81; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1896-2]

Approval of Revision of the District of Columbia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the District of Columbia's Implementation Plan (SIP) which is intended to establish an Ambient Air Quality Monitoring Network under 40 CFR Part 58 (State & Local Air Monitoring System or SLAMS).

The data will be used, for determining the status of attainment of National Ambient Air Quality Standards (NAAQS), as a basis for requiring control of source emissions of criteria pollutants, for determining and tracking air pollution episodes, for growth planning in urban areas, for determining the impact of area sources and for reporting to the public the status of the District of Columbia's air quality.

EFFECTIVE DATE: September 30, 1981.

ADDRESSES: Copies of the revision and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Patricia Sheridan

D.C. Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Ave., S.W., Washington, D.C. 20032, Attn.: Mr. John V. Brink, Chief

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT:

Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION:

I. Background

On May 16, 1979, the District of Columbia submitted to the Regional Administrator, EPA Region III, a revision of the District of Columbia Implementation Plan (SIP). This section of the SIP consists of provisions which meet the new requirements for monitoring air quality which are in 40 CFR 58.20 (Air Quality Surveillance: Plan Content). The air quality surveillance network which will be established, as provided in this SIP revision, will consist of the present network with certain modifications and additions. The provisions of this submittal are intended as a supplement to existing provisions and are not intended to revoke or suspend any previous submittals.

The network will measure ambient levels of "criteria pollutants" or those pollutants for which National Ambient Air Quality Standards (NAAQS) have been established by EPA.

The process of network design was carried out as required by Appendix D of 40 CFR Part 58.

The network description will include the following for each station in the air quality surveillance network:

a. The SAROAD site identification form.

b. The identity of the monitoring method or analyzer.

c. The identity of any necessary method of sample analysis.

d. The sampling schedule.

e. The monitoring objective.

f. The spatial scale of representativeness.

Also, on file for public inspection will be the schedule for the following:

a. Locating and/or placing into operation any station which was not operating and/or not located correctly on January 1, 1980.

b. Implementing quality assurance procedures for any station for which those procedures are not implemented by January 1, 1980.

c. Re-locating each station not sited according to the siting parameters of Appendix E to 40 CFR Part 58 by January 1, 1980.

Each station in the air quality surveillance network provided for by this SIP revision and described in the network description will be termed a State and Local Air Monitoring Station or a SLAMS. All stations in the District of Columbia's SLAMS network will be operated in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Each SLAMS will be sited in accordance with the siting parameters contained in Appendix E to 40 CFR Part 58.

Each continuous analyzer in a SLAMS will be operated on a continuous basis and data gathered as hourly averages. Each manual method will be operated for a full 24-hour period at six day intervals.

Reference or equivalent methods will be used in SLAMS as defined by EPA in 40 CFR 50.1, or will be a particulate sampler for which a site-specific relationship to the Hi-vol has been established at the site of the SLAMS.

The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating the SLAMS network and processing air quality data.

The concept of episode monitoring involves daily monitoring in order to detect when ambient pollution levels reach concentrations corresponding to an air quality episode, and monitoring during episodes to maintain surveillance of the situation.

Each SLAMS that is designated as an episode monitoring station will be identified in the description of the SLAMS network which is on file in the official network description.

Data from all SLAMS for an entire calendar year will be summarized and submitted to EPA by July 1 of the following year. The values determined and reported will be those values indicated in Appendix F to 40 CFR Part 58. Other information as required by Appendix F will also be reported in the annual report.

The District of Columbia will operate monitoring stations other than those in the SLAMS Network. These other stations will be termed Special Purpose Monitoring Stations (SPM) and will be used to supplement the SLAMS monitoring. The SPM stations will be used for purposes such as determining areas where permanent SLAMS need to be located, determining the effect of point sources, research, and determining acceptable growth patterns.

Data from SPM stations may be used for SIP purposes such as support for control strategies, determination of attainment/nonattainment, or model validation. Such data will have been collected in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Beginning March 1 of each year, the District of Columbia will review the air quality surveillance network to

determine if there is a SLAMS in every location where there is a need for ambient air quality data or if all the stations in the SLAMS network are necessary. A report of the findings will be submitted to the EPA Regional Office by July 1 of each year along with a schedule to add stations to the SLAMS network, to relocate stations, or to eliminate stations as the case may be. The determination of the need to add, relocate or delete stations will be based on the network design criteria in Appendix D to 40 CFR Part 58 or references therein.

The site-specific SLAMS monitoring network description is not included in the SIP revision to allow for annual review and revision of the network without repeating the full SIP revision procedure.

II. Control Strategy Demonstration

This revision is an administrative change rather than a substantive change. Because the revision has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. EPA Evaluation

There are no policy issues involved with this revision other than the basis for the Administrator's approval, i.e., whether the revision submitted by the District of Columbia meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

The revision submitted by the District of Columbia meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR 51.4, 51.5, 51.6, and 51.11.

V. EPA Actions

In view of this evaluation, the Administrator approves the above described revision to the District of Columbia's SIP, which is intended to establish an Ambient Air Quality Monitoring Network as required under 40 CFR, Part 58 (State & Local Air Monitoring Systems or SLAMS).

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

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

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

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

(42 U.S.C. 7401–642)

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart J—District of Columbia

§ 52.420 [Amended]

1. In § 52.420 *Identification of plan,* (c)(18) is added as follows:

* * * * *

(c) The plan revision listed below was submitted on the date specified * * *

(18) A revision submitted by the District of Columbia on May 16, 1979 which is intended to establish an Ambient Air Quality Monitoring Network.

[FR Doc. 81-25231 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

Approval of Revision of the State of Maryland—Implementation Plan

[A-3-FRC 1896-1]

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the State of Maryland's State Implementation Plan (SIP) which is intended to establish an Ambient Air Quality Monitoring Network under 40 CFR Part 58 (State & Local Air Monitoring System or SLAMS).

The data will be used, for determining the status of attainment of National Ambient Air Quality Standards (NAAQS), as a basis for requiring control of source emissions of criteria pollutants, for determining and tracking air pollution episodes, for growth planning in urban areas, for determining the impact of area sources and for reporting to the public the status of Maryland's air quality.

EFFECTIVE DATE: September 30, 1981.

ADDRESSES: Copies of the revision and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Patricia Sheridan

Maryland State Department of Health and Mental Hygiene, Air Quality Control Programs, 201 W. Preston Street, Baltimore, MD 21201, Attn.: Mr. George P. Ferreri, Administrator

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

On December 20, 1979, the State of Maryland submitted to the Regional Administrator, EPA Region III, a revision of the Maryland State Implementation Plan (SIP). This section of the SIP consists of provisions which meet the new requirements for monitoring air quality which are in 40 CFR 58.20 (Air Quality Surveillance: Plan Content). The air quality surveillance network which will be established, as provided in this SIP revision, will consist of the present network with certain modifications and additions. The provisions of this submittal are intended as a supplement to existing provisions and are not intended to revoke or suspend any previous submittals.

The network will measure ambient levels of "criteria pollutants" or those pollutants for which National Ambient Air Quality Standards (NAAQS) have been established by EPA.

The process of network design was carried out as required by Appendix D of 40 CFR Part 58.

The network description will include the following for each station in the air quality surveillance network:

a. The SAROAD site identification form.

b. The identity of the monitoring method or analyzer.

c. The identity of any necessary method of sample analysis.

d. The sampling schedule.

e. The monitoring objective.

f. The spatial scale of representativeness.

Also, on file for public inspection will be the schedule for the following:

a. Locating and/or placing into operation any station which was not operating and/or not located correctly on January 1, 1980.

b. Implementing quality assurance procedures for any station for which those procedures are not implemented by January 1, 1980.

c. Re-locating each station not sited according to the siting parameters of Appendix E to 40 CFR Part 58 by January 1, 1980.

Each station in the air quality surveillance network provided for by this SIP revision and described in the network description will be termed a State and Local Air Monitoring Station or a SLAMS. All stations in the State of Maryland's SLAMS network will be operated in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Each SLAMS will be sited in accordance with the siting parameters contained in Appendix E to 40 CFR Part 58.

Each continuous analyzer in a SLAMS will be operated on a continuous basis and data gathered as hourly averages. Each manual method will be operated for a full 24-hour period at six day intervals.

Reference or equivalent methods will be used in SLAMS as defined by EPA in 40 CFR 50.1, or will be a particulate sampler for which a site-specific relationship to the Hi-vol has been established at the site of the SLAMS.

The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating the SLAMS network and processing air quality data.

The concept of episode monitoring involves daily monitoring in order to detect when ambient pollution levels reach concentrations corresponding to an air quality episode, and monitoring during episodes to maintain surveillance of the situation.

Each SLAMS that is designated as an episode monitoring station will be identified in the description of the SLAMS network which is on file in the official network description.

Data from all SLAMS for an entire calendar year will be summarized and submitted to EPA by July 1 of the following year. The values determined and reported will be those values indicated in Appendix F to 40 CFR Part 58. Other information as required by Appendix F will also be reported in the annual report.

The State of Maryland will operate monitoring stations other than those in the SLAMS Network. These other stations will be termed Special Purpose Monitoring Stations (SPM) and will be used to supplement the SLAMS monitoring. The SPM stations will be used for purposes such as determining areas where permanent SLAMS need to be located, determining the effect of point sources, research, and determining acceptable growth patterns.

Data from SPM stations may be used for SIP purposes such as support for control strategies, determination of attainment/nonattainment, or model validation. Such data will have been collected in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Beginning March 1 of each year, the State of Maryland will review the air quality surveillance network to determine if there is a SLAMS in every location where there is a need for ambient air quality data or if all the stations in the SLAMS network are necessary. A report of the findings will be sumbitted to the EPA Regional Office by July 1 of each year along with a schedule to add stations to the SLAMS network, to relocate stations, or to eliminate stations as the case may be. The determination of the need to add, relocate or delete stations will be based on the network design criteria in Appendix D to 40 CFR Part 58 or references therein.

The site-specific SLAMS monitoring network description is not included in the SIP revision to allow for annual review and revision of the network without repeating the full SIP revision procedure.

II. Control Strategy Demonstration

This revision is an administrative change rather than a substantive change. Because the revision has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. EPA Evaluation

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the State of Maryland meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

The revision submitted by the State of Maryland meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR 51.4, 51.5, 51.6, and 51.11.

V. EPA Actions

In view of this evaluation, the Administrator approves the above described revision to the State of Maryland's SIP, which is intended to establish an Ambient Air Quality Monitoring Network as required under 40 CFR Part 58 (State & Local Air Monitoring System or SLAMS).

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

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

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

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

(42 U.S.C. 7401–642)

Dated August 8, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart V—Maryland

§ 52.1070 [Amended]

1. In § 52.1070 *Identification of plan*, (c)(44) is added as follows:

(c) The plan revision listed below was submitted on the date specified * * *

(44) A revision submitted by the State of Maryland on December 20, 1979 which is intended to establish an Ambient Air Quality Monitoring Network.

[FR Doc. 81-25230 Filed 8-28-81; 8:45 am]
BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6131]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Gary Johnson, National Flood Insurance Program (202) 755-5581 or EDS Toll Free Line 800-638-6620 for the Continental U.S. (except Maryland); 800-638-6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800-492-6605 for Maryland, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

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

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

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

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

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood loses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

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

PART 64—SUSPENSION OF COMMUNITY ELIGIBILITY UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

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

§ 64.6 List of eligible communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Connecticut: New Haven.	Ansonia, city of	090071B	Nov. 2, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	May 3, 1974 and Mar. 11, 1977.	Sept. 2, 1981.
Florida:					
Sarasota	North Port, city of	120279B	Aug. 27, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 10, 1977	Do.
Manatee	Palmetto, city of	120158B	Apr. 25, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	July 19, 1974 and Feb. 20, 1976	Do.
Illinois:					
Sangamon	Chatham, village of	170601C	July 25, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Nov. 16, 1973 and June 11, 1976 and June 8, 1979	Do.
Winnebago	Durand, village of	170789B	June 25, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Apr. 5, 1974 and Jan 2, 1976	Do.
Lake	Lake Villa, village of	170375B	Oct. 16, 1974, emergency, July. 2, 1981, regular, Sept. 2, 1981, suspended.	May 3, 1974 and Sept. 19, 1975.	Do.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Sangamon	Pleasant Plains, village of	170798B	Feb. 4, 1976, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Mar. 22, 1974 and May 14, 1976.	Do.
Kane & Dupage	St. Charles, city of	170330C	Feb. 19, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Mar. 15, 1974 and June 4, 1976 and Dec. 17, 1976.	Do.
Indiana: Lake	Unincorporated areas	180126B	July 25, 1973, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Dec. 6, 1974 and Jan. 24, 1977.	Do.
Louisiana: Ascension Parish	Unincorporated areas	220013B	Apr. 26, 1973 emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Dec. 12, 1978	Do.
Maine: Cumberland	Windham, town of	230189B	June 11, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Jan. 10, 1975 and Oct. 22, 1976.	Do.
Minnesota:					
Crow Wing	Brainerd, city of	270093B	Feb. 1, 1974 emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	June 21, 1974 and May 7, 1976.	Do.
Do.	Crosby, city of	270094B	May 5, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	June 28, 1974 and Aug. 6, 1976.	Do.
Fillmore	Lanesboro, city of	270126B	Apr. 24, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	May 24, 1974 and June 4, 1976.	Do.
Steele	Medford, city of	270462B	Aug. 15, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Apr. 12, 1974 and May 28, 1976.	Do.
Norman	Unincorporated areas	270322B	Jan. 23, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended	Feb. 23, 1979	Do.
Rice	Northfield, city of	270406B	Apr. 10, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Mar. 29, 1974 and Feb. 6, 1976.	Do.
Crow Wing	Riverton, city of	270100B	Jan. 21, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 28, 1974 and May 28, 1976.	Do.
Norman	Shelly, city of	270327B	Aug. 16, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Aug. 16, 1974 and Mar. 19, 1976.	Do.
Fillmore	Spring Valley, city of	270132B	Apr. 24, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	May 17, 1974 and Aug. 13, 1976.	Do.
Montana:					
Big Horn	Unincorporated areas	300143B	Apr. 3, 1978, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Feb. 7, 1978	Do.
Do	Lodge Grass, town of	300002B	May 1, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	May 31, 1974 and Dec. 12, 1975.	Do.
New Jersey:					
Bergen	Ramsey, borough of	340064B	Jan. 21, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Jan. 9, 1974 and Dec. 31, 1976.	Do.
Essex	Roseland, borough of	340193B	July 31, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 21, 1973 and Mar. 19, 1976.	Do.
New York:					
Rockland	Haverstraw, village of	360662C	Nov. 28, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Apr. 12, 1974 and June 11, 1976 and June 3, 1977.	Do.
Wayne	Huron, town of	360892B	Sept. 6, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Sept. 6, 1974 and Jan. 16, 1976.	Do.
Pennsylvania:					
Adams	Abbottstown, borough of	421157A	Apr. 23, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Nov. 8, 1974	Do.
Beaver	Fallston, borough of	420110B	June 18, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Feb. 8, 1974 and May 28, 1976.	Do.
Blair	Frankstown, township of	421387A	Aug. 16, 1974, emergency, June 15, 1981, regular, Sept. 2, 1981, suspended.	June 15, 1981	Do.
Montgomery	Marlborough, township of	421913B	Aug. 14, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Nov. 1, 1974 and July 2, 1976	Do.
Juniata	Milford, township of	421743A	July 7, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Jan. 3, 1975	Do.
Lebanon	North Lebanon, township of	421131B	Mar. 8, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	July 19, 1974 and July 2, 1976.	Do.
York	Paradise, township of	420934B	June 6, 1973, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Sept. 14, 1973 and July 15, 1977.	Do.
Lancaster	Penn, township of	421778B	Feb. 5, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	May 31, 1974 and Aug. 13, 1976.	Do.
Columbia	Scott, township of	421004B	Nov. 2, 1973, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Apr. 12, 1974 and Jan. 7, 1977.	Do.
South Carolina: Richland	Columbia, city of	450172B	Jan. 16, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 28, 1974 and Oct. 22, 1976.	Do.
South Dakota: Lawrence.	Spearfish, city of	460046B	Oct. 30, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Mar. 27, 1974 and June 4, 1976.	Do.
Texas:					
Travis	Austin, city of	480624B	May 9, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Sept. 13, 1974 and May 31, 1977.	Do.
Waller	Brookshire, city of	481097B	May 12, 1977, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	May 12, 1977	Do.
Virginia:	Colonial Heights, city of	510039B	June 18, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 14, 1974 and Sept. 17, 1976.	Do.
Hanover	Unincorporated areas	510237A	Apr. 4, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Dec. 13, 1974	Do.
Page	Luray, town of	510110B	Oct. 18, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Apr. 5, 1974 and Jan. 16, 1976.	Do.
	Salem, city of	510141C	Mar. 8, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Apr. 12, 1974 and June 18, 1976 and July 22, 1977.	Do.
Washington:					
Thurston	Bucoda, town of	530189B	Feb. 10, 1975, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	Nov. 15, 1974 and Oct. 24, 1975.	Do.
Pierce	Gig Harbor, town of	530142B	June 28, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspended.	June 26, 1974 and Dec. 26, 1975.	Do.

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

Issued: August 18, 1981.

Richard W. Krimm,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-25240 Filed 8-28-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-438; FCC 81-371]

Representation of Stations by Representatives Owned by Competing Stations in the Same Area

AGENCY: Federal Communications Commission.

ACTION: Repeal of policy statement (report and order).

SUMMARY: Federal Communications Commission repeals policy statement set forth in *Golden West Broadcasters*. In adopting the policy, the FCC held that representation of a rival broadcast station by a licensee-owned sales representative was a violation of long-standing FCC policy prohibiting cross-interests in more than one station in the same area. The policy was adopted to assure full competition between rival stations and to promote diversity of programming and service viewpoints. A growing number of national sales representatives felt that a decline in the number of sales representatives meant that radio stations were unable to compete effectively in their markets. The result is that sales representatives owned by a licensee may now represent a rival station.

DATES: Effective July 30, 1981.

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

FOR FURTHER INFORMATION CONTACT: Harvey S. Speck, Broadcast Bureau (202) 632-3860.

SUPPLEMENTARY INFORMATION: In the matter of representation of stations by representatives owned by competing stations in the same area BC Docket No. 80-438; FCC 81-371.

Report and Order

Adopted: July 30, 1981.

Released: August 13, 1981.

By the Commission:

1. The Commission has before it for consideration the Notice of Inquiry adopted July 31, 1980, BC Docket No. 80-438, 45 FR 55242, published August 19, 1980, requesting information concerning the Commission's policy regarding licensee-owned sales representatives, and comments filed in response.[1] The parties filing comments are listed in Appendix A.

2. This proceeding was commenced following receipt of a Petition for Deregulation and additional requests [2] for modification of the Commission's *Golden West* policy.[3] In response to the requests and petitions filed, we issued a Notice of Inquiry seeking information regarding whether there would be an impairment of economic competition if the policy were changed to permit a representative owned by a licensee to represent a rival station in the same area. Tied to this general question was whether such a multiple sales representative possessed sufficient influence in the operation of the stations it represented so as to impede our goal of maximum diversity of views and program service. At the outset, it should be stressed that the comments primarily were directed to radio and unless otherwise indicated reference is to radio stations. Comments relating to television were generally confined to the opinion that television should not be treated differently from radio. We have reviewed the comments submitted in response to the Notice in this proceeding, reviewed the factual questions presented, and considered the arguments and counter-arguments. We found the comments, for the most part, useful to our deliberations.

3. Based upon this review, it is our judgment that the *Golden West* policy should be repealed for both radio and television. We feel that elimination of the restriction would be consistent with the Commission's deregulatory goals and overall public interest obligations. We have determined that the *Golden West* policy is an unwarranted restriction upon the relationships of broadcast licensees and in view of the pragmatic reality of marketplace factors and existing safeguards against anticompetitive activities, any injury to the public interest is unlikely.[4] We believe that arms-length competition among broadcasters and program diversification will be achieved with a minimum of enforcement effort and expense to the public. We do not intend to diminish our commitment to the promotion and maintenance of full competition in broadcast markets.

History of the Policy

4. In *Golden West Broadcasters*, 18 FCC 2d 918, 15 RR 2d 938 (1969), the Commission held that representation of a station by a sales representative owned wholly or partially by a licensee of a competing station in the same service in the same area is a violation of the Commission's cross-interest policy. The Commission's objectives were the promotion and maintenance of full competition between broadcast stations and maximum "* * * diversification of program and service viewpoints." The Commission believed at that time that the relationships described in *Golden West* militated against competition between the two stations and, therefore, were contrary to its goals. It stated that the policy was based on its concern for potential impairment of competition and not on a record of existing abuses. In the proceeding concerning *Combination Advertising Rates and Other Joint Sales Practices*, 51 FCC 2d 679 (1975), the Commission amplified the policy set out in *Golden West* to include stations in the same market in all broadcast services. The Commission later modified this policy to permit the representation of an aural station by a representative affiliated with a television station, and vice versa. *Combination Advertising*

[1] The time in which to furnish comments and reply comments was extended to October 28, and November 14, 1980, respectively. 45 FR 78191 (1980).

[2] These requests were filed by McGavren Guild, Inc., Torbet Radio, Inc. and Buckley Radio Sales, Inc.

[3] Also before us for consideration is an Application for Review filed by Buckley Radio Sales, Inc., seeking a review of a staff ruling that a proposed representation of a Los Angeles area station by Buckley would conflict with the *Golden West* policy. In the alternative, Buckley seeks a waiver in the event that we decide to continue the policy.

[4] Although the Commission does not enforce the antitrust or other laws relating to unfair trade practices, it takes cognizance of the policies expressed in these statutes in its interpretation of the public interest standard found in the Communications Act of 1934, as amended. The core of the antitrust law is found in the Sherman Act, 15 U.S.C. 1 and 2 (1958), the Clayton Act, 15 U.S.C. 14 and the Federal Trade Commission Act 15 U.S.C. 41 *et seq.* Forbidden under these sections are contracts, combinations, conspiracies which restrain trade, monopolizing or attempting to monopolize, and unfair methods of competition.

Rates and Other Joint Sales Practices, 59 FCC 2d 894 (1976).

5. Our objective in facilitating diversity of views in broadcasting was expressed in *Multiple Ownership Rules*, 45 FCC 1476, 1477, 2 RR 1588, 1592 (1964), in which we noted:

> * * * The greater the diversity of ownership in a particular area, the less chance there is that a single person or group can have an inordinate effect, in a political editorial, or similar programming sense, on public opinion at the regional level.

The theory underlying *Golden West* was grounded on the assumption that a sales representative had sufficient influence in the operation of the stations it represented to contravene our goal of a maximum diversity of views. This determination was based in part upon our observation that the representative organizations in the *Golden West* decision were responsible, respectively, for 59% and 74% of the gross revenues of the two stations involved.[5] The control over this large portion of a station's revenues was presumed to provide the leverage with which the representative firm could work its will. We must note that no demonstrated history of abuse in this area exists, only the argument that a potential for abuse existed.

The Station Representative Market

6. A brief examination of the station representative firm ("reps" or "station reps") is useful at this point since it is an often overlooked part of the radio and television broadcast business. There are three markets in which the buying and selling of advertising time on radio and television take place. The network market brings together national and regional networks and advertisers of nationally or regionally distributed products who want their commercial messages instantaneously transmitted across the nation or region. The second market is called the local spot market. In this market local radio and television stations and local advertisers located within the stations' coverage areas do business. Finally, the national spot market brings together national advertisers who want to buy commercials in selected markets and individual stations in those markets. It is this market in which the *Golden West* policy has been applied.

7. In the network and the local spot markets, advertisers, or their advertising agencies, work directly with salespersons from the networks and local stations in negotiating the commercial deal. However, in the national spot markets, a third party, the station representative, is generally involved in the transaction. The station rep is a middleman, an agent of local stations, who represents local stations in their efforts to sell time to national or regional advertisers. This business grew out of the practical reality that national advertising agencies work out of a few commercial centers throughout the United States. It is unfeasible for local stations to have their own sales staffs covering national agencies in often far-distant cities. The typical national station representative firm is headquartered in New York with offices in principle commercial centers such as Chicago, Minneapolis and Los Angeles. The offices are staffed with salespersons who are assigned a list of advertising agencies in the area. When an advertising agency gets ready to buy in the national spot market, it informs the reps of stations in the desired markets of the specifications of the buy. The reps contact their client-stations, put together the package that best meets those specifications, and then start competing with other reps to get the business for their client-stations. In addition to advertising sales, many rep firms offer programming advice. Reps are in a position to know about unique programming formats, talent selections, and syndication properities that have proved successful in other markets and can pass on that information to their clients.

8. A contract formalizes the relationship between a station and its sales representative firm. This agreement typically binds the station to an exclusive contract with the representative firm for a period of one to three or more years, cancellable on 90–180 days notice. The amount of commission payable by the station to the rep on national spot billings, usually between 7% and 15%, is a provision of the contract. The key clause of the contract is the one establishing "excluded territory," usually the station's city of license. "Excluded territory" will be solicited for advertising sales by the station's own sales department. All other territory will be covered by the rep firm and all sales originating outside the "excluded territory" constitute national spot billings on which the station must pay a commission. A provision found in contracts with television stations and not usually with radio stations is that the rep firm agrees not to represent any other television station in its market.

9. It is not easy to obtain an exact and realistic count of the number of radio and television rep firms in the industry. Standard Rate and Data Service (SRDS) lists the following figures:

	National	Regional
Radio		
1961	47	113
1974	58	111
Television		
1961	33	41
1972	39	51

Source: SRDS, Spot Radio Rates and Data, Jan. 1, 1974 and Jan. 1, 1981; SRDS, Spot Television Rates and Data, Jan. 15, 1972 and June 15, 1981.

These figures may misrepresent the actual situation by including the national sales offices of group owners and even firms not representing U. S. stations. 1981 estimates received from M. S. Kellner, Managing Director, Station Representatives Association, Inc., on June 24, 1981 are as follows:

	National	Regional
TV	22	27
Radio	32	49

Through the years the number of firms has decreased as the SRDS figures show. This trend has occurred partly through merger.

Economic Analysis

10. The *Golden West* policy, as it initially evolved, was predicated on the concern for diversity of voices and maintenance of competition. The underlying economic concern was that the representation of a station in a market by a sales representative owned by a rival station in the same market might effectively reduce competition in either of two ways: by providing a convenient mechanism by which the two stations could collude or by allowing the station with the affiliated rep unduly to take advantage of any market power imbedded in the rep to place the other station at a competitive disadvantage. It was feared that either of these occurrences would be detrimental to the public interest because they might result in reduced program diversity (whether entertainment or political/editorial/news views), or increases in the price of advertising time due to price fixing. It is therefore appropriate to investigate under what conditions these detrimental effects would actually occur and

[5] Underlying this determination was the view that representation of a station by a sales representative owned wholly or partially by the licensee of a competing station in the same community or service area was in violation of longstanding Commission policy proscribing cross-interests by licensees in more than a single station in the same service in the same areas. Sections 73.35(AM), 73.240(FM) and 73.636(TV).

whether elimination of the *Golden West* policy would fulfill those conditions.

11. First, even if two firms decide to collude, and "owned" rep firm appears to be a natural means of coordinating the collusion since it potentially has access to and can easily transmit the confidential information necessary to assure the success of the collusive scheme. This means of coordination requires trust on the part of the station that retains the "owned" station rep firm as well as a reasonable convergence of views by the participants as to the goals to be achieved by the collusion. This is true whether the collusion is limited to restricting the supply of advertising time, manipulating programming (either entertainment or political/editorial/news perspectives) or both. Using the owned station rep as a means of coordinating the collusion would appear to require a lack of other reasonable means of coordination since the obvious tie between the two firms invites scrutiny by non-colluding competitors, advertisers, the Commission and the antitrust authorities. One key question, then, is would repeal of the *Golden West* policy make collusive activity both easier to accomplish and to remain undetected, or would the rep firm attract too much scrutiny to be an effective colluding mechanism?

12. If a rep firm should decide to collude, it is still necessary that the two stations find collusion mutually beneficial for the conspiracy to continue. It is possible that the two stations might at some point disagree, resulting in independent action by one of them. It is also possible that the owned station rep might attempt to use the rep firm as a means of enforcing the collusion by threatening the station that breaks with the group. For this threat to be successful the station rep must be in a position to deny the recalcitrant station enough revenues so that its best option is to return to the collusive agreement. This requires that the recalcitrant station be in a position both that it is difficult to survive without a station rep and that independent station reps are not satifactory substitutes for the owned rep firm.[9] Another key question is, how likely is this to occur in practice?

13. Alternatively, if the broadcast station owning the rep firm chooses to engage in unfair competition and decides to use the rep as a tool in that pursuit, it must be able to restrict the target station's profits. To accomplish this it must be the case that it is difficult for the target station both to survive without a representative firm and to obtain representative services elsewhere.[10] Again, how likely are we to see this practice in radio and television markets? We shall keep these questions in mind while reviewing and analyzing the comments.

Summary of Comments and Discussion of Issues

14. We turn now to a summary and discussion of the comments received pursuant to the Notice of Inquiry. First, we examine the prospects for anticompetitive behavior. We then examine the market environment within which rep firms operate. This includes comments related to both television and radio reps and their influence on programming. Following that, we discuss the options available to the Commission for handling any anticompetitive abuses that might arise in the absence of the *Golden West* policy. The latter discussion includes methods for handling complaints of anticompetitive abuse.

(a) *The prospects for anticompetitive behavior.*

15. Parties supporting retention of the *Golden West* policy state that the policy serves a legitimate purpose in requiring stations to deal at arms-length, encourages competition, and reduces the opportunity for collusion on advertising rates. The Department of Justice (Justice) contends that elimination of the *Golden West* policy would result in the opportunity for collusive rate-setting. Justice states that, by eliminating the *Golden West* policy, a rep, in order to sell a station's advertising time to national and regional advertisers, may require access to sensitive competitive information concerning its client's operation (*e.g.*, the station's current and future rates and charges, program schedules and audience surveys). Justice points out that exchange of price and product information may be violative of the Sherman Antitrust Act, 15 U.S.C. 1. It adds:

> To permit a sales representative that is owned by a licensee to represent a direct competitor of that licensee provides the opportunity for competing licensees to agree on rates, an opportunity the Commission's policy wisely seeks to preclude.
>
> Thus, the restrictions imposed by the Commission policy provide a safeguard against collective rate setting. Price competition is the most fundamental form of a competition in a free market economy.

Lotus Representative Corporation stated that "co-representation promotes rate rigidity, if not outright price-fixing." In support of this contention Lotus states that "the greater the similarity in format, the greater the likelihood that the representative will 'suggest' prices to stations which should be competing at arms length." Some of those who would retain the policy nevertheless believe that there are areas in which it could be relaxed. For instance, Lotus suggests that the *Golden West* policy should be liberalized to allow representation of a Spanish-language station by a licensee-owned representative in the same market. It argues that when stations broadcast in different languages, there is no economic competition, particularly in the area of national advertising practices. Such representation, it claims, will assist a station which would otherwise have difficulty selling time nationally.

16. Commenters supporting the repeal of the *Golden West* policy contend however, that the threat of collusive rate-setting is premised upon a misapprehension of the nature of the industry. These parties characterize a sales representative as essentially a sales agent or broker, working strictly on a commission basis pursuant to a contract renegotiated annually. They stress that the licensee, not the representative, maintains responsibility for setting rates, which are primarily a result of audience ratings. They state that advertisers select the stations on which they wish to purchase time on the basis of predetermined demographic criteria and station ratings. They further claim that competitive marketplace factors will preserve full competition in the absence of government regulation because the unaffiliated representatives, in practice, do not maintain relationships with two clients in a given market that seek the same demographic and geographic audience. It was argued that the manifest conflict of interest on the part of a representative attempting to represent two stations seeking the same audience in a market compels the representative to terminate its relationship with one of the stations if a change in format puts two clients in competition for the same advertising dollars.

17. Another argument advanced by those who favor repeal of the *Golden West* policy is that while the Commission may be correct in perceiving a "theoretical" conflict of interest, the economic realities of sales representation require that each station be given the rep's maximum effort. They argue that in order to survive reps must

[9] If there are unused frequencies available in the market under analysis it would also be necessary to either prevent new entry or induce any new entrant to join the cartel.

[10] It is also the case that the firm engaging in the threats must be able either to retard or intimidate new entry in the market. Otherwise any gains from collusion would be lost.

pursue advertiser revenue for all stations represented. Torbet does not view common representation of competing stations to be a factor that would lessen competition. It states:

> The radio industry is intensely competitive. For example, in a large market such as New York City there are approximately 60 radio stations. The bottom line for each of these stations is audience size. No radio station in a competitive market will subvert its objective of increasing its ratings, to an interest that an affiliated company (the representative) has in increasing the commissions it receives from the sale of national advertising time. For example, no station manager who is considering a change in format (or any other competitive move) in order to protect, enhance, or recover from a loss of his or her market position, would refuse to take such an action in order to avoid a potential adverse effect on an affiliated representative's interest in the success of another station. On balance the interest of the affiliated representative is *de minimis*. Thus, it is extremely unlikely that the licensee representative's "stake" in the station it represents would have an adverse effect on competition.

18. The Notice of Inquiry sought information concerning a rep's access to confidential information not normally available to a competitor. The Intermountain Network, Inc., Eleven-Fifty Corp., Greater Media, Inc., Capitol Broadcasting Company, Inc., and Torbet Radio, Inc. all claimed that the type of information generally made available to sales representatives, including rate cards, programming, coverage, and demographics, is public information and not of a sensitive, competitive nature. In contrast, the U.S. Department of Justice, Jack Masla and Pro Time Sales, Inc. alleged that sales representatives did have access to such confidential business information as format and rate changes, program schedules, and pricing structure. John Blair and Company countered that even if price data were disclosed to a rep co-owned with a licensee in the area, anticompetitive behavior such as price-fixing should not be presumed. Blair urged that, to the contrary, knowledge of a competitor's prices may spur competition. Other commentors maintained that the sales representative's relationship with a competing station would be taken into account in determining what information to share. A disclosure of sensitive information to the rep would thus reflect either the client station's judgment that the information, if disclosed, would not be harmful or that the information would be kept confidential by the rep.

19. In summary, the prospects for anticompetitive behavior in cases currently prevented by the *Golden West* policy turns on the access to proprietary information by owned station reps and the ability of the parent company (the broadcast station) to utilize this information to reduce competition. The antitrust laws do not regard the use or even the compiling of business information that is generally available automatically to constitute a violation of law. The circumstances control.[11] Further, as noted below, we still retain the ability to review specific complaints alleging abuses. As the range of comments suggest, there is some dispute regarding the kind of information available to station reps whether owned by a competitor station or not. Nonetheless, as pointed out by some commentors, the station being represented by the owned firm is likely to be aware of the ownership of the station rep by a competing broadcast station. This knowledge should be sufficient to protect the station from unfair competition since it can determine whether and how much information to provide the owned station representative.[12] Aside from this issue we must determine whether the market environment is such that this station has alternatives available to it should it decide that its interests are not fully served by its present representatives.

(b) *The Market Environment*

20. There are several critical issues regarding the station rep market about which we solicited comments. First is the degree to which station reps influence programming decisions. Second, we were interested in obtaining information regarding trends in the station rep market. These trends include entry or exit of representative firms, ownership patterns, increasing dependence upon station reps, and the ability of stations to survive without a station rep firm. Finally, we were interested in whether the radio market was sufficiently different from the television market to warrant separate consideration.

21. In *Golden West* we determined that a sales representative had sufficient influence in the operation of the stations it represented so as to contravene our goal of maximum diversity of views. In order to evaluate a sales representative's involvement in the stations it represents and its resulting impact upon diversity, we asked for comments with regard to what degree sales reps provide guidance on the program service provided by the stations they represent. Those supporting repeal of *Golden West*, such as Greater Media, Inc., Capitol Broadcasting Company, Inc. and Torbet Radio, Inc., asserted that they offered no advice on programming. Several parties emphasized that while a representative organization may advise as to format or musical selections, representatives gave virtually no advice concerning news, public affairs and editorial positions. Further, Torbet Radio, Inc. and Buckley Radio Sales, Inc. both noted that other practices permitted by the Commission, such as networking, provide a far greater threat to the goal of diversity than the occasional advice of an independent sales representative. This is particularly true in markets where a network owns and operates a station and provides network service to competitors. Jack Masla & Company, Inc., on the other hand, took issue with the proponents of repeal who stated that programming consultation is not performed by a representative. It cited two examples in which the management of a station that it represented sought and obtained Masla's advice, programming suggestions and ideas regarding how to position a station against its competitor. Masla states that the stations implemented its suggestions.

22. Another argument concerning radio, raised by those who would retain the policy, is that concentration in the industry is exacerbated by the fact that the reps tend to concentrate their efforts on the larger stations and markets. They conclude that losses of national spot sales to such stations by smaller stations, which are already less able to compete, may well frustrate the Commission's goals to increase the number of stations on the air and to encourage minority ownership. P/W

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[11] The issue of whether information flow would enhance or discourage competition has been a subject of debate in the antitrust literature and law for decades. See, *e.g.*, *Maple Flooring Mfr's Ass'n* v. *United States*, 268 U.S. 563 (1925) and *American Column & Lumber Co.* v. *United States*, 257 U.S. 377 (1921). More recently this has been discussed in *U.S.* v. *Container Corp. of America*, 393 U.S. 333 (1969) and *U.S.* v. *United States Gypsum Co.*, 438 U.S. 422 (1978). The most recent thinking is that it is important to consider not only the flow of information *per se* but also the kind of information that is transmitted; the degree to which firm behavior deviates from what we would expect in a competitive market; and the exact mechanism by which the information is collected. Good summaries of this debate are found in Posner, Richard A., *Antitrust Law: An Economic Perspective*, 135–147 (1976), and Sullivan, Lawrence A., *Handbook of the Law of Antitrust*, 265–274 (1977).

[12] It is also unlikely that collusion would be a result of this set of relationships. In markets where conditions are such that collusion might occur there are many avenues available for transmitting information that would be far less obvious. Ownership ties of the kind examined here would immediately grab the attention of investigators. Further, it is unclear that the potential additional profits would justify the risk of detection.

Radio Representatives, Jack Masla and Company and others who would retain the policy argue that the "large dollar volume" firms are predominantly licensee-affiliated, and abolition of the policy would only serve to concentrate further the economic power of these firms, inhibiting rather than encouraging new, independent firms, and making it difficult for existing, smaller, independent firms to survive. Lotus adds that the steady decline in the number of national representatives "* * * will continue if the already dominant licensee-owned representatives are accorded *carte blanche* to represent multiple stations in the same market for the same advertising dollar."

23. Those supporting repeal of the policy argue that the purported decline in the number of national sales representatives, primarily for radio stations, means that stations cannot compete effectively in their markets. For instance, Torbet states that some thirty sales representative firms have gone out of business in the past twelve years and, in contrast, the number of radio stations has increased substantially in the last ten years. It concluded that this has resulted in a severe shortage of radio reps. Torbet Radio, Inc. contends that this shortage is aggravated by the fact that most of the sales representative firms are affiliated with the owners of broadcast facilities thus making it impossible for reps to represent other stations in the markets where they are affiliated. It is argued that by removing the restriction, a greater number of stations will be able to obtain a rep and to compete more effectively for national spot business. The end result, it is contended, will be the stimulation rather than the stifling of competition.

24. Comments were also solicited with regard to whether a different policy should be adopted for television from that relating to radio stations. As indicated earlier, few comments were received regarding this issue, apparently because as a matter of business practice in television, rep firms contract with only one TV station per market. Those comments, however, generally favored repealing *Golden West* for both radio and television, although several parties urged that radio should receive the Commission's top priority with regard to the proposed change in policy. Torbet argued that radio and television should be treated differently, because radio is much more dependent upon local as opposed to national and regional revenues and because there is no severe shortage of sales representatives in television as there is in radio.[13]

25. The number of radio stations nationwide has increased from about 7,400 in 1968 to over 9,000 today, with a commensurate increase in the competition in virtually every market.[14] Television has experienced similar growth. While television channels available in any market are more severely restricted than are radio channels, substantial competition nonetheless exists due to alternative technologies.[15] The acknowledged competition among radio stations and among video services would suggest that the prospects for collusive behavior is not pervasive because it would require a great deal of effort to coordinate the behavior of such a large number of competing stations or service outlets. Further, our description of the station rep firms and their market environment [16] suggests that the individual radio station can survive without a station rep firm.[17]

26. Further, while there appears to be a decline in the number of radio station rep firms over the past 10 years it is not likely that this would pose a competitive problem. In part, the decline appears to be due to the relative shift in advertising dollars both toward television and toward local advertising over the years. Also, the services provided by station reps typically require substantial overhead costs.[18] These overhead costs would likely dictate some exit from the market, all else equal. Finally, while it is alleged that thirty firms went out of the station rep business it is not clear that the total number of station reps has declined by 30 as is suggested by Torbet Radio, Inc. Some of the exit could be attributed to mergers to achieve economics of scale. It is also possible that firms may have entered the business. Even if no entry occured it is not clear that entry would not occur if the market expands since there are no obvious barriers to entry. Finally, it is not clear that the trend toward ownership of station rep firms by broadcast stations should present a competitive issue. Even if every station rep firm were owned by a broadcast station it is unlikely that a danger would exist because the station that does not own a rep organization would likely have alternatives available to it.[19]

27. With regard to the issue of influence over programming, we do not find a problem of such magnitude that *Golden West* should remain as a policy. Even those commenters that argue for retention of the policy point out that programming advice is not forced upon the station. Rather, the station typically solicits the advice of the station rep firm. If the station feels it is receiving bad advice it almost always has the choice of a different rep organization. It can also retain programming consultants that are not associated with rep organizations or it can go it alone. We must stress that no commentor demonstrated that survival in either television of radio markets required a station rep firm. While we know of no television stations that do not retain a station rep, there are radio stations that forego such representatives. Hence, we must conclude that, at least for radio, it is possible to survive.

28. Finally, as noted in the comments, there are several situations where radio networks own stations in a market and simultaneously provide network programs and commercials to competitors in the same market. Thus, like the sales representative, the network provides commercials to its affiliates. Unlike the network, the sales representative can, at best, offer suggestions as to programming, while the network actually provides programs on a regular basis. In those markets where the radio network affiliates with competitors of its own stations, the degree of involvement with its competitor is, therefore, greater than would be the case where a sales representative has a client competing with a station owned by the representative's parent. We are not aware of any abuses, and the comments point to none, arising in the network context. We believe that this experience strongly suggests that abuses are not

[13] Section 73.658(i) of the Commission's Rules which prohibits television networks from representing its affiliates in the sale of non-network time is not within the scope of the *Golden West* policy and is not affected by our decision here. We have under consideration a separate rulemaking proposal looking toward a change of that Rule. See *Network Representation of TV Stations in National Spot Sales and Request of Spanish International Network (SIN)* B/C Docket 78-309, 43 FR 45895 (Sept. 22, 1978).

[14] For a more complete analysis of Radio see *Report and Order: Radio Deregulation* 46 FR 13888 (Feb. 24, 1981).

[15] See FCC *Report and Recommendation in the Low Power Television Inquiry*, BC Docket No. 78-253, Chap. 3 (Sept. 9, 1980).

[16] See paragraphs 6-9 above.

[17] Appendix B suggests that the average station, whether television or radio, receives a smaller percentage of its revenues from the national spot advertising market than was the case 12 years ago.

[18] These costs primarily are associated with increasingly sophisticated market research undertaken by station reps.

[19] The Commission's ownership rules severely limit the number of broadcast stations within a service that can be co-owned. The independent station in any given market should be able to contract with a station rep firm that is owned by stations in other markets.

likely to occur as a result of the repeal of *Golden West*.

29. We conclude that the *Golden West* policy is no longer necessary. We are convinced, based on the comments and our own economic analysis, that the potential for impairment of economic competition which *Golden West* was designed to guard against will be mitigated by the incentive of the unaffiliated station to seek the sales representative that will most vigorously serve its interest. If that representation fails to produce the expected results, a change will be made. The rep firms, struggling to remain competitive in the face of rising costs and competition from local and network sales, are also motivated to provide maximum service to each client. The small percentage of radio broadcast revenues attributed to national spot sales and the very limited interest the licensee representative has in its client station results in a relatively small "stake" by a licensee representative in its competitor. We find the *Golden West* prohibition to be unwarranted in view of these competitive marketplace factors. Thus, we believe it to be in the public interest to allow radio and television stations to select national and regional sales representatives without regard to the representative's ownership interest. As discussed in the next section, any anticompetitive activity can be handled by other statutes and policies.

(d) *Complaints Regarding Anticompetitive Practices and Remedies*

30. Comments were sought regarding the Commission's role in maintaining a competitive environment if representation of a rival station were permitted. Most parties supporting repeal of the *Golden West* policy vehemently protested permitting representation only until a complaint had been received, arguing that such a policy may encourage meritless complaints from competing representatives. These parties urge that the same procedures and standards used by the Commission in reviewing complaints against unaffiliated reps representing two or more stations in an area should apply. It was suggested that specific facts alleging violations should be required, and all parties should be given an opportunity to comment.

31. We agree that questions of anticompetitive practices would best be handled on a case-by-case basis as is our policy concerning allegations of unfair business practices. Those alleging violations should set forth the specific facts on which they rely and the parties against whom the allegations are made given an opportunity to comment. The allegations should indicate the way competition has been degraded. Any information brought to our attention concerning such abuses would be carefully reviewed and appropriate steps taken when violations are indicated.

(e) *Existing Remedies and Controls*

32. Our decision to eliminate the *Golden West* policy reflects our conviction that other existing policies and enforcement mechanisms provide ample protection should anticompetitive activities arise. This argument was advanced by several parties, such as ABC, who asserted that adequate remedies are available including the antitrust laws, civil actions, and the Commission's own licensing program. Torbet observed that unlawful practices, such as collusive rate-setting, violate the antitrust laws, which alone act as a deterrent. The National Radio Broadcasters Association added that if any facts indicating misconduct come independently to the Commission's attention, the Commission can conduct an investigation and take action to stop anticompetitive practices.

33. Should market forces fail to be effective in curtailing anticompetitive behavior we shall not hesitate to re-examine the problem in light of all the circumstances. It is expected, however, that separate contracts will be entered into with clients for each station represented and that all decisions as to contracting for the sale of time, rates, programming, format, music selections and the like will be left up to the individual licensee. We also stress, as noted in the comments, that the controls now applied to multiple representation in an area by nonlicensee-owned representatives would be applicable to the representation we are authorizing here. As we held in *Combination Advertising Rates*, 59 FCC 2d 894 (1976):

> In representing more than one station in an area, it will be expected that representatives will not offer combination rates for commonly owned television and aural stations or offer combination rates for two separately owned stations, will enter into separate contracts with clients for each station represented and will leave all decisions as to contracting for the sale of time, including rates charged, to each licensee. We are not unmindful that questions may arise as to unfair practices because of multiple representation. Therefore, we will consider on a case-by-case basis any such questions and should we receive information that unfair practices have occurred, we will consider the matter further. [*Id.* at 897.]

Summary

34. The objective of the *Golden West* policy was the promotion and maintenance of full competition between two stations in the same service in the same market. The Commission stated that the policy was based on its concern for potential impairment of competition and not on existing abuses. The petitioners who challenge the need for the policy contend that the degree of involvement is minimal and that market forces are sufficient to act in place of government regulation. Our attention has been called to certain existing safeguards and remedies that would be available to those who may be injured by excesses or abuses. We do not agree with those parties who contend that repeal of the policy would impose significant additional and unnecessary enforcement burdens on the Commission. We believe that *Golden West* does not warrant as much concern now as it once did. The record does not reflect abuses in the multiple representative situations. We see no indication that because a sales representative is affiliated with a competitor, the diversity in programming or service viewpoints will be diminished. It is ultimately in the best interest of the representative organization to maximize profits for any stations it represents, whether those stations are related by ownership or by contract. Thus, we believe that the restrictions imposed by the *Golden West* policy are no longer necessary to further our objective of promoting a maximum diversity of programming and service viewpoints. Upon review of the comments involved, we believe that the market structure and antitrust laws and policies will deter anticompetitive practices. Therefore, we are eliminating those restrictions of *Golden West* that prohibit a national or regional sales representative that is owned by a licensee from representing other stations in the same market. In light of the action taken we find it unnecessary to address those comments seeking only partial relaxation of the *Golden West* policy.

35. Accordingly, it is ordered, that the Commission policy prohibiting representation of a station by a sales representative owned wholly or partially by a licensee of a competing radio or television broadcast station in the same service in the same area is repealed in that representation of a station in a market by a representative owned by a rival station is permitted.

36. It is further ordered, That the Application for Review and Request for

Waiver filed by Buckley Radio Sales, Inc., is dismissed as moot.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

A. Parties filing comments in support of eliminating the *Golden West* policy:
National Radio Broadcasters Association
Greater Media, Inc.
Eleven-Fifty Corporation
Torbet Radio, Inc.
John Blair and Company
Capitol Broadcasting Company, Inc.
Buckley Radio Sales, Inc.
Intermountain Network, Inc.
American Broadcasting Companies, Inc.
Gulf South Broadcasters, Ltd.

B. Parties filing comments in support of retaining the *Golden West* policy:
Jack Masla & Company, Inc.
P/W Radio Representatives
Pro Time Sales, Inc.
Lotus Representative Corporation
U.S. Department of Justice

Appendix B

The following financial data is taken from the Commission's financial information as reported by the radio and television industry:

Year	National network (percent)	National non-network (percent)	Local (percent)	Total
	Revenues to Radio Stations for Sale of Time (in millions)			
1969	$9.7 (.9)	$344.6 (30.3)	$782.7 (68.8)	$1,137.0
1979[1]	24.0 (.8)	635.8 (20.9)	2,383.5 (78.3)	3,043.3
	Revenues to Television Stations for Sale of Time (in millions)			
1969	254.1 (13.5)	1,108.1 (58.9)	519. (27.6)	1,881.2
1979[1]	344.4 (6.7)	2,564.3 (49.7)	2,244.7 (43.6)	5,153.4

[1]Based upon the latest data available.

[FR Doc. 81-25290 Filed 8-28-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties; Delegation to the Chief Counsel

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

ACTION: Final rule.

SUMMARY: This notice delegates to the Chief Counsel the authority to compromise civil penalty settlements in amounts of $5,000 or less for violations of the National Traffic and Motor Vehicle Safety Act and Motor Vehicle Information and Cost Savings Act. It formalizes a practice in existence for some years.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: David W. Allen, Assistant Chief Counsel, National Highway Traffic Safety Administration, 400 7th Street, S.W., Washington, D.C. 20590, Telephone: (202-426-9511).

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR 1.50 the National Highway Traffic Safety Administrator has been delegated authority by the Secretary of Transportation to carry out the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 *et seq.*) and the functions vested in the Secretary by the Motor Vehicle Information and Cost Savings Act of 1972, as amended (86 Stat. 947; 49 U.S.C. 1901 *et seq.*) except Section 512.

In turn, pursuant to 49 CFR 501.8(d)(2), the Administrator has delegated to the Chief Counsel, NHTSA, authority to establish the legal sufficiency of all investigations conducted under the authority of the Safety Act and Titles I and IV of the Cost Savings Act. In the early days of the Administration, at the conclusion of investigations the Chief Counsel did not enter civil penalty negotiations without the specific approval of the Administrator. Late in 1973 the Administrator assented to an internal procedure by which his approval need not be sought by the Chief Counsel on penalties or compromises in an amount of $5,000 or less. The Administrator's approval has continued to be obtained on all settlements exceeding $5,000. This process has expedited agency enforcement actions. As part of a review of agency procedures the Administrator now wishes to formalize this practice by delegation. Accordingly § 501.8(d)(2) is being amended to add authority "to compromise any civil penalty or monetary settlement * * * in an amount of $5,000 or less."

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

This amendment relates to matters of agency reorganization and procedure and may therefore be issued without opportunity for notice and comment. In consideration of the foregoing, subparagraph (2) of paragraph (d) of § 501.8 in Title 49, Code of Federal Regulations, is revised to read as follows:

§ 501.8 Delegation.

* * * * *

(d) *Chief Counsel.* The Chief Counsel is delegated authority to: * * *

* * * * *

(2) Establish the legal sufficiency of all investigations conducted under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 *et seq.*) and under the authority of Titles I and IV of the Motor Vehicle Information and Cost Savings Act of 1972, as amended (86 Stat. 947; 15 U.S.C. 1901 *et seq.*), and to compromise any civil penalty or monetary settlement resulting therefrom in an amount of $5,000 or less.

(Delegation at 49 CFR 1.50)

Issued on: August 24, 1981.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 81-25198 Filed 8-28-81; 8:45 am]
BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 71-1; Notice 8; Docket No. 79-19; Notice 2]

Federal Motor Vehicle Safety Standards, Glazing Materials and Rearview Mirrors

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

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 205, *Glazing Materials*, to delete the abrasion resistance

requirements specified for Items 3, 5, 9, and 12 glazing. The purpose of the abrasion requirements is to ensure that glazing will resist scratching that can distort the driver's view and thus reduce visibility. The glazing Items specified above, however, can be used in vehicles only in window locations that are not necessary for driving visibility. These locations include sun roofs and side windows to the rear of the driver in trucks, multipurpose passenger vehicles (MPV's), and buses. Since the standard currently does not require glazing in window locations such as these to be transparent, there is no real need for Items 3, 5, 9, and 12 to pass the abrasion tests. Thus, this notice deletes the abrasion requirements for these types of glazing.

The agency has decided, however, not to adopt another proposed amendment to Standard No. 205, or a related change in Standard No. 111, *Rearview Mirrors*. These amendments would have made the rear-most windows of trucks, MPV's, and buses having GVWR's of 10,000 pounds or less requisite for driving visibility. The proposal would have also required the manufacturers of such vehicles to install inside rearview mirrors.

DATE: The amendment is effective on August 31, 1981.

ADDRESS: Petitions for reconsideration should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours: 7:45 a.m. to 4:15 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Edward Jettner, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202–426–2264).

SUPPLEMENTARY INFORMATION: On September 27, 1979, NHTSA published a notice of proposed rulemaking (44 FR 55610) regarding Standard No. 205, *Glazing Materials* (49 CFR 571.205). That notice proposed to amend the standard to delete the abrasion requirements for Items 3, 5, 9, and 12 glazing. The notice also proposed to amend the standard to clarify that the rear windows of trucks, multipurpose passenger vehicles (MPV's), and buses having gross vehicle weight ratings (GVWR's) of 10,000 pounds or less are considered requisite for driving visibility. This would have required that glazing materials used in the rear windows of these vehicles have a luminous transmittance of at least 70 percent. On December 31, 1979, in a related action, the agency published a notice of proposed rulemaking (44 FR 77224) regarding Standard No. 111, *Rearview Mirrors*. That proposal would have amended Standard No. 111 to require that light trucks and vans having rear windows be equipped with an inside rearview mirror. The purpose of the two proposals was to improve rearward visibility for the drivers of those vehicles.

Consumers, vehicle manufacturers, trade associations, equipment manufacturers, and others submitted comments in response to the notices. The final rule is based on a thorough evaluation of the data obtained in NHTSA research, data and views submitted in the comments and data obtained from other pertinent documents and reports. The major comments are discussed below, along with the agency's final decision on each proposal.

The Abrasion Requirements

Standard No. 205 specifies performance requirements for glazing materials to be used in motor vehicles and motor vehicle equipment, and also specifies the vehicle locations in which various types of glazing may be used. The standard incorporates by reference the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1–1966 (ANS Z26). The abrasion resistance requirements of Standard No. 205 are set forth in ANS Z26 in terms of performance tests that the various "Items" of glazing must pass. (There are 13 "Items" or types of glazing for which requirements are specified in the standard.) Items 3 and 9 glass glazing materials are required to pass Abrasion Test No. 18, which allows no more than two (2) percent light scatter or haze when the glazing is abraded for 1,000 cycles. Items 5 and 12, which are rigid plastic glazing materials, must pass Abrasion Test No. 17 (less than 15 percent light scatter or haze when abraded for 100 cycles). The purpose of the abrasion tests is to assure that glazing resists scratching which can distort the driver's view and thus reduce visibility. Visibility through the Items of glazing in question, however, is not required, as the glazing can only be used in locations not necessary for driving visibility. Since the abrasion requirements test for a quality that is not relevant to Items 3, 5, 9, and 12 glazing, NHTSA proposed that they be deleted for these types of glazing material.

Several comments were submitted on this proposal, and virtually all were in favor of its adoption. Chrysler and Ford noted that the abrasion tests are not relevant to Items 3, 5, 9 and 12 glazing since such Items cannot be used in locations requisite for driving visibility. GM stated that deletion of these tests for the Items in question would resolve some of the inconsistencies in the standard. One such inconsistency noted by GM is the fact that the current standard allows rigid plastics, which are required to pass a less stringent abrasion test than glass glazing materials, to be used in locations in which glass in combination with treated coatings would not be allowed. Rohm and Haas Company noted in their comments, however, that this proposal may permit materials to be used which will not be as durable and functional as currently used materials and thus will present a poor appearance.

The agency has decided to adopt the proposed amendment. As emphasized by Ford and Chrysler in their comments, there is no compelling safety need for retaining the abrasion requirements for these four glazing Items since the standard prohibits their use in vehicle locations that are requisite for driving visibility. The abrasion requirements for these Items do serve as additional tests of glazing strength and durability. However, there are other more direct tests of these characteristics (such as the Impact Tests Nos. 8–14 of ANS Z26) that are applicable to these Items and that will ensure that the glazing remains in safe condition throughout its useful life. Considering that totally opaque glazing is permitted by the standard, there is no justification for imposing the abrasion requirements on these Items. Deletion of the abrasion requirements should result in cost savings for some vehicles, because less expensive types of glazing would qualify for installation. Manufacturers would be able to use plastic glazing that is more resilient and thus may reduce the possibility of occupant ejection in a crash. In light of these considerations, the agency has decided to delete the abrasion tests for Items 3, 5, 9 and 12 glazing.

Rear Window Visibility

The September 27, 1979 notice also proposed to amend Standard No. 205 to clarify that the rear-most windows (if present) in trucks, MPV's and buses having GVWR's of 10,000 pounds or less are requisite for driving visibility. This would have required that glazing materials used in the rear windows of these vehicles have a luminous transmittance of at least 70 percent, as specified in Test No. 2 of ANS Z26. At present, Standard No. 205 allows the use of certain types of glazing (Items 3, 9,

and 12) that are not required to have a luminous transmittance of 70 percent if the rear window is not requisite for driving visibility. Item 5 glazing may also be used if the rear window is not requisite for driving visibility and other means of visibility to the side and rear of the vehicle are provided. The standard does not specify, however, which rear windows are necessary for driving visibility. The proposed change would have resolved the indefiniteness of the present standard in regard to which rear windows of trucks, MPV's, and buses are considered necessary for driving visibility.

All the comments filed regarding the proposed amendment disapproved of the change. Many commenters stated that the agency had presented no evidence showing that a safety problem exists because the rear windows of trucks and buses are not required to be transparent. The commenters suggested that if a vehicle is equipped with an outside mirror system as proposed in Docket No. 71–3a, Notice 4, *Rearview Mirror Systems*, and meets the proposed requirements of Docket 70–7, Notice 05, *Fields of Direct View*, the needs of drivers for visibility, both direct and indirect, will be satisfied.The proposed amendment to Standard No. 205 would then be redundant. Thus many of the commenters argued that the proposed change should not be adopted, or else should be incorporated as part of Standard No. 111, *Rearview Mirrors*, and made applicable only when the manufacturer is using inside mirrors to satisfy the other requirements of the standards. (On June 22, 1981, NHTSA published a notice in the **Federal Register** that rescinded Standard No. 128, *Fields of Direct View* (46 FR 32254). That decision has no effect on this rulemaking proceeding.) Almost all the commenters felt that the purpose of the amendment—to increase visibility to the rear of certain vehicles and thereby improve safety—would be easily circumvented. Either cargo or passengers would block the driver's view of the rear window, or the owner of the vehicle would hang curtains or reflective film to ensure privacy. Many of the commenters noted that there is no requirement that trucks and vans even have a rear window. Several pointed out that the proposed amendment will waste fuel, because the 70 percent luminous transmittance requirement will eliminate the use of plastic glazing (which is lighter in weight than glass) and will increase the use of air conditioners since smoked glass windows will be prohibited.

The NHTSA has decided not to adopt this proposed amendment to Standard No. 205. The agency believes that consumers would not derive a significant safety benefit from such a regulation. However, NHTSA encourages vehicle manufacturers to voluntarily use glazing which has a luminous transmittance of at least 70 percent in the rear windows of trucks, MPV's, and buses.

Inside Rearview Mirrors

Standard No. 111, *Rearview Mirrors*, currently allows the manufacturers of MPV's, trucks and buses (other than schoolbuses) that have GVWR's of 10,000 pounds or less the option of complying with either of two rearward visibility requirements. A manufacturer may equip those vehicles with inside and outside rearview mirrors which meet the requirements for passenger car mirrors. Or, it may equip the vehicle with larger outside mirrors on each side of the vehicle and forego providing any inside mirror. Under the latter alternative, the outside mirrors must be plane mirrors and have not less than 19.5 square inches of reflective surface.

Notice 1 of Docket 79–19 proposed an amendment to Standard No. 111. That proposal would have required manufacturers of light trucks, MPV's, and buses (other than school buses) equipped with rear windows to install in those vehicles an inside rearview mirror that is similar to mirrors found in passenger cars. Manufacturers would have had the same options for compliance as before, except that if a manufacturer chose to provide only the larger outside mirrors, he would also have to install an inside mirror that provided a field of view through the full horizontal width of the rear window. (The inside rearview mirror in a passenger car must provide a field of view through a 20 degree horizontal angle and through a vertical angle sufficiently large to provide a view of a level road surface extending to the horizon beginning at a point not greater than 200 feet to the rear of the vehicle.) The proposed amendment supplemented the proposed changes in Standard No. 205 regarding rear window visibility. The proposed amendment to Standard No. 111 would have enabled drivers to take full advantage of the more transparent glazing materials that would have been required in rear windows.

The manufacturers and trade associations who submitted comments on the proposed amendment were unanimous in their opposition to it. Many emphasized that the research cited in support of Docket No. 71–3a, Notice 4, *Rearview Mirror Systems*, which proposes to upgrade Standard No. 111, does not indicate a need for inside rearview mirrors when outside mirrors are adequate. The inside rearview mirror would be totally useless if the rear window of the vehicle is blocked by cargo, passengers, or the like. Most of the commenters noted that a pick-up truck manufacturer who complies with the large outside mirrors/inside mirror option (as opposed to the passenger car mirrors requirement) would have to install an extremely wide inside mirror. This would be necessary if the mirror was to provide a field of view through the full horizontal width of the rear window because of the close proximity of the mirror to the backlite. According to the commenters, such a wide mirror would interfere with the driver's ability to see through the windshield and could not be mounted in a stable, vibration-free manner. Some commenters noted that most of the affected vehicles already have inside rearview mirrors, despite the fact that most rear windows are designed only to admit ambient light, not for visibility. One second-stage manufacturer stated that NHTSA had underestimated the cost of the amendment to the ultimate consumer.

The NHTSA has decided not to adopt the proposed amendment to Standard No. 111. Since the agency has decided not to make the rear windows of trucks and vans requisite for driving visibility, there is no need to require such vehicles to have an inside rearview mirror which would enable drivers to take advantage of the improved visibility the glazing would have provided. Also, the agency has observed that virtually all vehicle manufacturers voluntarily provide inside rearview mirrors as standard equipment on their light trucks and vans. The agency approves of this practice and encourages manufacturers to continue it. NHTSA will continue to study the question of whether inside rearview mirrors should be mandated for trucks, buses and MPV's as a part of Docket No. 71–3a, Notice 4, *Rearview Mirror Systems*.

Costs

The NHTSA has considered the economic impacts of the amendment to Standard No. 205 that will delete the abrasion requirements for Items 3, 5, 9 and 12 glazing. The agency has determined that this rule is not a major rule within the meaning of Executive Order 12291 or a significant rule under the Department of Transportation's policies and procedures for implementing that order. Based on that assessment, NHTSA has further concluded that the economic and other

consequences of the amendment are so minimal that a regulatory evaluation is not necessary. Deletion of this requirement will permit the use of less expensive types of glazing in motor vehicles. Thus, NHTSA anticipates cost savings for some vehicles as a result of this amendment. However, the agency expects that the cost savings will not be significant.

NHTSA has also evaluated the environmental impact of this amendment in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and has determined that the amendment will not have a significant effect on the environment. Reasons for this finding can be found in the Environmental Assessment, copies of which will be placed in the public docket.

The engineer and lawyer primarily responsible for this rule are Edward Jettner and Joan M. Griffin, respectively.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendment is made to Safety Standard No. 205, *Glazing Materials* (49 CFR 571.205).

§ 571.205 [Amended].

1. A new paragraph S5.1.1.7 is added to read:

* * * * *

S5.1.1.7 Test No. 17 is deleted from the list of tests specified in ANS Z26 for Item 5 glazing material and Test No. 18 is deleted from the lists of tests specified in ANS Z26 for Item 3 and Item 9 glazing material.

* * * * *

2. The first sentence of paragraph S5.1.2.1 is amended to read as follows:

* * * * *

S5.1.2.1 *Item 12—Rigid plastics.* Safety plastic materials that comply with Tests Nos. 10, 13, 16, 21, and 24 of ANS Z26, Tests Nos. 19 and 20 of ANS Z26 with the exception of the test for resistance to undiluted denatured alcohol Formula SD No. 30, and the labeling requirements of S5.1.2.3, may be used in a motor vehicle only in the following specific location at levels not requisite for driving visibility.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50).

Issued on August 24, 1981.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 81-23200 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-59-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Parts 1000, 1005, 1006, 1010, 1012, 1015, 1026, 1060, 1061, 1062, 1063, 1067, 1068, 1069, 1075, and 1076

Removal of Miscellaneous Regulations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is radically reducing the scope and number of its regulations. This action is in furtherance of the President's deregulation initiatives and in preparation for the October 1, 1981 transition to block grant funding of CSA programs under the Community Services Block Grant Act. This regulation repeals all parts of 45 CFR applying only to CSA activities and not to grantees, and repeals regulations governing grantee activities which are not required by statute, which are duplicative, or which are unnecessarily detailed, leaving grantees much more discretion and responsibility to conduct their own affairs without detailed Federal supervision.

CSA has determined that this is not a major regulation under the definition in Executive Order 12291.

EFFECTIVE DATE: This rule is effective September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Merritt Van Sant, Acting Assistant Director for Policy, Planning and Evaluation, Community Services Administration, 1200—19th Street, NW., Washington, D.C. 20506. Tel. (202) 632-6630.

SUPPLEMENTARY INFORMATION: Regulations affecting grantees which are wholly repealed include CSA nondiscrimination regulations, Community Action Agencies—Eligibility and Establishment, and the Role of State Economic Opportunity Offices. The reasons for repeal of the nondiscrimination regulations are that they are largely duplicative of other such regulations and that, with the closeout of CSA, the particular CSA procedures contained therein would be difficult to administer. Adequate protection for grantee employees and beneficiaries exists under the provisions of the Civil Rights Acts and Executive Order 11246; most complaints against grantees can presently be taken to the Equal Employment Opportunity Commission or other Federal agencies. The regulations concerning establishment of Community Action Agencies will no longer be relevant as no new CAA's will be established after the closeout of CSA. All regulations concerning State Economic Opportunity Offices are repealed as their functioning and existence becomes purely a state concern under the block grant legislation.

Among other deregulation actions, one of particular note is the termination of all requirements under the Grantee Program Management System (GPMS). Also the grantee personnel regulations are repealed, leaving grantee personnel management entirely to the grantees. Similarly, most grantee board regulations are repealed, leaving grantees the responsibility of complying with statutory requirements without further detailed direction from the Federal Government.

All of the Uniform Federal Standards and most additional regulations concerning fiscal management and accountability are among those regulations retained. It must be emphasized that where regulations are repealed, grantees are still responsible for full compliance with statutory requirements and merely have greater discretion as to the manner of compliance.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Dwight A. Ink,

Director.

45 CFR Chapter X is amended as follows:

PARTS 1000, 1005, 1006, 1010, 1012, 1015, 1026, 1062, 1063 and 1075 [REMOVED]

1. By removing PARTS 1000, 1005, 1006, 1010, 1012, 1015, 1026, 1062, 1063, and 1075 in their entirety.

2. By removing the following Subparts:

Subpart 1060.4 [Removed]

Subpart 1060.4—Resolving Complaints of Discrimination in Employment, Program Participation and Benefits Against CSA Grantees (CSA Instruction 6004-4), which includes § 1060.4-1 to § 1060.4-7.

Subpart 1061.12 [Removed]

Subpart 1061.12—Use of EFMS Funds for Food Stamp Activities (CSA Instruction 6132–1), which includes § 1061.12–1 to § 1061.12–7.

Subpart 1067.2 [Removed]

Subpart 1067.2—Denial of Application for Refunding (CSA Instruction 6730–1a), which includes § 1067.2–1 to § 1067.2–5.

Subpart 1067.6 [Removed]

Subpart 1067.6—Access to Publications: Federal Register and the Code of Federal Regulations (CSA Instruction 7000–1a), which includes § 1067.6–1 to § 1067.6–6.

Subpart 1067.7 [Removed]

Subpart 1067.7—Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs (CSA Instruction 6004–5), which includes § 1067.7–1 to § 1067.7–3.

Subpart 1067.15 [Removed]

Subpart 1067.15—Applying for a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–6), which includes § 1067.15–1 to § 1067.15–12.

Subpart 1067.51 [Removed]

Subpart 1067.51—Independent Funding of "Versatile CAP" Programs, Section 221(b) (CSA Instruction 6140–01), which includes § 1067.51–1 to § 1067.51–4.

Subpart 1067.60 [Removed]

Subpart 1067.60—Final Approval of CSA Grant Contract Actions, which includes § 1067.60–1 to § 1067.60–2.

Subpart 1067.61 [Removed]

Subpart 1067.61—Criteria for Determining the Delegation of Grant and Contract Making Authority to Regional Directors, which includes § 1067.61–1 to § 1067.61–2.

Subpart 1067.70 [Removed]

Subpart 1067.70—Grantee Program Management System: The Community Action Agency, which includes § 1067.70–1 to § 1067.70–10.

Subpart 1067.80 [Removed]

Subpart 1067.80—Applying for a Research, Demonstration and Pilot Project Grant Under Title II, Sections 232 and 222(a) of the Economic Opportunity Act of 1964 as amended (CSA Instructions 7570–1, 7570–2, 7570–3, 7570–4, 6710–4), which includes § 1067.80–1 to § 1067.80–11. [Removed]

Subpart 1068.3 [Removed]

Subpart 1068.3—Limitation on CAA Administrative Costs (CSA Instruction 6807–1), which includes § 1068.3–1 to § 1068.3–10.

Subpart 1068.4 [Removed]

Subpart 1068.4—Allowability of Costs Incurred to Borrow Funds (CSA Instruction 6803–2), which includes § 1068.4–1 to § 1068.4–7.

Subpart 1068.5 [Removed]

Subpart 1068.5—Allowances and Reimbursements for Members of Policy Making Bodies (CSA Instruction 6803–1b), which includes § 1068.5–1 to § 1068.5–5.

Subpart 1068.40 [Removed]

Subpart 1068.40—Funding of Third Party Contractors (CSA Instruction 7000–01), which includes § 1068.40–1 to § 1068.40–3.

Subpart 1068.41 [Removed]

Subpart 1068.41—Standard Form for Professional or Technical Services to a Community Action Program (CSA Instruction 7410–01), which includes § 1068.41–1 to § 1068.41–3 and Appendix A.

Subpart 1069.7 [Removed]

Subpart 1069.7—Training Requirements for Special Impact Program Grantees (CSA Instruction 7648–1), which includes § 1069.7–1 to § 1069.7–3.

Subpart 1069.20 [Removed]

Subpart 1069.20—Personnel Policies and Procedures Under Title II, Sections 221, 222(a), 230 and Titles IV and VII (CSA Instructions 6900–01 and 6903–3) which includes § 1069.20–1 to § 1069.20–12.

Subpart 1069.21 [Removed]

Subpart 1069.21—Personnel Policies and Procedures Under Title II, Section 231 (CSA Instruction 6900–03), which includes § 1069.21–1 to § 1069.21–11.

Subpart 1069.22 [Removed]

Subpart 1069.22—Personnel Policies and Procedures Applicable Under Sections 221, 222(a), 230, 232, and Titles IV and VII (CSA Instruction 6900–02), which includes § 1069.22–1 to § 1069.22–9.

Subpart 1069.24 [Removed]

Subpart 1069.24—Employment of persons with Criminal Records (CSA Instruction 6901–1), which includes § 1069.24–1 to § 1069.24–8.

Subpart 1069.25 [Removed]

Subpart 1069.25—Assistance to Vietnam-Era Veterans (CSA Instruction 6901–2, which includes § 1069.25–1 to § 1069.25–9, and Appendix A.

Subpart 1069.27 [Removed]

Subpart 1069.27—Outside Employment of Grantee and Delegate Agency Personnel (CSA Instruction 6907–4), which includes § 1069.27–1 to § 1069.27–4.

Subpart 1069.30 [Removed]

Subpart 1069.30—Personnel Policies and Procedures; Application to Personnel of State Economic Opportunity Offices under Title II, Section 231 (CSA Instruction 6900–04), which includes § 1069.30–1 to § 1069.30–4.

Subpart 1076.5 [Removed]

Subpart 1076.5—Special Impact Program Policies and Priorities (CSA Instruction 6158–1), which includes § 1076.5–1 to § 1076.5–11.

Subpart 1076.30 [Removed]

Subpart 1076.30—Training, Public Service Employment, and Social Service Programs Funded by CDCs (CSA Instruction 6158–3), which includes § 1076.30–1 § 1076.30–4.

Subpart 1076.40 [Removed]

Subpart 1076.40—Location of CDC Ventures (CSA Instruction 6158–4), which includes § 1076.40–1 and § 1076.40–4.

3. By amending Subpart 1067.40 as follows:

Subpart 1067.4 [Amended]

The Subpart heading is revised to read "Subpart 1067.4—Applying for a Grant Under Title II, Sections 221, 222(a), 231, and 232 of the EOA."

§ 1067.40–1 [Amended]

In § 1067.40–1, *Applicability*, the first sentence is revised by deleting the word "and" which appears before "231" and inserting "and 232" after the reference to "231."

[FR Doc. 81–25626 Filed 8–28–81; 11:38 am]
BILLING CODE 6315–01–M

Proposed Rules

Federal Register
Vol. 46, No. 168
Monday, August 31, 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.

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Docket: 39836; EDR-429A; Dated: August 26, 1981]

Tariff Flexibility System for Domestic Passenger Air Fares; Denial of Request to Extend Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Denial of request to extend comment period.

SUMMARY: The CAB denies a request to extend the comment period on its proposal to allow, but not compel, airlines to use a tariff flexibility system for domestic passenger air fares for the period until January 1, 1983.

DATES: Comments by: August 26, 1981.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 39836, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: George S. Baranko or Barry Molar, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-6011 or 202-673-5205, respectively.

SUPPLEMENTARY INFORMATION: In notice of proposed rulemaking EDR-429 (46 FR 38642; July 28, 1981; Docket 39836), the Board proposed to allow, but not compel, airlines to use a tariff flexibility system for domestic passenger air fares for the period until January 1, 1983, when airlines will no longer be required to file tariffs for domestic transportation. The Board set August 26, 1981, as the date for filing comments on the proposal. In Order 81-7-108, which accompanied and was incorporated in the proposal, the Board announced that it expected to set October 1, 1981, as the effective date for any new rule that it adopted in this proceeding.

On August 25, 1981, British Airways filed a request for an extension of time for comments. British Airways stated that the proposal was issued in the peak of the summer vacation period, that the 30 days allowed for comments was only half the usual comment period and was insufficient for a matter of such fundamental importance, and that the lack of provision for reply comments made an adequate time for initial comments even more important. British Airways also stated that it has been unable to fully analyze the impact of the proposal and coordinate the views of its interested departments on both sides of the Atlantic. It requested a 2-week extension of time for comments, and stated that the Air Traffic Conference, International Air Transport Association, and American Society of Travel Agents had no objection to the request.

The request for an extension of time is being denied. This round of comments is the latest phase of a proceeding to establish a transitional domestic tariff policy. The Board has often expressed its concern for a speedy implementation of such a policy, most recently in Order 81-7-106. British Airways' general objections to the length of the comment period are not persuasive when balanced against the need to conclude this proceeding. Moreover, the request was not received until the afternoon of the last day before the close of the comment period, with no explanation for such timing. This alone is reason enough to deny the request, because a grant would be unfair to other prospective commenters, who could not be notified of the extension in time to delay filing of their comments.

Accordingly, under authoirty delegated by the Board in 14 CFR 385.20(d), the request of British Airways for an extension of time to file comments in Docket 39836 is denied.

(Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482)

Richard B. Dyson,

Associate General Counsel, Rules and Legislation.

[FR Doc. 81-25347 Filed 8-28-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1205

[NHTSA Docket No. 81-12; Notice 1]

Highway Safety Programs; Determination of Effectiveness

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

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

SUMMARY: This notice is being issued to solicit public comments upon an effort by the National Highway Traffic Safety Administration and the Federal Highway Administration to determine those State and local highway safety programs most effective in reducing accidents, injuries, and fatalities. It is undertaken at this time to be in accordance with the intent of Congress as expressed in the Omnibus Budget Reconciliation Act of 1981 (Section 1107(d); Public Law 97-35). It is the intent of the Department that those programs judged during this rulemaking to be most effective will continue to be eligible for Federal funding under the State and Community Highway Safety Grant Program (23 U.S.C. Section 402) beyond Fiscal Year 1982. (This program is described in the Catalog of Federal Domestic Assistance at 20.600, State and Community Highway Safety.) The rulemaking will also establish a process for determining such programs on a continuing basis. The notice announces two public hearings on this subject and invites submission of written comments to a public docket. After analysis of this information the agencies will issue a second rulemaking proposal which is

expected to lead to a final determination not later than April 1, 1982.

DATE: The public hearings will be held October 5 and October 15, 1981. All written comments must be received by October 29.

ADDRESS: The October 5 hearing will be held in Room 2230, of the Department of Transportation headquarters building, 400 Seventh Street, S.W., Washington, D.C. The October 15 hearing will be held at the Hershey Lodge and Convention Center in Hershey, Pennsylvania. For each hearing, the schedule will be from 9:00 a.m. to 12:00 p.m., and from 1:30 p.m. to 5:00 p.m.

Written comments should refer to the docket number and to the number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours are 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT:

NHTSA: Mr. Charles F. Livingston, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0837).

FHWA: Mr. Lorenzo Casanova, Associate Administrator for Safety, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–755–9347) or Mr. Jerry Boone, Office of the Chief Counsel, Federal Highway Administration (202–426–0791).

SUPPLEMENTARY INFORMATION: This notice is the first of three notices in a rulemaking process to determine those State and local government highway safety programs which are most effective in reducing accidents, injuries, and fatalities. It will also define a process for determining the most effective safety programs eligible for Federal funding. Those programs judged to be most effective will be eligible for continued Federal funding under the State and Community Highway Safety Grant Program, (or Section 402 of title 23, U.S.C.).

This advance notice will be followed by a notice of proposed rulemaking in late 1981. As directed by Congress in section 1107(d) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, the rulemaking process will conclude with a final rule by April 1, 1982. Under subsection 1107(d) only those programs and procedures identified in the final rule will be eligible for Federal funds under the State and Community Highway Safety Grant Program. This program is conducted under the authority of the Highway Safety Act of 1966, Pub. L. 89–564, 23 U.S.C. 402.

From its beginning in 1966, the goal of the State and Community Highway Safety Grant Program has been to reduce the highway accident problem by improving driver and pedestrian safety performance. It does this primarily by providing technical and financial assistance to State programs concerned with affecting human behavior and modifying the driving environment—rather than through motor vehicle-related engineering and design changes.

The Highway Safety Act of 1966, which established the Federal grant program, required the establishment of uniform State Highway Safety Program Standards to help States and local communities organize their highway safety programs.

In July 1967, the Department communicated to the Congress that two approaches had been considered in developing the initial set of 13 uniform standards: (1) If the programs of all States were required to meet all elements of the standards by the end of 1968, this would have necessitated standards approaching the lowest common denominators of State programs. (2) If the standards were to specify goals to be worked toward, the standards could be set at much higher levels. The latter position was adopted as the one which would better satisfy the purpose of the Act. By this decision, the mandatory nature of the standards was coupled with the concept of progressive compliance towards program excellence.

By May 1972, all 18 of the current Highway Safety Standards had been issued. On August 3, 1972, a *Notice of Proposed Rulemaking* (37 FR 15602) was published to request public comment on a proposed revision to the standards. The purpose of the proposed revision was to: (1) update various elements of the standards; (2) refine and establish program evaluation requirements by which States could determine program progress and quality, and the Department could assess overall State progress; (3) employ more performance-oriented language; and (4) "repackage" the standards to reduce the number and pull like activities together to aid States in developing programs. Because so many of the comments received on the proposal were negative, no further action was taken. In 1973, Congress passed an amendment (23 U.S.C. 402(h)) prohibiting the issuance of any new standards or revisions unless specifically provided for by subsequent act of Congress. Thus the 18 standards have remained essentially unchanged to this day.

Until 1976 the Federal program was principally directed towards achieving State and local compliance with the 18 Highway Safety Standards, which were considered mandatory requirements at that time with financial sanctions available for noncompliance. Under the Highway Safety Act of 1976, Congress provided for a more flexible implementation of the program so that the Secretary would not have to require State compliance with every uniform standard or with every element of every uniform standard. As a result, the 18 standards have become guidelines for use by the States. Management of the program has shifted from enforcing standards (about 85% of the standards had been implemented by all States) to one of problem identification, countermeasure development and evaluation, using the standards as a framework for the State programs. Also, since the 1976 Act gave the States considerable flexibility in how they use their highway safety grant funds, Federal funding has been provided for a wide range of highway safety activities within the 18 standards.

The program has been administered at the Federal level by the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA). NHTSA is responsible for developing and implementing highway safety standards relating to the vehicle and the driver. FHWA has similar responsibilities in program areas involving the highway.

On March 17, 1981, the Department submitted to Congress a major legislative revision and simplification of the highway safety grant program under Section 402 of Title 23, United States Code. This proposal, which was introduced in the Senate as Title II of S. 841 and in the House as Title II of H.R. 3197, was predicated on maintaining and improving the Nation's highway safety record while practicing fiscal restraint. In preparing this proposal the Department carefully reviewed the nature and extent of the Federal role in State highway safety programs.

It was our belief that a revised highway safety program targeted towards the highest payoff areas, would in many ways be superior to the present program. Highway safety funds would be targeted to program areas that have the greatest potential for reducing traffic accidents, deaths, and injuries. States would no longer be required to maintain a number of categorical programs, such as driver education, as a condition of the grant funds. The revisions would improve the ability of the Federal Government and the States to fulfill the original goals of the grant program. From its inception, the program has had the

role of a start-up or "seed money" program. If a new program proved successful, a State was expected to continue it with State funds. The legislative proposal to reformulate the program was designed to enhance that concept by focusing its thrusts in a limited number of critical program areas and by turning back to the States those program activities which are truly their responsibility to operate. It specifically identified four general areas for such program fund targeting: alcohol countermeasures, police traffic services, emergency medical services, and traffic records.

As a result of its review of the program, the Department proposed that the highway safety grant program be revised to direct aid under the program to areas with the most direct pay-off in terms of reduced accidents, deaths and injuries on the highways, and towards safety problems truly national in scope. The Congress has agreed that a revised highway safety program is in order and directed the Department to conduct and complete this rulemaking by April 1, 1982. In the transition year, the Department will strongly encourage funding emphasis in areas that at this time appear to represent high payoff areas.

This rulemaking is not the first attempt to weigh the merits of the various highway safety programs. The National Highway Traffic Safety Administration and the Federal Highway Administration have sponsored several studies of highway safety needs. In two major reports to Congress, the agencies addressed the issues of "where government can realize the most benefits for the next marginal dollar of expenditure" (1976), and the "adequacy and appropriateness of the highway safety program standards" (1977). These studies have all been useful in broadening our understanding of highway safety. The current rulemaking will determine which highway safety programs are most effective in reducing accidents, injuries, and fatalities. It is not to determine what the most acute highway safety needs are or the details of any standard. In addition, the agencies will be able to define a process for determining the most effective safety programs on a current or recurring basis. The determinations made in the final rule will thus decide the direction of the program for the next several years.

As the first stage in the process, the agencies are sponsoring two public meetings, one to be held in Washington, D.C. on October 5, 1981, and the other in Hershey, Pennsylvania, on October 15, 1981, immediately following the annual meeting of the National Association of Governors' Highway Safety Representatives. At each hearing the floor will be open to anyone with views on effective highway safety programs, but in the interest of efficient planning, anyone who wants to make an oral statement should submit a written statement or outline of the statement to Mr. John Krause, at the address listed above for NHTSA contact, no later than seven days before each hearing. Oral statements should be limited to 5 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may also be requested by agency representatives conducting these hearings. As time permits, the formal statements may be followed by an open discussion.

As a guide to the preparation of both written and oral comments, the agencies make the following observation:

1. The rulemaking process begun here will not directly result in the amendment of the 18 highway safety program standards. Subsection (c) of Section 1107 of the Omnibus Budget Reconciliation Act, by repealing subsection (h) of 23 U.S.C. 402, enables the Secretary to issue, amend, or revoke the standards after October 1, 1982. We are considering such changes, but they will be made as necessary through a separate rulemaking process, to be undertaken at a future date. The comments to this notice, therefore, should not directly address specific requirements of the 18 standards. However, the Department is interested in receiving comments to the docket regarding the basic question, whether Federal Highway Safety Standards should be retained or whether the Department's approach should be to provide highway safety guidelines for use by States and communities in planning and implementing their highway safety programs.

2. For purposes of this rulemaking, we want to solicit specific information on highway safety programs which will establish their relative effectiveness in reducing accidents, injuries, and fatalities. It would be appropriate, for example, to discuss specific solutions to highway programs, the importance or role of program planning and evaluation, and procedures for identifying safety need or deficiencies.

3. The final rule, while it must identify the most effective programs, may also specify a process whereby the Department may approve funding for other programs in a State which are addition to (or in place of) the specific programs identified in the rule. Comments are invited as to the details of a specific process and the substantive criteria that the agencies should apply in approving such program.

4. Comments are being sought from the States, which have the primary role in establishing highway safety programs, and from other jurisdictions, agencies and organizations, and members of the general public who are involved or affected by these programs.

While oral statements at the two hearings will necessarily have to be summary in nature, all written comments to the docket should address the following issues and questions in sufficient detail to clearly and completely support the expressed views.

1. Identify, in rank order, those highway safety programs which have demonstrated effectiveness in reducing accidents, injury frequency, injury severity, of fatalities associated with traffic accidents.

For each highway safety program identified: (a) provide the evidence which establishes its order of effectiveness; (b) identify the data/information used including date and source; (c) define the measurement criteria used to determine that a change occurred in accidents, injuries and fatalities, ds well as over what period of time, or define some intermediate benefit which is related to such change, e.g., belt usage; (d) describe how the program works; (e) describe how the program achieves the reduction in accidents, injuries, and fatalities, or some other benefit; (f) describe the relationship of program costs to program benefits. If you refer in your comments to a written report, provide one copy to the docket.

2. Identify highway safety programs which have not yet been proven to be effective, but which you believe will have significant potential for reducing accidents, injuries, and fatalities.

For each highway safety program identified: (a) outline a process by which the Department can establish its effectiveness enough to justify eligibility

for Federal funding; (b) explain how the Department can measure whether a change has occurred in accidents, injuries, and fatalities as a result of the program; (c) describe how the program would work; (b) describe the relationship of costs of the program to benefits of the program.

3. Identify those highway safety programs whose operations and activities are not directly related to accident, injury and fatality reduction, but which might have sufficient potential for increasing efficiency or reducing the cost of ongoing State and local highway safety efforts, so as to justify their eligibility for Federal funding assistance.

For each program identified: (a) define how the Department can measure increased efficiency and cost reduction; (d) describe how the program would work, and describe the relationship of the program to highway safety. Program areas which could be addressed under this section include accident records, the identification of high accident locations for remedial action, and training for State and local program personnel.

4. Identify any other criteria or factors, (other than accident, injury and fatality reduction effectiveness, or increased efficiency or cost reduction potential for ongoing efforts) which you believe would justify consideration in the selection and approval of projects to receive Federal funding assistance.

For each of these criteria or factors: (a) provide specific examples of how they have been applied in past planning programing decisions, and (b) describe tangible and intangible program benefits derived which support their validity for consideration.

5. Provide a compelling rationale for continuing, discontinuing, limiting or restructing Federal funding assistance for the State and local highway safety programs and processes identified in the preceding four issues and questions. Wherever possible, provide concrete examples to support your contention.

6. Identify the need for, or alternatives to, the existence of a central authority in each State for administering that State's highway safety program. Describe the rationale for supporting the provision of a central authority responsible for the Stats's highway safety program as a prerequisite for receipt of Federal funds. Define what should be that authority and scope of responsibility presecribed to this central authority. Identify the extent to which Federal funds might appropriately contribute to State Planning and Administration Costs, and identify or describe the funding sources the State could use in contributing toward State planning and administration costs. Describe the impact on the State agency (or central authority) of the absence of Federal funding for planning and administration costs, expressed in terms of effects on: (1) ability to carry out an effective highway safety program; (2) location of the State authority in the organizational structure of the State. Identify alternatives for administering Federal Highway Safety funds in the absence of a central authority. Explain how the administrative costs would be provided; how the State programs would be coordinated; and describe the mechanism for the grant delivery system.

Following the October 15 hearing, interested persons will have an additional two weeks in which to submit written comments on the issues discussed at either hearing. Upon review of the oral testimony, the written comments, and any other documents submitted in response to this notice, the agencies will publish a second notice containing tentative determinations and solicit additional comments. After reviewing these comments, the agencies will issue a final rule, and intend to do so before April 1, 1982, so that the rule will affect the States' programs for fiscal year 1983.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

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

All comments received before the close of business on October 29, the comment closing date, will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will condinue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

This notice has been evaluated under the Departmental Regulatory Policies and Procedures, 44 FR 11034, and has been determined to be a nonsignificant regulation. The rulemaking will not affect the level of funding available in the highway safety program, or otherwise have a significant economic impact, so that neither a draft Regulatory Analysis nor a draft Evaluation is required.

Copies of all written statements and comments will be placed in Docket 81–12; Notice 1 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, N.W., Washington, D.C. 20590. (Docket hours are 8 a.m. to 4 p.m.)

A verbatim transcript of each public hearing will be prepared and placed in the NHTSA docket as soon as possible after the hearing.

(Sec. 1107(d), Pub. L. 97–35; 95 Stat. 357; 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50).

Issued on August 27, 1981.

Raymond A. Peck, Jr.,

National Highway Traffic Safety Administrator.

L. P. Lamm,

Deputy Federal Highway Administrator.

[FR Doc. 81-25434 Filed 8-27-81; 12:35 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2530

Minimum Standards for Employee Benefit Plans; Suspension of Benefit Rules—Proposed Amendments

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed amendments to final rule.

SUMMARY: In this document, the Department of Labor (Department) is proposing to adopt several amendments to a final regulation under the Employee Retirement Income Security Act of 1974 (ERISA), 29 CFR 2530.203–3, relating to suspension of pension benefit payments under certain circumstances. These amendments are intended to address concerns which have been presented to the Department with respect to possible effects of certain technical aspects of the regulation. Specifically, this document affects provisions of the regulation which govern benefit offsets and determinations of whether a person

is "employed" in a manner which could give rise to a suspension of benefits.

DATES: Written comments on these proposed amendments must be received by the Department on or before September 30, 1981.

ADDRESSES: Written comments (preferably at least three copies) should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N–4508, U.S. Department of Labor, Washington, D.C. 20216. Attention: Suspension of Benefits—Amendments. All written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Progams, Department of Labor, Room N–4677, 200 Constitution Avenue, N.W. Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Office of the Solicitor; 200 Constitution Avenue, N.W. Washington, D.C. 20216; Room C–4508; 202–523–8658.

SUPPLEMENTARY INFORMATION: On January 27, 1981, the Department published in the **Federal Register** (46 FR 8894) a final regulation under section 203(a)(3)(B) of ERISA governing the circumstances under which it is permissible for a plan to suspend the payment of pension benefits (29 CFR 2530.203–3). As published, this regulation was due to take effect May 27, 1981.

On May 26, 1981, June 30, 1981, and July 31, 1981, the Department published documents announcing deferrals of the effective date of the suspension of benefits regulation, originally until July 1, 1981, and then until August 1, 1981 and September 1, 1981. These actions were taken in order to permit reconsideration of the regulation, in accordance with Executive Order 12291. In those Notices, the Department also referred to a number of comments it has received in response to publication of the final rule, and stated that it would consider whether and to what extent these comments affect its analysis of the costs and benefits involved.

The Department has now determined that certain technical problems described below should be addressed, and is proposing several amendments to the regulation. In addition, elsewhere in this issue of the **Federal Register**, the Department is publishing a notice relating to further deferral of the effective date of the suspension of benefits regulation.

The technical amendments under consideration for permanent adoption concern items of administrative cost associated by the commentators with implementation of provisions of the regulation relating to benefit offsets and to determinations of whether an individual may be considered "employed" in "section 203(a)(3)(B) service." The specific areas of concern are described below.

1. *Definition of "hour of service."* Generally, the regulation permits a pension plan to provide for the permanent withholding of accrued benefits for each month of employment in "section 203(a)(3)(B) service." Paragraph (c) of the regulation states that "section 203(a)(3)(B) service" results during a calendar month if during that month the participant completes 40 or more hours of service, *as defined in 29 CFR 2530.200b–2(a)(1)*, in certain types of employment. The cited portion of the regulation defining hour of service refers only to hours "for which an employee is paid, or entitled to payment, for the performance of duties for the employer."

Commentators have suggested that administrative problems could arise in this connection in some cases where the participant receives payment from the employer other than for the performance of duties. For example, the participant might not have worked 40 hours, but nevertheless might have received pay for sick leave or vacation from the employer equal to or in excess of the amount payable for 40 hours of work. Under such circumstances, it has been argued tht the periods for which such payments are made should also be counted as section 203(a)(3)(B) service: to preclude the possibility that a participant might become entitled to receive pension as well as, *e.g.*, vacation benefits for the same period of time; to avoid placing excessive administrative burdens on plans; and because the participant who recieves such payments should still b considered "employed" under the statute. Accordingly, the Department is proposing to amend the hour of service definition to include situations where the participant might receive compensation other than for the performance of duties.

2. *Payroll period and "period of employment."* Under the regulation, the period to be examined for determining whether a participant is "employed" is the calendar month, and a participant is considered employed in a month if he completes 40 or more hours of service in relevant employment. Commentators have noted that, while plans generally pay benefits monthly, it is not uncommon for an employer to maintain mechanized payroll systems on other than a calendar month basis. It appears that such an employer would experience significant difficulty in determining the number of hours worked in a calendar month, and that, because of this, the plan also would face increased administrative problems. The Department believes that some greater flexibility in the "period of employment" could be accomplished, and is proposing to amend the regulation in this regard to permit use of a four or five week payroll period in lieu of the calendar month as the period to be examined.

3. *Use of "equivalencies" and "elapsed time" methods.* In the preamble to the final regulation (46 FR 8894, 8897) the Department noted that many commentators urged that the regulation permit the use of the "equivalencies" or "elapsed time" methods of counting hours worked, described in Department regulations, for determining whether the "40 hour test" had been met. The Department rejected these suggestions because it did not appear that use of these methods would be appropriate for determining when benefits could be forfeited.

The Department has determined that the administrative costs to plans which use these methods is significant enough to warrant its reconsideration of possible ways to allow such plans to continue to use these methods, without the burdens which might arise if they had to count hours solely for suspension purposes, while at the same time safeguarding plan participants against harsh results. It appears to the Department that although it might be difficult for such plans (i.e. plans already using elapsed time methods or equivalencies for other purposes) to calculate the actual number of hours worked by a plan participant, there should not be any significant problem in determining the number of days for which compensation is paid to the participant for any given period, particularly in light of the fact that the Department is also proposing to allow use of payroll periods, in addition to the calendar month, for determinating a period of employment under the regulation. Accordingly, the Department is proposing to permit suspension of benefits by plans using equivalencies or the elapsed time method for all other purposes when a participant performs any services for pay for the employer on 10 or more days during a calendar month or variant. As discussed above, plans would be permitted to include in this calculation those days for which certain payments were made for reasons other than the performance of duties.

4. *"Offset" rules.* Paragraph (b)(3) of the regulation permits plans to deduct, from benefit payments to be made by the plan, any payments previously made

during months in which the participant was employed in section 203(a)(3)(B) service, but limits such deduction (or offset) in any one month to not more than 25 percent of that month's benefit payment. Paragraph (b)(4) of the regulation prohibits the withholding of payments under this section until the plan gives notice of the withholding to the employee.

Commentators have argued that plans might not know until the end of an initial period of employment whether the participant engaged in section 203(a)(3)(B) service for that period, and to that extent the plan would always be in a position of having to go through the added administrative procedures of the offset rules in order to fully recapture amounts it is entitled to suspend.

The Department is proposing to address this problem by lifting the 25 percent limitation with regard to the initial payment to which the participant would be entitled upon resumption of benefits under paragraph (b)(2) of the regulation. Because paragraph (b)(2) authorizes a delay of up to two months between the time employment ceases and the time benefits must resume, this initial payment could routinely equal as much as three months' benefits. The Department believes that such an amount would generally be sufficient to cover the full extent of a plan's "overpayments."

E.O. 12291 Statement

Pursuant to the requirements of Executive Order 12291, it is the Department's initial determination that these proposed amendments are not a "major rule," as that term is used in the Order, because it does not appear that they will result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Department views these proposed amendments as technical changes which would, if adopted, increase options available to plans under the suspension of benefits regulation, and facilitate less costly administration of suspension provisions, without themselves imposing additional costs on plans.

Regulatory Flexibility Act Statement

For the reasons set forth in the preceding paragraph, the undersigned has certified that these proposed amendments will not have a significant economic impact on a substantial number of small entities.

Statutory Authority

These amendments are proposed for final adoption under the authority contained in sections 203(a)(3)(B) and 505 of ERISA (Pub. L. 93-406, 88 Stat. 854, 894, 29 U.S.C. 1053, 1135).

PART 2530—RULES AND REGULATIONS FOR MINIMUM STANDARDS FOR EMPLOYEE BENEFIT PLANS

Accordingly, it is proposed that Chapter XXV of Title 29 of the Code of Federal Regulations be amended by revising the heading, paragraph (b) (1), (3) and the first sentence of (b)(4), (c)(1) and the introductory text of (c)(2), and (d) of § 2530.203-3 to read as follows:

§ 2530.203-3 Suspension of pension benefits upon employment.

* * * * *

(b) *Suspension rules*—(1) *General rule.* A plan may provide for the permanent withholding of an amount which does not exceed the suspendible amount of an employee's accrued benefit for each calendar month, or for each four or five week payroll period ending in a calendar month, during which an employee is employed in "section 203(a)(3)(B) service" as described in § 2530.203-3(c).

* * * * *

(3) *Offset rules.* A plan which provides for the permanent withholding of benefits may deduct from benefit payments to be made by the plan any payments previously made by the plan during those calendar months or pay periods in which the employee was employed in section 203(a)(3)(B) service, *Provided,* that such deduction or offset does not exceed in any one month 25 percent of that month's total benefit payment (excluding amounts described in paragraph (b)(2) of this section) which would have been due but for the offset.

(4) *Notification.* No payment shall be withheld by a plan pursuant to this section unless the plan notifies the employee by personal delivery or certified mail during the first calendar month or payroll period in which the plan withholds payments that his benefits are suspended.* * *

* * * * *

(c) *Section 202(a)(3)(B) Service*—(1) *Plans other than multiemployer plans.* In the case of a plan other than a multiemployer plan, as defined in section 3(37) of the Act, the employment of an employee, subsequent to the time the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment, results in section 203(a)(3)(B) service during a calendar month, or during a four or five week payroll period ending in a calendar month, if the employee, in such month or payroll period, (i) completes 40 or more hours of service (as defined in 29 CFR 2530.200b-2(a)(1) and including hours for which the employee took, and is entitled to payment for, vacation, holiday, jury duty, training, or sick leave) for an employer which maintains the plan, including employers described in § 2530.210 (d) and (e), as of the time that the payment of benefits commenced or would have commenced if the employee had not returned to employment; or (ii) receives from such employer payment for the performance of duties, or payment for vacation, holiday, jury duty, training, or sick leave, or both, for each of 10 or more days (or separate work shifts) in such month or payroll period, *Provided,* that the plan does not for any purpose determine or use the actual number of hours of service with which an employee is required to be credited under § 2530.200b-(2)(a).

(2) *Multiemployer plans.* In the case of a multiemployer plan, as defined in section 3(37) of the Act, the employment of an employee subsequent to the time the payment of benefits commence or would have commenced if the employee had not remained in or returned to employment results in section 203(a)(3)(B) service during a calendar month, or during a four or five week payroll period ending in a calendar month, if the employee, in such month or payroll period:

Completes 40 or more hours of service (as defined in § 2530.200b-2(a)(1) and including hours for which the employee took, and is entitled to payment for, vacation, holiday, jury duty, training, or sick leave); or

Receives payment for the performance of duties, or payment for vacation, holiday, jury duty, training, or sick leave, or both, for each of 10 or more days (or separate work shifts) in such month or payroll period, *Provided,* that the plan does not for any purpose determine or use the actual number of hours of service with which an employee is required to be credited under § 2530.200b-(2)(a); in

—An industry in which employees covered by the plan were employed and accrued benefits under the plan as a result of such employment at the time that the payment of benefits

commenced or would have commenced if the employee had not remained in or returned to employment, and

—A trade or craft in which the employee was employed at any time under the plan, and

—The geographic area covered by the plan at the time that the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment.

* * * * *

(d) *Suspendible amount*—(1) *Life annuity.* In the case of benefits payable periodically on a monthly basis for as long as a life (or lives) continues, such as a straight life annuity or a qualified joint and survivor annuity, a plan may provide that an amount not greater than the portion of a monthly benefit payment derived from employer contributions may be withheld permanently for a calendar month, or for a four or five week payroll period ending in a calendar month, in which the employee is employed in section 203(a)(3)(B) service.

(2) *Other benefit forms.* In the case of benefits payable in a form other than the form described in paragraph (d)(1) of this section, a plan may provide for the permanent withholding of an amount of the employer-derived portion of benefit payments for a calendar month, or for a four or five week payroll period ending in a calendar month, in which the employee is employed in section 203(a)(3)(B) service, not exceeding the lesser of (i) the amount of benefits which would have been payable to the employee if he had been receiving monthly benefits under the plan since actual retirement based on a single life annuity commencing at actual retirement age, or (ii) the actual amount paid or scheduled to be paid to the employee for such month. Payments which are scheduled to be paid less frequently than monthly may be converted to monthly payments for purposes of this paragraph (d)(2)(ii).

Signed at Washington, D.C., this 27th day of August, 1981.

Donald L. Dotson,

Assistant Secretary, Labor-Management Services Administration.

[FR Doc. 81-25459 Filed 8-28-81; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Surface Coal Mining and Reclamation Enforcement in Virginia; Review of State Program Submission

AGENCY: Office of Surface Mining, Interior.

ACTION: Exension of public comment period.

SUMMARY: OSM is extending the period for review and comment on the resubmission by Virginia of its program for the regulation of surface coal mining and reclamation in the State.

DATE: Written comments, data or other relevant information relating to Virginia's program submission must be received on or before 4:00 p.m., September 8, 1981, to be considered.

ADDRESS: Comments on Virginia's program submission should be sent or hand-delivered to: Office of Surface Mining, Reclamation and Enforcement, *Attention:* Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

FOR FURTHER INFORMATION CONTACT: Christine M. Struminski, Acting Assistant Regional Director, Division of State and Federal Programs, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 342-8125.

SUPPLEMENTARY INFORMATION: On August 17, 1981, at 46 FR 41525-41527, the Regional Director, Office of Surface Mining, U.S. Department of the Interior, published notice of the public hearing and the public comment period on the resubmitted Virginia program. The comment period was slated to close at 4:00 p.m. on September 4, 1981. Since that publication, OSM has learned that Senator John Warner has scheduled a congressional hearing on September 2, 1981, concerning surface mining in Virginia and the Virginia program.

In order to allow sufficient time for the public to receive information resulting from the congressional hearing and to comment on any that may relate to the Virginia program, OSM is extending the comment period until 4:00 p.m. on September 8, 1981.

As indicated in the original notice soliciting comments on the resubmission of Virginia's program, the public hearing time and place will remain the same; that is, the public hearing will be held at 5:30 p.m. on September 3, 1981, at Clinch Valley College, Science Building, Room S-100, Wise, Virginia.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: August 25, 1981.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 81-25344 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD14 81-01]

Drawbridge Operation Regulations; Honolulu Harbor, Hawaii

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the State of Hawaii, Department of Transportation, the U.S. Coast Guard is considering amending the regulations governing the operation of the John H. Slattery Drawbridge across Kalihi Channel at Honolulu, Hawaii. The proposed change would reduce the number of hours the bridge is required to open on signal each day, Monday through Friday, excluding legal holidays, from twelve hours to two. This proposal is being made due to increasing vehicular traffic congestion during periods when the draw is open. This proposal is intended to improve the flow of vehicular traffic across the bridge, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 28, 1981.

ADDRESS: Comments should be mailed to Commander (oan), Fourteenth Coast Guard District, Prince Kalanianaole Federal Building, 300 Ala Moana, Honolulu, Hawaii 96850. The comments will be available for inspection or copying at the Aids to Navigation Office, Room 9139. Normal office hours are between 6:30 a.m. and 5:00 p.m., Monday through Thursday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Michael L. Van Houten, Bridge Administration Officer, Aids to Navigation Branch, Operations Division, Room 9139, Federal Building, 300 Ala Moana, Honolulu, Hawaii 96850, telephone: (808) 546-7130.

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 names and addresses, identify this notice (CGD 14-81-01), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The principal persons involved in drafting this proposal are: LTJG Michael L. Van Houten, Bridge Administration Officer, Fourteenth Coast Guard District, Aids to Navigation Branch and Timothy C. Titus, Project Attorney, Fourteenth Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

Under the present regulations the John H. Slattery Bridge is required to open on signal to vessel traffic Monday through Friday, excluding legal holidays, during the following periods: 5:00 a.m. to 7:00 a.m., 8:00 a.m. to 4:00 p.m., and 5:00 p.m. to 7:00 p.m. It is closed from 7:00 a.m. to 8:00 a.m., 4:00 p.m. to 5:00 p.m. and 7:00 p.m. to 5:00 a.m.

The proposal calls for the draw to be open on signal from 5:00 a.m. to 6:00 a.m. and from 6:00 p.m. to 7:00 p.m. The draw would be closed from 6:00 a.m. to 6:00 p.m. and from 7:00 p.m. to 5:00 a.m.

The present regulations governing the operation of the draw on weekends and legal holidays would not change under this proposal.

Vertical clearance beneath the bridge with the draw in a closed position is fifteen (15) feet at mean high water at the center and eighteen (18) feet at mean low water at the center.

The John H. Slattery Drawbridge is presently the only means of access for vehicular traffic between Sand Island and the City of Honolulu. The present operating schedule for the drawbridge is intended to keep the draw closed to vessel traffic during peak vehicular traffic hours, to minimize traffic congestion at the drawbridge; however, vehicular traffic across the bridge has increased substantially since the present schedule was established. When the draw is opened during normal daily business hours, vehicular traffic may be severely disrupted. Traffic across the bridge has increased from an average volume of 7,400 vehicles per day in 1974 to an average of more than 10,500 vehicles per day as of August 1980. During this same period the frequency of draw openings for vessel passages has decreased from 4.5 to 2.4 per day. The volume of traffic across the bridge is expected to be as high as 15,000 vehicles per day by the end of the 1981 summer when a large shipping firm is scheduled to consolidate its container operations terminal at Sand Island and a new State park is opened there.

The principal users of the draw are two companies whose tugboats pass through the draw several times a week and one cruise boat operations whose vessel also passes through the draw several times a week.

During periods when the draw is closed these vessels are still able to use both the main entrance channel for Honolulu Harbor and the secondary route through Kalihi Channel by passing around Sand Island; thus access to the Harbor is not prevented during periods when the draw is closed.

The State of Hawaii Department of Transportation views the traffic situation at the drawbridge as a severe economic hardship due to the delay costs experienced by vehicle operators when the draw is open. The costs added to shipments of goods across the bridge when these shipments are delayed by draw openings are ultimately borne by the consumer. The State Department of Transportation has prepared an economic evaluation of the potential costs to vehicular traffic due to delays. They calculate the potential costs to vehicular traffic will exceed $2 million per year if the existing regulations are continued. It is expected these costs will be virtually eliminated if the proposed rule making is adopted.

Vessel passages through the draw are relatively infrequent and the number of draw openings per day has been decreasing. The economic consequences of restricting vessel traffic will include increased fuel consumption and time delays for vessels when they must travel around Sand Island instead of passing through the draw.

The proposal to reduce the number of hours the draw is open is expected to result in a negligible economic impact upon vessel traffic in comparision with the economic impact of the present regulations upon the community.

The proposed regulations have been reviewed under the provisions of E.O. 12291 and have been determined not to be a major rule. In addition, the proposed regulations are considered to be nonsignificant in accordance with the 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 of the proposed regulations, with regard to their impact on waterborne traffic, has not been conducted since, for the reasons discussed above, their impact is expected to be minimal. The benefits to be derived from the proposed change include reduced delay costs for vehicular traffic, savings in time for shipments of goods, convenience for motorists, and less wear and tear on the draw machinery of the bridge. In accordance with section 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.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.900(a) to read as follows:

§ 117.900 Honolulu Harbor, Hawaii; Kalihi Channel Bridge.

(a) The agencies controlling the bridge shall provide the necessary bridge tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels during the scheduled hours of operation as follows:

Monday through Friday, Excluding Legal Holidays

Open on signal and Closed periods

5:00 a.m. to 6:00 a.m.—6:00 a.m. to 6:00 p.m.
6:00 p.m. to 7:00 p.m.—7:00 p.m. to 5:00 a.m.

* * * * *

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

Dated: August 12, 1981.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Commander, 14th Coast Guard District.

[FR Doc. 81-25372 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 81-055]

Drawbridge Operation Regulations; St. Joseph River, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Michigan Department of Transportation, the Coast Guard is considering changing the regulations governing the operation of the Blossomland (US–33) and Bicentennial (I–94BL) bridges across the St. Joseph River between the Cities of St. Joseph and Benton Harbor, Michigan, by permitting the draws of these bridges to remain closed for extended periods of time during the navigation season. Also, both bridges would require at least twelve hours notice to effect an opening during the winter months. This proposal is being made in an effort to relieve vehicular traffic tie-ups caused by random bridge openings during periods of time when commuting between the Cities of St. Joseph and Benton Harbor is heaviest. This action may accommodate the needs of vehicular traffic and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before September 28, 1981.

ADDRESS: Comments should be submitted to and are available for examination from 7 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom Jr., Chief, Bridge Branch, 1240 East Ninth Street, Cleveland, Ohio 44199, (216) 522–3993.

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, address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Person desiring acknowledgement that their comments have been received should enclose a stamped self-addressed postcard or envelope. The Commander, Ninth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information: The principal persons involved in drafting this proposal are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Project Attorney, Lt. M. E. Reeves, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of the Proposed Regulations

Under present regulations, the Bicentennial bridge opens upon signal from an approaching vessel. The Blossomland bridge opens upon signal from an approaching vessel except that, from December 15 through March 1 at least a 12 hour notice is required. This proposal would require the Blossomland bridge to open on signal only from three minutes before to three minutes after the hour and half-hour, from 7 a.m. to 8 p.m. from May 15 to September 30. The Bicentennial bridge would be required to open on signal only from three minutes before to three minutes after the quarter and three-quarter hour, from 7 a.m. to 8 p.m. from May 15 through September 30. From December 16 through the last day of February, both draws would open on signal if at least 12 hours notice is given. At all other times the draws shall open as soon as possible upon receiving the proper signal.

Analysis of the bridgetenders logs and traffic counts indicate that in 1979 the Blossomland bridge had 69 openings in October, 372 in September, 319 in August, 400 in July, 280 in June, and 258 in May. The shortest interval between some openings of the Blossomland bridge was 5 minutes with approximately 40 to 96 vehicles being held up for the passage of a vessel. The Bicentennial bridge had 45 openings in October, 341 in September, 236 in August, 320 in July, 256 in June, and 141 in May. The shortest interval between some openings was 5 minutes with approximately 40 to 160 vehicles being held up for the passage of a vessel.

It is anticipated there will be a continuing increase in the number of sailboats using the St. Joseph-Benton Harbor facilities in the coming years. Newly constructed marine facilities in the Twin Cities have brought in boaters that formerly used marinas in southern Michigan and Indiana.

Vehicle traffic tie-ups on these bridges may be relieved by opening the draws on a scheduled basis for the passage of multiple vessels instead of random openings for the passage of one vessel. Vessel passage would be delayed for no more than 30 minutes during closed periods. At all times, commercial vessels will be afforded passage as soon as possible. The bridge owner would be relieved from the need to keep drawtenders in constant attendance during winter months, when navigation on the river is negligible.

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 Polices 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 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.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by:

§ 117.641 [Amended]

1. Removing § 117.641(f)(2–a).

2. Adding a new § 117.681 immediately after § 117.680 to read as follows:

§ 117.681 St. Joseph River, Michigan; Blossomland (US–33) and Bicentennial (BL–94) Bridges between St. Joseph and Benton Harbor, Michigan.

(a) The draws shall open on signal from March 1 through May 14 and October 1 through December 15, and from 8 p.m. to 7 a.m. from May 15 through September 30.

(b) From 7 a.m. to 8 p.m. from May 15 through September 30:

(1) The draws of the Blossomland bridge need open only 3 minutes before to 3 minutes after the hour and half-hour.

(2) The draws of the Bicentennial bridge need open only 3 minutes before to 3 minutes after the quarter and three-quarter hour.

(c) From December 16 through the last day of February both draws shall open on signal if at least 12 hours notice is given.

(d) Public vessels of the United States, state and local government vessels used for public safety, commercial vessels, and vessels in distress, shall be passed through either draw as soon as possible even though closed periods are in effect.

(e) The owner of or agency controlling these bridges shall keep a copy of these regulations conspicuously posted both upstream and downstream, either on the bridges or elsewhere in such a manner that it can be easily read from an approaching vessel at all times, with instructions stating exactly how notice is to be given to the authorized representative of the bridge owner.

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

Dated: August 6, 1981.

Henry H. Bell,

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

[FR Doc. 81-25369 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD7-81-04]

Safety Zone; Vicinity Bascule Bridge, Ft. Lauderdale, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment would establish a safety zone on the waters of the Stranahan River, Fort Lauderdale, Florida, within the vicinity of the Marriott Hotel seawall and the Bascule Bridge, Fort Lauderdale, Florida. The safety zone would encompass an area of the Stranahan River from 175 yards north of the Bascule Bridge and 75 yards from the seawall of the Marriott Hotel along the river. This safety zone is needed for the protection of personnel and equipment during an exhibition and training exercise by the U.S. Coast Guard Gulf Strike Team in these waters. Vessels entering the safety zone would have to operate at minimum wake speeds.

DATE: Comments must be received on or before October 15, 1981.

ADDRESS: Comments should be mailed to Commander, Seventh Coast Guard (mep), 51 SW 1st Ave, Miami, FL 33130. The comments and other materials referenced in this notice will be available for inspection and copying at the Marine Safety Division, Room 1231, 51 SW 1st Avenue, Miami, Florida. Normal office hourse are between 7:30 am and 4:00 pm, Monday through Friday; except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR J. P. WYSOCKI, CCGD7(mep), 51 SW 1st Ave, Miami, FL 33130, (305) 350-5276.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 7-81-04), and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal person involved in drafting of this rule is LTJG M. P. BERNARD, Project Officer, CCGD7(mep), Miami, Florida 33130, and LT W. J. PETERSEN, Project Attorney, CCGD7(dl), Miami, Florida 33130.

Discussion of Proposed Rule

During the 1981 8th Annual Spillage Control Conference, 29-31 October 1981, the U.S. Coast Guard will be presenting an exhibition/training exercise that will include movement of certain vessels and equipment into the proposed safety zone area. A minimum wake through the area will be necessary and enforced by patrol craft representing the Captain of the Port, Miami, Florida, to allow safe operation during the exercise. As the safety zone will not impinge on the main channel into the area, there should not be any undue affect on vessel traffic.

Summary of Draft Evaluation

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 insignificant 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.

Proposed Regulations

PART 165—SAFETY ZONES

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.704 to read as follows:

§ 165.704 Stranahan River, Fort Lauderdale, FL.

The waters of the Stranahan River within the area of the Bascule Bridge, from one hundred and seventy-five yards north of the bridge and seventy-five yards west from the Marriott Hotel seawall, geographical coordinates from the Marriott Hotel seawall for the safety zone are 26-06.02N, 080-07.09W and 26-06.06N, 080-07.10W is a safety zone. Vessels operating in this zone shall be operated at minimum wake speeds. This safety zone shall be in effect on 29 October 1981 from 1200 to 1800 hours, Eastern Standard Time.

(Pub. L. 95-474, 92-1477, (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

Dated: August 7, 1981.

B. L. Stabile,

Commander, Seventh Coast Guard District, Miami, FL.

[FR Doc. 81-25371 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1918-1]

Approval and Promulgation of State Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Part D of the Clean Air Act (CAA) enacted in 1977 requires states to revise their state implementation plans (SIPs) for all areas that have not attained National Ambient Air Quality Standards (NAAQS). This SIP revision was submitted by the State of Kansas to meet that requirement of the CAA. The State of Kansas submitted this revision to demonstrate the attainment and maintenance of the carbon monoxide (CO) NAAQS for the Wichita nonattainment area by December 31, 1982. EPA is proposing to conditionally approve the State's CO SIP for Wichita.

This notice contains background information on the requirements of the CAA for an approvable SIP revision, a description of the Wichita CO SIP revision, and a summary of EPA's evaluation of the SIP revision.

EPA published a "Notice of Availability and Advance Notice of Proposed Rulemaking", in the May 22, 1981 **Federal Register** (46 FR 27972). Interested persons are invited to comment concerning the revision and its approvability with respect to Part D, suggested corrections of deficiencies, the deadlines which should apply for corrections of deficiencies, or any other aspect of this proposed rulemaking.

DATE: Comments must be submitted on or before September 30, 1981.

ADDRESS: Copies of the proposed SIP revision are available for inspection during normal business hours at the locations listed in the May 22, 1981 **Federal Register** (46 FR 27972). Comments should be sent to: Michael T. Marshall, Environmental Protection Agency, Region VII, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION: Contact Michael T. Marshall at (816) 374–3791, FTS 758–3791.

SUPPLEMENTARY INFORMATION:

A. Background

The CAA required each state to list those areas where the NAAQS were not being attained as of August 7, 1977 (nonattainment areas). The state designated the nonattainment area for CO in the South Central Kansas Interstate Air Quality Control Region, Sedgwick County, Wichita (central city area) as 13th Street on the north, Grove Street on the east, Kellogg Street, (U.S. 54) on the south, and the Big Arkansas River on the west. EPA promulgated Kansas' designated nonattainment area for Wichita in the March 3, 1978 **Federal Register** (44 FR 8962).

The Wichita CO nonattainment plan was made available to the public on May 5, 1979, considered on May 31, 1979, at a public hearing of the Kansas Department of Health and Environment (KDHE), in cooperation with the Wichita-Sedgwick County Metropolitan Area Planning Commission. It was submitted to EPA by the Governor on April 16, 1981.

Wichita has exceeded the CO NAAQS since 1971. The planning base for the Wichita CO SIP revision is the nonattainment ambient CO measurements from 1976 through 1978. During this three year period, eighteen excursions above the 8-hour CO NAAQS have been recorded. No 1-hour violations have been recorded. In 1976 there were four 8-hour periods exceeding the NAAQS of 10.0 milligram of CO per cubic meter of air (mg/m^3). There were eight excursions over that standard in 1977 and six in 1978. The highest second highest 8-hour average concentration was 15.5 mg/m^3; this occurred in 1976 and is the design value for this SIP revision. The yearly second highest 8-hour average concentrations are graphically presented in the state submittal, which shows that since 1974 there is a definite downward (lower CO values) trend.

The area is shown to attain the NAAQS by October 1983 with just the improvements gained through the federal motor vehicle control program (FMVCP). The SIP submission shows by linear rollback that a reduction of 639 tons per year (7.2% reduction) of CO from the projected motor vehicle emissions for 1982 would bring the area into attainment with the NAAQS.

B. Plan Approval Criteria

The Wichita CO nonattainment plan has been evaluated by EPA with respect to Part D of the CAA as described in the **Federal Register** of April 4, 1979 (44 FR 20372) and July 2, 1979 (44 FR 38583). The reader should refer to these documents, and the documents referenced therein, for the specific requirements.

C. Description of SIP Revision

The following is a discussion of the SIP submittal as received by EPA on April 16, 1981. Many parts of the Wichita CO submittal incorporate previous Kansas Part D SIP submittals, which have been reviewed as part of the overall Kansas SIP. The reader should consult the **Federal Register** of December 8, 1980 (45 FR 81606) and April 3, 1981 (46 FR 20164) for information on EPA's actions concerning the previous Kansas Part D SIP submittals. The conditions of that approval remain in effect.

The Wichita CO submittal describes the nonattainment area (center city area including the central business district) and the surrounding impact areas. It describes the growth projections for the area, population, employment, new and modified industries, and vehicle miles traveled (VMT). The emission inventory was based on the actual CO emissions in 1976, the latest year that traffic data were available for Sedgwick County from the Kansas Department of Transportation. The emissions inventory demonstrates that mobile sources account for over 98 percent of the CO emissions in the area. Mobile source emissions were calculated using the emissions factors from the EPA mobile source emissions factor model (MOBILE–1). Stationary source emissions account for a very small amount (less than 1%) of the CO emissions in the area. There is only one major source (emitting over 100 tons per year) in the area; it is controlled to the reasonably available control technology (RACT) level.

Section 172(b)(11) requires inspection and maintenance (I/M) and other transportation control measures (TCMs) for the reduction of CO and/or ozone for areas which cannot achieve the NAAQS by December 31, 1982. Since the Wichita submittal demonstrates attainment by that date, the requirements of Section 172(b)(11) are not applicable.

Twenty-six TCMs were evaluated for reducing CO; eighteen were found to have the potential for reducing CO by December 1982. Eleven of the eighteen TCMs were committed for implementation. The SIP commitment includes an analysis, decision, implementation, and evaluation schedule for each TCM. The responsible person for implementation of each TCM has signed the commitment. Because of the inherent uncertainty in the planning and decision making for the implementation of any TCM project, the SIP, in the event that a TCM is not approved, commits to (1) the development and implementation of an alternate strategy and/or (2) further reductions from the TCMs now being implemented.

The SIP submittal commits to a total of 662 tons per year (639 tons per year are needed for attainment) of CO reductions from the eleven TCMs. Two TCMs and part of a third TCM are under evaluation (a reduction of 40 tons/year of which 17 tons/year are needed). The Wichita-Sedgwick County Metropolitan Area Planning Department (MAPD) was requested to clarify the implementation status of the TCMs. On June 15, 1981 KDHE reported six TCMs and part of another one had been implemented or completed (a reduction of 435 tons/year); two TCMs have been initiated and are on schedule (reduction of 283 tons/year); and part of one TCM is still under analysis for implementation (a reduction of 5 tons per year). The improved signal timing TCM was reevaluated for a CO reduction of 268 tons/year. The parking restriction, Phase I and II TCMs were changed to zero reduction credits. The expected reductions from the nine TCMs to be implemented is now 723 tons/year. EPA verified the expected reductions with transportation officials of the Federal Highway Administration.

The TCMs include traditional strategies for reducing CO by improved mass transit, supporting carpools/vanpools, and improved traffic flow projects. In addition, the plan includes a voluntary I/M program, and EPA criteria for approval of such a program (see Appendix BN of the SIP submittal). The SIP commits to the reduction of 185 tons per year of CO by voluntary I/M. This is based on the inspection of 10% of vehicles in the county and the maintenance and reinspection of 17% of those vehicles which failed the initial I/M test. A professional public relations firm has prepared logos and information to persuade people to participate in the voluntary I/M program. EPA is receiving quarterly reports on the I/M program.

including the number of initially failed vehicles which pass a reinspection. EPA will closely monitor this data to insure that the claimed emission reductions are taking place.

D. Evaluation and Proposed Action

This section contains EPA's evaluation of the Wichita SIP submittal based on the applicable requirements of Section 172 of the CAA.

1. *Attainment demonstration*—The Wichita SIP revision demonstrates attainment of the CO NAAQS by December 31, 1982 and maintenance through 1987. EPA believes the CO reductions are reasonable control strategies for a marginal nonattainment area and will accelerate the attainment date by ten months, and therefore attain the CO NAAQS by December 31, 1982. Continued CO reductions will occur by the FMVCP and the continued TCMs; the NAAQS will be maintained through 1987.

EPA finds that linear rollback to be an acceptable method for determining the need quantity of CO reductions for attainment. The SIP submittal commits to the use of the CO dispersion model, including the TCM reduction credits, to verify the expected attainment; this is not a requirement of this rulemaking. Should the modeling show that additional reductions are needed, it may be necessary to require further revisions of the SIP at that time.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(a)(1).

2. *Public Hearing*—The Wichita plan was made available to the public after reasonable notice and a public hearing was held on the SIP revision. Additional hearings and meetings were held concerning the commitments in the SIP.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(1).

3. *Require RACT*—EPA finds that the plan provides for the implementation of all reasonably available control measures as expeditiously as practicable. All stationary sources are controlled to RACT. The TCMs including the I/M program, are being implemented and/or scheduled for implementation to allow attainment of the CO NAAQS by December 31, 1982.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(2).

4. *Require Reasonable Further Progress (RFP)*—EPA finds that the emission reductions scheduled from the TCMs represent RFP toward attainment of the CO standard.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(3).

5. *Emissions Inventory*—EPA finds that the emission inventory used for the attainment demonstration to be comprehensive, accurate, and current. The SIP submittal commits to the updating of the emission inventory; this is sufficient to track reasonable further progress.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(4).

6. *Projected Emissions Growth*—EPA finds that the plan adequately identifies and quantifies the expected emissions growth from new or modified stationary sources, area sources, and mobile sources.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(5).

7. *Pre-construction Permit Program*—In the April 3, 1981 **Federal Register**, EPA conditionally approved the Kansas SIP with respect to meeting the preconstruction permit requirements. The state regulations adopted to meet this requirement are included in the Wichita CO SIP submittal. When the April 3 conditions are met, the Wichita nonattainment plan will be fully approvable.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(6), on condition that the deficiencies described in the April 3 final rulemaking are corrected as provided in that action.

8. *Necessary Resources*—EPA finds that the necessary resources both in manpower and funding have been provided or commitment has been provided for the implemented TCMs. There are adequate commitments in the SIP to ensure that implementation will continue through the attainment date for the NAAQS.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(7).

9. *Emissions Limitations and Compliance Schedules*—The SIP submittal demonstrates that the only major CO source in the area is in compliance with requirements representing RACT. There are no compliance schedules necesary.

Proposed Action: EPA proposes to approve the plan as meeting the requirements of Section 172(b)(8).

10. *Public Involvement*—The SIP submittal provides for the analysis of impacts for each TCM and the review and comment by the public of each analysis. EPA finds adequate evidence that the public, local governments, and the State Legislature all were involved in the development of the Wichita nonattainment plan.

Proposed Action: EPA finds that this involvement was in accordance with Section 174 and proposes to approve the plan as meeting the requirements for Section 172(b)(9).

11. *Commitments to Implement and Enforce Plan*—EPA finds that the SIP contains the necessary details of the required CO strategies, including schedules and timetables for compliance and the commitments to carry out the TCMs.

Proposed Action: EPA proposes to approve the plan as meeting the requirements for Section 172(b)(10).

E. Conclusions

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether or not the amendments meet the requirements of Part D of the CAA, Section 110(a)(2) of the CAA, and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

The measures proposed today, if finally approved by EPA, will be in addition to, and not in lieu of, existing state regulations. The present emission control regulations will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order for any other reasons, the pre-existing regulations will be applicable and enforceable.

This notice of proposed rulemaking is proposed to advise the public of EPA's intended action on the Kansas SIP submission, not just those specifically identified above.

Comments received on or before September 30, 1981, will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

(1) The SIP has been available for inspection and comment since May 22, 1981, so that the total comment period is more than 60 days; and

(2) EPA has a responsibility under the CAA to take final action as soon as possible after July 1, 1979, on that portion of the SIP that addresses the Part D requirements.

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

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

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 and 172 of the CAA will not have a significant economic impact on a substantial number of small entities. The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. This action only approves state actions. It imposes no new requirements.

Dated: July 14, 1981.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 81-25328 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-1918-5]

Approval and Promulgation of State Implementation Plan; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On July 28, 1980, the State of Michigan submitted to EPA as a revision to its SIP an amendment to Michigan Air Pollution Control Commission Rule 221 (Amended Rule 221) which regulates the State's new source review program. The Amended Rule 221 is designed to relax the offset requirements placed on certain proposed new sources of total suspended particulates and sulfur dioxide. The purpose of today's notice is to propose approval and solicit public comment on this revision to the Michigan State Implementation Plan (SIP).

DATE: Comments on the revision and on EPA's proposed rulemaking are due by September 30, 1981.

ADDRESSES: Copies of this SIP revision are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

Written comments should be sent to: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clarizio, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, requires each State to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). These SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances, no later than December 31, 1987, for ozone and carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979, (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979, (44 FR 38583); August 28, 1979, (44 FR 50371); September 17, 1979, (44 FR 53761); and November 23, 1979, (44 FR 67182).

Section 173 of the Clean Air Act (Act) requires each State to develop, for the nonattainment areas, a program which will accommodate for new source growth and ensure that reasonable further progress is made toward attainment of the standards. Such a program is commonly referred to as a new source review (NSR) program.

Section 173 requires, among other things, that the NSR program provide for new source growth either through an emissions offset program or by a planned margin for growth. Under the offset program, any proposed new major source or major modification which will increase emissions must, prior to constructing in the area, obtain from an existing source(s) in the area a decrease in emissions which offsets the proposed new source's increased emissions. If the offset approach is chosen, the NSR program must also ensure that the offsets are sufficient to ensure reasonable further progress (RFP) towards attainment of the appropriate air quality standard by the statutory date.

Michigan's NSR program is embodied in Rule 221. In the May 6, 1980, **Federal Register** (45 FR 29790), EPA approved Michigan's NSR program. The Michigan NSR program is designed to accommodate for new source growth through an emissions offset program. Rule 221 requires that any increase in emissions from a proposed new major source or major modification be offset by a greater than one-to-one decrease in emissions from another source located in the area. For proposed new sources which emit either particulate matter or sulfur dioxide, an offset must also be procured for minor new sources.

On July 28, 1980, Michigan submitted to EPA, as a SIP revision, an Amended Rule 221. Amended Rule 221 proposes to exempt certain sources of particulate matter and sulfur dioxide from the offset requirements. The sources which will be exempted are those which have allowable emissions which are less than 50 tons per year and 1,000 pounds per day. In all other respects, Amended Rule 221 is identical to the version of rule 221 approved by EPA on May 6, 1980.

On May 6, 1981, EPA approved Rule 221. EPA's approval of the offset requirement for the 50 tons/1,000 pounds per day sources was based on its determination that this requirement provided additional assurances in the TSP and SO_2 nonattainment areas that RFP would be achieved. In reviewing Amended Rule 221, EPA focused its attention on whether the rule still satisfied the RFP requirements of Section 173 of the Act. For the following reasons, EPA believes that it does. Amended Rule 221 still specifies that, for any proposed new major source or any new major modification which is located in a TSP or SO_2 nonattainment area, a minimum offset ratio of greater than one-to-one is required. Further, the Rule specifies that the offset ratio of any proposed new major source must be sufficient to ensure a net air quality benefit and RFP in the area. Although the previously approved offset requirements of Rule 221 provided additional assurances that RFP would be achieved in SO_2 and TSP nonattainment areas, EPA believes that Amended Rule 221 is sufficient to satisfy the RFP requirements of the Act. Therefore, EPA proposes to approve Amended Rule 221.

All interested persons are invited to comment on this revision to the Michigan SIP and on EPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received before September 30, 1981, will be considered in EPA's final rulemaking. All comments received will be available for inspection at the Region V, Air Programs Branch,

230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator, on January 27, 1981, (46 FR 8709), certified that approvals or conditional approvals issued pursuant to Sections 110 and 172 of the Act, if promulgated, would not have a significant economic impact on a substantial number of small entities. Because this proposal approves a State action taken pursuant to Section 110 of the act, it falls within this certification.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "major" and, therefore, subject to the preparation of a regulatory impact analysis. Today's action does not constitute a major regulation because it merely approves a regulation which was developed by the State. This proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: July 24, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-25330 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6128]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 755–5585, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4.

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its won, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself is has no economic impact.

PART 67—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

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

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Rio Vista (City), Solano County	Industrial Creek	400' south of western end of runway at Rio Vista Airport.	#2
Maps available for inspection at City Engineer's Office, City Hall, 1 Main Street, Rio Vista, California. Send comments to the Honorable Milton Wallace, 1 Main Street, Rio Vista, California 94571.				
Massachusetts	Bedford, Town, Middlesex County	Concord River	Downstream Corporate Limits	*120
			Upstream Corporate Limits	*120
		Shawsheen River	Downstream Corporate Limits	*98

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of George Walsh Highway (U.S. Route 3) Southbound.	*100
			Great Road (Upstream side)	*113
			Summer Street (Upsteam side)	*116
			Hanscom Airfield Access Road (Upstream side)	*118
		Elm Brook	Confluence with Shawsheen River	*111
			South Road (Upstream side)	*116
			Upstream Corporate Limits	*123
		Spring Brook	Confluence in Shawsheen River	*109
			Abandoned Bridge (Upstream side)	*114
			Upstream side of Alcott Street	*125
			Approximately 2.1 miles upstream of confluence with Shawsheen River.	*131
		Mongo Brook	Confluence with Elm Brook	*116
			Fern Way (Upstream side)	*119
		Tributary to Mill Brook	Confluence with Mill Brook	*120
			Upstream Sweetwater Avenue	*157
Maps available for inspection at the Town Clerk's Office, Town Hall, 16 South Street, Bedford, Massachusetts.				
Send comments to Hon. Louise Magione, chairperson of the Bedford Board of Selectmen, Town Hall, 16 South Street, Bedford, Massachusetts 01730.				
South Dakota	Flandreau (City), Moody County	Big Sioux River	1,000' west of the intersection of North J. Road and West Second Avenue.	*1,531
Maps available for inspection at City Hall, 136 2nd Avenue East, Flandreau, South Dakota.				
Send comments to the Honorable Milne A. Duncan, 136 2nd Avenue East, Flandreau, South Dakota 57028.				
Virginia	Arlington County	Fourmile Run	Jefferson Davis Highway (upstream side)	*11
			Confluence of Long Branch	*16
			Shirlington Road (upstream side)	*50
			Confluence of Doctors Run	*62
			Columbia Pike (upstream side)	111
			Abandoned Railroad second crossing (upstream side)	*169
			Wilson Boulevard (upstream side)	*217
			McKinley Road (upstream side)	*248
			Upstream Corporate Limits	*260
			Approximately 2,120 feet upstream of upstream Corporate Limits.	*289
		Doctors Run	Confluence with Fourmile Run	*82
			Washington Drive (upstream side)	*100
			Approximately 630' upstream of Sixteenth Street	*109
		Little Pimmit Run	Downstream Corporate Limits	*225
			Old Dominion Drive	*260
			Approximately 1,030' upstream of Little Falls Road	*306
		Little Pimmit Run Tributary	Confluence with Little Pimmit Run	*246
			37th Street North (extended)	*255
			Approximately 700' upstream 37th Street North (extended).	*271
		Long Branch (Downstream of Doctors Run).	Confluence with Fourmile Run	*16
			23rd Street South (upstream side)	*55
			Private Road (upstream side)	*90
			South Rolfe Street (upstream side)	*125
		Spout Run	Spout Run Parkway first crossing (downstream side)	*20
			24th Street North (downstream side)	*90
			Lee Highway (downstream side)	*176
			North Lincoln Street (upstream side)	*220
			North Quincy Street (upstream side)	*250
			Approximately 410' upstream of North Stafford Street	*264
		Windy Run	Downstream Corporate Limits	*36
			Approximately 1,060' upstream of George Washington Memorial Parkway.	*120
			Approximately 2,880' upstream of George Washington Memorial Parkway.	*179
		Long Branch (Upstream of Doctors Run).	South Harrison Street extended (upstream side)	*170
			7th Street South extended (downstream side)	*190
		Lubber Run	Confluence with Fourmile Run	*164
			Approximately 1,400' upstream of Access Road	*215
			Wilson Boulevard (upstream side)	*250
			13th Street extended (downstream side)	*276
		Gulf Branch	George Washington Memorial Parkway (upstream side)	*80
			Military Road (downstream side)	*164
			North Upland Street (downstream side)	*210
			North Chestabrook Road (extended)	*230
		North Branch Donaldson Run	Confluence with Donaldson Run	*170
			31st Street North (upstream side)	*213

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Donaldson Run	George Washington Memorial Parkway (downstream side).	*30
			North Monroe Street extended (upstream side)	*100
			Military Road (upstream side)	*170
			North Vermont Street (downstream side)	*260

Maps available for inspection at the County Court House, 1400 North Courthouse Road, Arlington, Virginia.

Send comments to Honorable W. V. Ford, County Manager of Arlington, County Court House, 1400 North Courthouse Road, Arlington, Virginia 22201.

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

Issued: July 31, 1981.

Wallace S. Towe, Jr.,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-25239 Filed 8-28-81; 8:45 am]

BILLING CODE 6718-03-M

ACTION

45 CFR Part 1206

Grants and Contracts—Suspension and Termination and Denial of Application for Refunding

AGENCY: ACTION.

ACTION: Proposed rule.

SUMMARY: These proposed regulations revise the rules and review procedures for the denial of a current recipient's applications for refunding. These regulations are being revised to make them consistent with new fiscal and policy initiatives and to ensure the orderly phaseout of those VISTA projects which are no longer achieving the desired goals and objectives of ACTION. The changes proposed by ACTION are discussed in Supplementary Information.

DATE: Comments must be received by September 30, 1981.

ADDRESS: Send comments to Mr. Angelo Traficanti, Chief, VISTA Policy Unit, Room M–1100, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Mr. Angelo Traficanti, (800) 424–8580 or (202) 254–8320.

SUPPLEMENTARY INFORMATION:

Section 1206.2–1

This section is amended to make subpart B applicable to sponsors which receive only volunteers, in addition to those grantees and contractors which receive financial assistance. Existing language only applies to grantees and contractors receiving financial assistance under titles I, II and III of the Domestic Volunteer Service Act of 1973, as amended (title III has been repealed). The subpart is silent as to those projects which receive volunteers but do not receive grant funds. The change will bring the regulations into conformity with established Agency policy regarding VISTA Volunteers.

A provision is added to explain that the subpart does not apply to VISTA projects which have been in existence for a period of three years or more, to UYA projects which have reached the five year limit, to mini-grants or to those projects which have specific time limits established for their existence at their inception. This approach recognizes the fact that ACTION programs are not entitlement programs, and that most ACTION funded projects, except Older Americans projects have, for several years, been self-limiting in terms of duration. Therefore, the Agency is not required to provide any of these recipients an opportunity to show cause why the project should be refunded. Although technically most VISTA projects are funded for a period of approximately one year, past Agency policy was to allow projects to continue for three years, after which any application for contiuation was considered without application of denial of refunding procedures.

The rationale for this was that those aspects of a VISTA project which required Federal financial assistance could have no greater term of reasonable expectation than three years. Refusing to extend Federal financial assistance thereafter did not result in prejudice to the goals or operation of any VISTA sponsor. Some projects which warranted further funding after the third year have been continued, while those which more properly should turn to the community for support have been terminated following the third, or later, years without the application of the procedures outlined.

In light of the impending phaseout of VISTA it is unrealistic for any recipient to assume that an application for refunding will be approved by the Director.

While ACTION will continue to provide other recipients notice and an opportunity to show cause why an application for refunding should not be denied, the recipient designated in this section will not have the opportunity to submit materials or meet informally with an ACTION official. This difference in procedure is occasioned by either statutory requirements or budgetary and policy considerations.

Section 1206.2–3

This section is amended to add definitions of the terms "refunding", "financial assistance" and "assistance." These terms are defined to include the assignment and services of volunteers within the applicability of denial of refunding procedures, consistent with the amendment made to § 1206.2–1.

A definition for the term "program account" is added to avoid confusion which may arise as a result of its usage in this subpart.

Section 1206.2–4

Paragraph (a) is removed. "Field previews" and "letters of understanding" are not used by all domestic volunteer programs as part of their procedures for refunding. This revision will clarify existing refunding procedures and make them consistent in their application. The removal of paragraph (a) does not adversely affect the use of "field previews" and "letters of understanding" by those programs which choose to utilize such procedures.

In paragraph (b), examples of bases for denial of refunding procedures are removed. As presently written these examples are not broad enough in scope to encompass changes in policy and new program initiatives which are valid reasons for refusing to renew existing projects. This deletion does not preclude

the use of any of the existing examples as a basis for denial of refunding. There should, however, be no confusion regarding the authority of ACTION to also deny an application for refunding for other reasons based on Administration and Agency policy.

A provision is added to specify that although the basis for denial of refunding may also be a basis for termination it does not prevent the use of subpart B when the procedures in subpart A might also be utilized. This addition is to clarify the distinction between the two procedures, more particularly with regard to the due process requirements of subpart A. For example, the more formal termination procedures require that the recipient be offered the opportunity for a full hearing at which both ACTION and the recipient are entitled to present evidence. The denial of refunding procedures require only that the recipient be given an opportunity to meet informally with an ACTION official to show cause why its application for refunding should not be denied. Unlike termination under Part A, refusal to renew under Part B carries no implication of wrongdoing on the part of the sponsor.

Paragraph (c) is revised by the addition of a requirement that the written notice of the tentative decision to deny refunding include a date by which the recipient must request an informal meeting. This will help to avoid any confusion on the part of the recipient regarding the time period for requesting an informal meeting and prevent undue delay in the process.

Paragraph (d)—A deadline for scheduling the informal meeting is established. Existing language provides that the meeting may not be scheduled sooner than 14 days after the mailing of the notice except with the consent of the recipient. However, there is no firm cut-off date for making the request. This amendment, while providing a reasonable time for all parties to make necessary decisions or preparations for an informal meeting, also prevents undue delay in addressing the issues which form the basis for the tentative decision not to renew.

Language regarding those instances wherein the funding year lapses prior to the final decision being made is redesignated as paragraph (f) under this section. A provision is added which requires the recipient, in addition to ACTION, to continue funding during this interim period.

Paragraph (e)—A provision is added to include the Director of VISTA, or his designee, as an ACTION official who is authorized to conduct the informal meeting. Existing language limits the authority to conduct the meeting to "an ACTION official who is authorized to make the grant of assistance in question." The term "make" the grant is a technical term and unnecessarily limits the group of persons authorized to conduct the informal meeting to those who have the authority to obligate grant funds. The Director of VISTA has authority to assign volunteers to sponsors which, though not a technical obligation of funds, is the major programmatic decision in the VISTA program.

Language regarding the official who shall conduct the informal meeting in the case of a grant "* * * made by a regional official only with the concurrence of a Headquarters official * * *" is removed. The inclusion of the Director of VISTA as an ACTION official who is authorized to conduct the informal meeting eliminates the need for the exception in that provision.

In the event that the sponsor has requested an informal meeting and the project year ends prior to the final decision being made, the project will be extended to allow for the making of the final decision. During this interim period the project will be funded at the previous level by both ACTION and the sponsor. The addition of language which includes the sponsor ensures that existing financial agreements and obligations will be honored for the protection of the volunteers and other members of the community who deal with the sponsor. This revision will help to provide for either the orderly phase-out of projects which will no longer receive funding from ACTION or for the uninterrupted functioning of those projects which will continue to receive ACTION funding.

Paragraph (f)—The provision regarding "an ACTION official who participated in the tentative decision" being in attendance at the informal meeting, whenever possible, is removed. The amendment in paragraph (e) adequately provides for the attendance of an ACTION official who is knowledgeable in both the policies and procedures of the Agency and gives the flexibility necessary to facilitate the conduct of the informal meeting.

The provision regarding the location of the informal meeting is redesignated as a part of new paragraph (d).

ACTION will no longer allow the Board of Directors of the recipient to authorize funds from a current grant or contract to pay expenses for a representative of the Board to attend the informal meeting. Therefore, the provision is removed.

Paragraph (g)—The provision for forwarding "written materials submitted by the recipient to an ACTION official who is authorized to make the grant of assistance in question" is removed. While all materials will be reviewed by the deciding official the method by which this is accomplished is an "in-house" procedural matter to be determined by the Director of VISTA and is not a necessary part of these regulations.

The provision for informing the recipient of the final Agency decision is redesignated as paragraph (e).

Section 1206.2–5

As a result of the budgetary constraints placed on ACTION, the Agency will no longer pay attorney's fees and travel expenses and per diem for representatives of the sponsor to attend the informal meeting. The opportunity to appear before an ACTION official to show cause why the application for refunding should not be denied is available to the recipient as in existing regulations; however, this must be done at the recipient's expense.

Pursuant to section 3(c) 3 of E.O. 12291, entitled, "Federal Regulation" the required review process has been completed by the Director of the Office of Management and Budget.

PART 1206—GRANTS AND CONTRACTS—SUSPENSION AND TERMINATION AND DENIAL OF APPLICATION FOR REFUNDING

For the reasons set out in the preamble Subpart B of Part 1206 of Title 45 of the *Code of Federal Regulations* is proposed to be revised as follows:

* * * * *

Subpart B—Denial of Application for Refunding

Sec.

Authority: Pub. L. No. 93–113, Secs. 103(c), 402(14) and 420; 87 Stat. 397, 407 and 414; 42 U.S.C. 5042(12), 5052, 5060.

Subpart B—Denial of Application for Refunding

§ 1206.2–1 Applicability of this subpart.

(a) This subpart applies to grantees and contractors receiving financial assistance and to sponsors who receive volunteers under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 *et seq.*

(b) The procedures in this subpart do not apply to denials of applications for refunding of the following types:

(1) VISTA projects which have been in existence for a period of at least three years;

(2) University Year for ACTION projects which have received federal funds for five years;

(3) Minigrants;

(4) Other projects for which specific time limits with respect to federal assistance are established in the original notice of grant award or other document providing assistance, where the specified time limit has been reached.

Denials of applications for refunding of such projects may be made without providing the recipient an opportunity to show cause why the project should be refunded.

§ 1206.2-2 Purpose.

This subpart establishes rules and review procedures for the denial of a current recipient's application for refunding.

§ 1206.2-3 Definitions.

As used in this subpart, the terms "ACTION," "Director," and "recipient" shall be defined in accordance with § 1206.1-3.

As used in this subpart, the term "refunding" includes renewal of an application for the assignment of volunteers.

As used in this subpart, the terms "financial assistance" and "assistance" include the services of volunteers supported in whole or in part of ACTION funds.

As used in this subpart, the term "program account" means assistance provided by ACTION to support a particular program activity, for example VISTA, Foster Grandparent Program, Senior Companion Program and Retired Senior Volunteer Program.

§ 1206.2-4 Procedures.

(a) The procedures set forth in paragraphs (b) through (f) of this section shall apply only where an application for refunding submitted by a current recipient is rejected or is reduced to 80 percent or less of the recipient's current level of operations or where ACTION requires that a program account be eliminated or reduced to 80 percent or less of the current level of operations. It is further a condition for application of these procedures that the rejection or reduction be based on circumstances related to the particular grant or contract. These procedures do not apply to reductions based on legislative requirements, or on general policy or in instances where, regardless of a recipient's current level of operations, its application for refunding is not reduced by 20 percent or more. The fact that the basis for rejecting an application may also be a basis for termination under subpart A of this part shall not prevent the use of this subpart to the exclusion of the procedures in Subpart A.

(b) Before rejecting an application of a recipient for refunding ACTION shall notify the recipient of its intention and shall offer the recipient an opportunity to submit written material and to meet informally with an ACTION official to show cause why its application for refunding should not be rejected or reduced. Written notification of ACTION's intention shall be sent to the recipient as far in advance of the end of the recipient's current program year or grant budget period as possible. The notice shall inform the recipient that a tentative decision has been made to reject or reduce an application for refunding. The notice shall state the reasons for the tentative decision to which the recipient shall address itself if it wishes to make a presentation, and notify the recipient of the date by which it must request an informal meeting.

(c) If the recipient requests an informal meeting with an ACTION official as described in paragraph (b) of this section, such a meeting shall be held on a date specified by ACTION. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days after ACTION has mailed the notice to the recipient or, in any event more than 21 days after the mailing of the notice. If the recipient requests an informal meeting the meeting shall be scheduled by ACTION as soon as possible after receipt of the request.

(d) The official who shall conduct this meeting shall be an ACTION official who is authorized to finally approve or make the grant of assistance in question, or his designee. The meeting shall be held in the city or county in which the recipient is located, in the appropriate Regional Office, or another appropriate location. Within the limits stated in the preceding sentence, the decision as to where the meeting shall be held will be made by ACTION.

(e) The recipient shall be informed of the final Agency decision on refunding and the basis for the decision, by the deciding official.

(f) If the recipient's budget period expires prior to the final decision by the deciding official, the recipient's authority to continue program operations shall be extended until such decision is made and communicated to the recipient. If a volunteer's term of service expires after receipt by a recipient of a tentative decision not to refund a project the period of service of the volunteer may be similarly extended. No volunteers may be reenrolled, or new volunteers enrolled, for a period of service while a tentative decision not to refund is pending. If program operations are so extended, ACTION and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

§ 1206.2-5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the recipient and ACTION shall have the right to be represented by counsel or other authorized representatives, at their own expense.

Signed at Washington, D.C., this 11th day of August 1981.

Thomas W. Pauken,

Director.

[FR Doc. 81-25368 Filed 8-28-81; 8:45 am]

BILLING CODE 6050-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 81-463; RM-3815; FCC 81-321]

Operation of Computing Equipment Prior to Certification or Verification

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice proposes to amend the Commission's marketing requirements to permit operation of computing devices before equipment authorization during the preproduction or development process. Current regulations prohibit operation of equipment until FCC compliance is achieved. This Order will permit certain equipment development practices to occur unimpeded by the FCC marketing requirements.

DATES: Comments due October 2, 1981. Reply comments due October 19, 1981.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Garlan, Office of Science and Technology, Washington, DC 20554, (202) 653-8247, Room 8302.

SUPPLEMENTARY INFORMATION:

Adopted: July 16, 1981.

Released: August 26, 1981.

By the Commission: Commissioner Dawson abstaining from voting.

1. The Commission has before it a petition for relief filed on December 8, 1980 by the Computer and Business Equipment Association (CBEMA). This petition is treated as a petition for rule making and was put on public notice on December 31, 1980.[1] Comments were received from Honeywell Inc., Sperry Univac Division of Sperry Corp., M/A Com Laboratories Inc. and Stern Electronics Inc.[2] Reply comments were received from CBEMA.

2. All the comments support the CBEMA request. In addition, Stern asks that the same relief, namely operation prior to a final determination of compliance be extended to the manufacturers of coin-operated electronic games. Because the Stern comment raises new problems and goes beyond the matters discussed by CBEMA, Sperry, Honeywell and M/A Com, it is discussed separately at paragraph 10.

3. The petition asks for a further relaxation of the marketing rules—specifically, authority to operate computing equipment during the conceptual development, design and preproduction steps of their development and for demonstration to prospective customers. CBEMA argues that the wording of Section 2.806(c) could be construed to severely inhibit current development practices of the industry. While such a prohibition may be suitable for such small, self contained computers that fall into the category of personal computers, it is entirely unsuitable when applied to the larger Class A computing equipments many of which involve a high degree of customization.

4. CBEMA acknowledges that the Commission has sought to meet the needs of industry, first when it promulgated § 2.805(b) in the *First Report and Order* in Docket 20780 [3] and later when it withdrew § 2.805(b) and in its place promulgated § 2.806 in the *Order Granting in Part Reconsideration.*[4] Section 2.806 permits industry to offer for sale new designs prior to a determination of compliance. It also permits the shipment of new equipment to the user's site provided the manufacturer assumes the responsibility for testing and bringing the equipment into compliance prior to placing such equipment into regular operation.

5. These actions, according to CBEMA, only meet in part the Commission's stated intention not to permit its marketing rules to disrupt industry marketing practice. The new § 2.806, according to CBEMA, still has two basic shortcomings. One deals with the situation in the manufacturer's showroom or at a trade show. Industry marketing practice requires that the equipment be operated to demonstrate its capabilities and features to prospective customers.

6. The second shortcoming deals with operation during the conceptual, development, design or preproduction stage. CBEMA explains that finalizing a design particularly in the larger Class A computers which almost invariably involve a considerable degree of customization, is an interactive process between the computer manufacturer and the customer. That before the design is committed to full production both the customer and the manufacturer must be satisfied that the equipment will be acceptable. A significant aspect of this process, CBEMA points out, is operating preproduction units not only at the computer manufacturer's plant but also at the customer's premises so that the computer can be evaluated by the customer in a real world situation.

7. The Sperry, Honeywell, and M/A Com comments strongly support the need to revise § 2.806(c) to permit operation prior to a final determination of compliance both at the manufacturer's plant and on the customer's premises while the equipment is under development and for demonstrations to prospective customers. Sperry says

> The need for customer site testing . . . occurs relatively infrequently. When such testing is required, there is absolutely no substitute method available. (Page 2)

Sperry points out the prohibitive cost of determining compliance after each individual design change. Moreover, such customer site testing will not create any significant potential for actual interference. Two factors operate to minimize the interference problem. The coast of customer site testing is very high so that the instances of customer site testing are severely limited. Secondly, because of the high cost there is a financial incentive to terminate the customer site test as soon as possible.

8. Honeywell elaborates on the CBEMA argument for operating authority during the development of the equipment. The industry is characterized by a high degree of manufacturer/user interaction which takes two forms: operating demonstrations at the manufacturer's facilities and at trade shows, and user test site evaluation. Both practices are essential to enable the manufacturer to obtain the necessary user evaluation of product acceptability in terms of functionality, availability, failure rates, repair rates, ease of use, price/performance, etc.

9. M/A Com points out that the proscription against operation during development apparently imposed by Section 2.806(c) would cause time delays, increase development costs and inhibit technological innovation without any countervailing benefits to the public. While these delays may be justified for Part 15 compliance testing in order to protect the public from RF interference that may be produced by products fabricated in high volume, that is no justification for imposing these delays and costs on low volume preproduction prototype.

Stern Electronics Inc. Comments

10. Stern Electronics has described itself as a privately held corporation whose principal business is the manufacture and sale of coin-operated electronic games.[5] [6] Stern supports the CBEMA petition for relief. It recognizes that this petition was filed on behalf of manufacturers of electronic data processing equipment, but believes that many of the factors discussed in the CBEMA petition are also applicable to the coin-operated electronic game industry. In its comment, Stern asks that the relief requested by CBEMA for Class A computers also be extended to coin-operated electronic games.

11. Stern points out that its business as well as that of other manufacturers of coin-operated electronic games depend primarily upon providing games that appeal to the persons who pay for playing the games. To avoid boredom, it is essential that these games be changed frequently. Typically, the popularity of a game decreases after it has been in the field for 3 to 6 months and a new game must then be provided. Stern stresses again and again the short life span of a coin-operated game. At the same time it stresses the speed with which manufacturers develop and place into use a new game. (Stern comment paragraph 4–5).[7]

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[1] FCC Report No. 1254 dated December 31, 1980.

[2] This comment was received late and was accompanied by a request to accept a late filing. This request is granted.

[3] *First Report and Order* in Docket 20780; 44 FR 59630 (October 16, 1979) at paragraph 32 et seq.

[4] *Order Granting in Part Reconsideration* in Docket 20780; 45 FR 24154 (April 9, 1980) at paragraph 66 et seq.

[5] See *Petition for Extension of Effective Date* filed September 12, 1980. This petition asked for a waiver of Section 15.834(a)—date when certification is required for coin-operated electronic games and was granted on December 4, 1980 (FCC 80-706).

[6] See Comment in Support of RM-3738 and RM-3789 filed December 10, 1980.

[7] See also footnote 5 at paragraph 6 and footnote 6, supra.

Discussion

12. The Commission is persuaded by the CBEMA, Sperry, Honeywell and M/A Com argument to permit operation during the developmental process both at the manufacturer's facilities and at the users premises. We are proposing to amend Section 2.806(c) to this end and the revised text we are proposing is set out in the Appendix.

13. The proposed amendment to § 2.806(c) sets out three circumstances under which computing equipment may be operated prior to a final determination of compliance. Subparagraph (1) continues the authorization previously granted to operate for the purpose of compliance testing. This regulation would also permit operation for demonstration at a trade show in recognition that this is an essential part of current industry marketing practice. Such authorization would be subject to the proviso that the prospective customer is advised in advance that the equipment is subject to compliance prior to sale or shipment.

14. We are also proposing to permit operation at the manufacturer's facilities as a further recognition that this is a part of industry marketing and testing practice. See subparagraph (2) of the proposed amendment. Insofar as the request for permission to operate at the user's premises during the developmental process, we are persuaded by the Sperry argument that this is not a frequent occurrence and are proposing to allow such operation for large, one of a kind, computing devices. See Subparagraph (3) of the proposed amendment.

15. With respect to coin-operated electronic games, we can't accept the Stern argument in its entirety and we are proposing to grant the Stern request in part only. We are proposing to authorize operation for all computing equipment [8] for demonstration at a trade show prior to final determination of compliance. We are also proposing to permit operation at the manufacturer's facilities prior to final determination of compliance. However, with respect to operating at the user's premises, we are proposing to limit such operation to large computing equipment which can only be effectively evaluated at the user's premises. (See subparagraph (3) of the proposed amendment.)

16. In contrast to the large computer for which the relaxation in subparagraph (3) is proposed, the coin-operated electronic game is neither large nor uniquely one of a kind. To the contrary, the coin-operated electronic game is mass produced in quantity and lends itself readily to measurement on a test site. Moreover as stated by the petitioner, the life of a coin-operated electronic game at the customer's premises is typically 3–6 months after which the game must be replaced in order to maintain customer interest (Stern comment paragraph 2). In these circumstances, authorizing operation at the user's premises prior to final determination of compliance by the manufacturer will, in our opinion, vitiate the compliance program. In this connection, it should be noted that in a companion item [9] we are proposing the reclassify these games from Class B computing equipment to Class A computing equipment. This change carries with it a change from certification to verification. Under verification, a final determination of compliance is made by the manufacturer. In these circumstances, the coin-operated electronic game can be verified as fast as the manufacturer is prepared to move and eliminates any delay that may be involved in the Commission responding to an application for certification, since no filing with the Commission is required under verification.

17. There is no evidence in the Stern comment that the game would be modified during the player evaluation process. Nor is there any evidence that the game manufacturer will assume the cost of operating the game during the player evaluation as the electronic data processing equipment does (Sperry page 3). On the contrary, the Stern comment conveys the impression that a pilot production run of the games will be made after which they will be put out for player evaluation. If the evaluation is not satisfactory, the game will not go into production and a new game developed. This procedure is considerably different than the one described by CBEMA, Sperry, etc. with respect to electronic data processing equipment.

18. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq*, the Commission issues the following initial regulatory flexibility analysis:

I. Reason for Action

It appears that permitting the operation of computing equipment prior to final determination of compliance (as proposed in this Notice) will not pose a significant threat of interference. If this assumption is correct, the proposed action will relieve manufacturer's of an economic burden and will assist manufacturer's effort to promote and sell their computer products.

II. Objective

To permit operation of computing equipment prior to final determination of compliance as an aid to marketing and development of customized computing equipment.

III. Legal basis

The legal basis for the FCC to promulgate regulations governing the RF interference potential of equipment is contained in 47 U.S.C. 302(a).

IV. Entities Affected; Nature of Economic Impact; Significant Alternatives

The rules proposed in this Notice would relieve a regulatory burden on all manufacturers of computing devices. In the Commission's view, this would have an economically beneficial effect on these manufacturers in that it will facilitate the marketing of these computers. For manufacturers of these products the economic impact in complying will not change, as no new reporting, recordkeeping or other compliance requirements are being proposed.

We currently do not know exactly how many small businesses will be included among these firms manufacturing products remaining subject to FCC regulations. Affected parties are invited to submit comments on these points.

At this time we cannot perceive any significant alternative compliance schemes for the products that will continue to be regulated which will minimize the interference generated by those products to acceptable levels.

V. Recording, Recordkeeping, and Other Compliance Requirements; None

Procedural Matters

19. *Who should file comments?* We urge the viewing public, television equipment manufacturers, broadcasters, and all other interested parties to participate in this proceeding. You may participate by sending information and opinions that are revelant to the questions raised in this Notice.

[8] We are extending this proposal beyond coin-operated electronic games to all computing devices on the basis of informal information that manufacturers of all Class B computing devices were prepared to seek the same relaxation.

[9] In response to petitions for rule making RM-3837 filed by Williams Electronics Inc., August 7, 1980, and RM-3789 filed by Atari Inc., October 24, 1980, the Commission instituted a rule making proceeding in Gen. Docket 81-462: In the matter of amendment of Part 15 Subpart J to reclassify coin-operated electronic games from Class B to Class A computing devices, adopted July 16, 1981; released August 27, 1981.

20. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. ," at the top of the first page. Please label your responses so that it will be clear whether you are addressing a specific proposed rule change or a more general issue. If your comments are general, and not related to a specific rule change, please state the issue being addressed.

21. *How many copies should be sent?* Section 1.419 of the Rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 6 additional copies. The FCC will fully consider all comments, even if only the original is filed.

22. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

23. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M Street N.W., Washington, D.C. The FCC is open weekdays between 8:00 A.M. and 5:30 P.M. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

24. *Deadline for filing Comments.* Comments must be received by October 2, 1981. You are encouraged to submit a one-page summary of your comments at the time you file. Reply comments are due by October 19, 1981.

25. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of Commission procedures governing *ex parte* presentations in informal rule making is available from the Consumer Assistance and Information Division, FCC, Washington, D.C. 20554.

26. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis of the expected impact of these proposed policies and rules on small entities. The initial analysis is set forth in paragraph 18. Written public comments are requested on the initial analysis. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601, et seq.).

27. This action is taken pursuant to the authority contained in Sections 4(i) 302, 303(f), (g), and (r) and 403 of the Communications Act as amended. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. The contact person for further information regarding this proceeding is Herman Garlan (202) 653-8247.

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

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.806 is proposed to be amended by revising paragraph (c) to read as follows:

§ 2.806 Exemption for a computing device.

* * * * *

(c) A computing equipment subject to the provisions of Part 15 of this chapter, may be operated prior to a determination of compliance only under the following conditions:

(1) Any computing device may be operated for the purpose of compliance testing, or for demonstrations at a trade show as a part of the marketing process, provided the prospective buyer is advised in writing that the device is subject to complying with the appropriate rules before sale.

(2) A computing device, may be operated at the manufacturer's facilities during developmental, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

(3) Where customer acceptability of a computing device cannot be determined at the manufacturer's premises because of size or unique capability of the computing device, such device may be operated at the user's site during developmental, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

[FR Doc. 81-25298 Filed 8-28-81; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-579; RM-3818]

FM Broadcast Station in Palm Springs, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 203A to Palm Springs, California, as its first noncommercial FM assignment, in response to a petition filed by Riverside County Schools.

DATES: Comments must be filed on or before October 20, 1981, and reply

comments on or before November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.504(a), *Table of Assignments*, Noncommercial Educational FM Broadcast Stations (Palm Springs, California), BC Docket No. 81-579, RM-3818.

Adopted: August 14, 1981.

Released: August 25, 1981.

1. The Commission herein considers a petition for rule making [1] filed by Riverside County Schools ("petitioner"),[2] which seeks the assignment of Channel 203A to Palm Springs, California, as its first noncommercial educational FM assignment. Petitioner states that it will apply for the channel, if assigned. No responses to the petition have been received.

2. Palm Springs (population 20,939),[3] in Riverside County (population 459,074), is located approximately 160 kilometers (100 miles) east of Los Angeles, California. It is served locally by full-time AM Stations KCMJ, KDES, and KPSI and FM stations KDES (Channel 284), KPSI (Channel 265A), unused Channel 291 (applications pending) and KPSH (10 watt Class D station) licensed to petitioner.

3. Petitioner claims that Palm Springs, the largest city in the desert region of Riverside County, is primarily a resort community. It has a large seasonal population, and the community and the surrounding area is said to have been growing at a rapid rate during the past ten years. Riverside further states that the Class A assignment would serve the needs of the area's fast growing educational interests and population and the proposal would be consistent with the Commission's policy of upgrading Class D stations to Class A facilities (§ 73.512 of the rules).

4. Since Palm Springs, California, is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed assignment requires concurrence of the Mexico Government.

5. In view of the fact that the proposed assignment could provide a first noncommercial educational FM service to Palm Springs, while maintaining our policy of upgrading 10 watt Class D stations to Class A stations, the Commission believes it appropriate to propose amending the Noncommercial Educational FR Table of Assignments (§ 73.504(a) of the Commission's Rules) with regard to the following community:

City	Channel No.	
	Present	Proposed
Palm Springs, California		203A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

7. Interested parties may file comments on or before October 20, 1981, and reply comments on or before November 9, 1981.

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

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

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-579; RM-3818]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's

[1] *Public Notice* of the petition was given on January 27, 1981, Report No. 1267.

[2] Petitioner is licensee of Station KPSH, currently operating as a Class D 10 watt station (Channel 202).

[3] Population figures are taken from the 1980 U.S. Census, unless otherwise indicated.

Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-25294 Filed 8-28-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-581; RM-3825 & RM-3843]

FM Broadcast Station in Williston and Micanopy, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 221A to Williston, Florida, and FM Channel 249A to Micanopy, Florida, in response to petitions for rule making filed by Wanda N. Denny and Charles T. Woods, respectively. Both of these communities are presently without local aural broadcast service.

DATES: Comments must be filed on or before October 20, 1981, and reply comments on or before November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations (Williston and Micanopy, Florida, BC Docket No. 81-581, RM-3825, RM-3843.

Adopted: August 18, 1981.

Released: August 25, 1981.

1. Before the Commission are two separate petitions for rule making. Wanda N. Denny ("Denny") has requested the assignment of FM Channel 249A to Williston, Florida.[1] Charles T. Woods, ("Woods") has filed for the assignment of Channel 249A to Micanopy, Florida.[2] The assignment of Channel 249A to Williston can be made in compliance with the minimum distance separation requirements of Section 73.207 of the Rules. The assignment of 249A to Micanopy can be made to comply with a site restriction of .8 miles southwest of the city. Both Denny and Woods have stated that they will apply for the channel, if assigned.

2. *Community Data.* (a) Williston (population 2,240)[3] is located in Levy County (population 19,870) approximately 152 kilometers (95 miles) north of Tampa.

(b) Micanopy (population 737) is located in Alachua County (population 151,348) approximately 17 kilometers (11 miles) from Gainesville, Florida.

(c) Presently, neither Williston nor Micanopy has any local aural broadcast service.

3. Since the distance between Williston and Micanopy is only 13 miles and 65 miles is required for co-channel Class A channels, the two proposals are mutually exclusive.

4. A staff study shows that there are no other drop-in channels available to Micanopy. However, Channel 221A is available for assignment to Williston with a site restriction of approximately 7 miles west-northwest of the community. Any interest in this channel should include a showing that a transmitter located at this distance can provide the required 70 dBu signal over the city. We shall propose Channel 221A for Williston so that an FM assignment may be made to both communities.

5. Sufficient information has been submitted to justify assignment of a first FM channel to either community.

6. In view of the above, we find it in the public interest to explore the following amendment to the FM Table of Assignments, § 73.202(b) of the Commission's rules, for the communities below as follows:

City	Channel No.	
	Present	Proposed
Micanopy, Florida		249A
Williston, Florida		221A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

8. Interested parties may file comments on or before October 20, 1981, and reply comments on or before November 9, 1981.

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

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

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-581; RMs-3825 and 3843]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comment in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than

[1] Public Notice of the petition was given on January 27, 1981, Report No. 1267.

[2] Public Notice of the petition was given on March 9, 1981, Report No. 1273.

[3] Population figures are taken from the 1980 U.S. Census.

that, they will not be considered in connection with the decision in this docket.

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

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

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

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

[FR Doc. 81-26395 Filed 8-28-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-580; RM-3863]

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

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 221A to Fairfield, Texas, as that community's first FM channel. This action is in response to a petition filed by Freestone Broadcasting Company.

DATES: Comments must be filed on or before October 20, 1981, and reply comments must be filed on or before November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Fairfield, Texas), BC Docket No. 81-580, RM-3863.

Adopted: August 17, 1981.

Released: August 25, 1981.

1. *Petitioner, proposal, comments.* (a) A Petition for rulemaking [1] was filed by Freestone Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 221A to Fairfield, Texas, as that community's first FM assignment. No comments opposing the assignment have been filed.

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

(c) The petitioner has stated its intent to file for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Fairfield, the seat of Freestone County, is located approximately 132 kilometers (83 miles) southeast of Dallas, Texas.

(b) *Population.* Fairfield—3,505 [2] Freestone County—14,830.

(c) *Present Aural Service.* Neither Fairfield nor any other community in Freestone County has any broadcast station or channel assignment.

3. According to the petitioner, Fairfield's 1979 population was 4,200. The major employers of Fairfield include Texas Utilities Generating Company, Dow Chemical Company and Prince Fashions.

4. In light of the above, the Commission finds it in the public interest to explore the following amendment to the FM Table of Assignments, § 73.202(b) of the Commission's rules.

City	Channel No.	
	Present	Proposed
Fairfield, Texas		221A

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

6. Interested parties may file comments on or before October 20, 1981, and reply comments on or before November 9, 1981.

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

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

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-580 RM-3863]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments

[1] Public Notice of petition was given on March 27, 1981, Report No. 1277.

[2] Population figures are taken from the 1980 U.S. Census, unless otherwise indicated.

herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

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

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

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

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

[FR Doc. 81-25292 Filed 8-28-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-578; RM-3895]

Television Broadcast Station Alvin, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposed to assign UHF television Channel 67 to Alvin, Texas, in response to a petition filed by David Eugene Brown. The assignment could provide Alvin with its first local television service.

DATES: Comments must be filed on or before October 20, 1981, and reply comments must be filed on or before November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), *Table for Assignments,* Television Broadcast Stations (Alvin, Texas), BC Docket No. 81-578, RM-3895.

Adopted: August 17, 1981.

Released: August 25, 1981.

1. David Eugene Brown ("petitioner") has filed a petition for rule making [1] seeking assignment of UHF television Channel 61 [2] to Alvin, Texas, as that community's first television assignment. The assignment as modified below (see footnote 2, *supra*), could be made in compliance with the minimum distance separation requirements of § 73.610 of the Commission's rules. An opposition to the proposal was filed by the K-RAM Corporation, to which the petitioner did not respond.

2. Alvin (population 10,671),[3] in Brazoria County (population 108,312), is located approximately 40 kilometers (25 miles) south of Houston.

3. While the proponent indicates that Alvin presently is devoid of any local television service and states there is a need for such, he has failed to set forth in the proposal required demographic and economic information with respect to Alvin to demonstrate the actual need for the proposed assignment. Therefore, petitioner should supply this date by the date established herein for filing comments, together with his stated commitment to apply for the channel, if it is assigned to Alvin.

4. In order to give further consideration to the request, the Commission proposes to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Alvin, Texas		67

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

6. Interested parties may file comments on or before October 20, 1981, and reply comments on or before November 9, 1981.

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

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

(Secs. 4, 303, 48 stat., as amended, 1066, 1982; (47 U.S.C. 154, 303.))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-578 RM-3895]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in

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[1] *Public Notice* of the petition was given on May 20, 1981 (Report No. 1287).

[2] A proposal to assign Channel 61 to Houston, Texas, was filed by the K-RAM Corporation in RM-3814, and, in order to avoid a conflict, a staff study was undertaken and a determination made that Channel 67 may be assigned to Alvin, in lieu of Channel 61, thus allowing the individual consideration of the two proposals.

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

reply comments. (See § 1.420(d) of the Commission's rules.)

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

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

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

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

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

[FR Doc. 81-25290 Filed 8-25-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-566; RM-3868]

FM Broadcast Station in Fairmont, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of FM Channel 232A to Fairmont, West Virginia, as that community's second FM assignment. This action is in response to a petition filed by J. Robert Hanway.

DATE: Comments must be filed on or before October 19, 1981 and reply comments on or before November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Fairmont, West Virginia), BC Docket No. 81-566, RM-3868.

Adopted: August 11, 1981.

Released: August 26, 1981.

1. *Petitioner, proposal, comments.* (a) A petition for rulemaking [1] was filed by J. Robert Hanway ("petitioner") proposing the assignment of Channel 232A to Fairmont, West Virginia. Comments opposing the assignment were filed by Earl Judy, Jr., licensee of Station WFGM(FM), Fairmont. Reply comments were submitted by the petitioner.

(b) The proposed channel can be assigned to Fairmont in compliance with the minimum distance separation requirements with a site restriction of 1.2 miles west of Fairmont.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Fairmont, the seat of Marion County, is located approximately 24 kilometers (15 miles) southwest of Morgantown, West Virginia.

(b) *Population.* Fairmont—26,093,[2] Marion County—61,356.

(c) *Present Aural Broadcast Service.* Fairmont is currently served by two full-time AM stations and by FM Station WFGM (Channel 250).

3. *Economic Considerations.* According to the petitioner, the population of Marion County, based on preliminary 1980 figures, has increased from 61,356 in 1970 to 63,976 in 1980, a 4.3% increase. Petitioner also claims that Fairmont, the largest city in Marion County, serves as "the hub of economic activity" for the county.

4. *Preclusion Study.* Petitioner failed to submit a preclusion study showing the area precluded from the use of Channel 232A by its assignment to Fairmont. He should do so in his comments. Petitioner should also submit a list of alternate channels available to precluded communities of greater than 1,000 population.

5. In its opposition, Judy recites a history of FM assignments to Fairmont, noting that the Commission deemed it inappropriate to assign Class A channels on two occasions. In 1965, the Commission replaced a Class A channel with a Class B channel. Due to the rugged terrain, a Class A station's coverage area is limited and thus is at a disadvantage with other stations operating in the area. Later, in 1976, another Class A channel was deleted from Fairmont and reassigned to Waynesburg, Pennsylvania, where an interest was expressed for its use. The decision in that case also noted that the deletion of the Class A station terminated an undesirable intermixture situation. Finally, Judy argues that Fairmont is already well served by several other area stations in addition to its own local station.

6. In reply, petitioner asserts that Judy's opposition is merely an attmept to delay competition. Past decisions which deleted Class A channels from Fairmont were based on the lack of interest in a Class A station until now, according to petitioner. However, we are told, intermixture is only undesirable in this type of situation to the extent that potential applicants are discouraged from applying to operate a Class A station. Petitioner emphasizes that he is interested in operating a Class A station at Fairmont and that fact provides the basis for the present assignment. Petitioner states that it finds the surrounding terrain to present no obstacle to its proposed Class A station.

7. Although the Commission has been concerned with intermixture at Fairmont in the past, the primary basis for deleting the two original Class A channels was the lack of interest, particularly where the channels could be used elsewhere. As long as there is an expressed interest in operating a Class A station in competition with an existing Class B operation, our policy is to permit the intermixture. Our previous description of the intermixture as undesirable refers to the fact that potential applicants would be discouraged in competing with an existing Class B station. However, the risk of operating a non-profitable station is entirely that of the potential applicant for a Class A station. We see no potential harm to the public interest in such a situation, only potential benefits.

8. Since Fairmont is within 402 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

9. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as to Fairmont, West Virginia, as follows:

[1] *Public Notice* of the petition was given on April 7, 1981, Report No. 1279.

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

City	Channel No.	
	Present	Proposed
Fairmont, West Virginia	250	232A, 250.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

11. Interested parties may file comments on or before October 19, 1981, and reply comments on or before November 9, 1981.

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

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

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket Nos. 81-566, RM-3868]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commissfon's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 81-25293 Filed 8-28-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Battery Explosions; Termination of Rulemaking

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

ACTION: Notice of termination of rulemaking.

SUMMARY: This notice terminates the NHTSA rulemaking proceeding concerning battery explosions. Since NHTSA began studying the problem of battery safety, significant changes have taken place in the design of motor vehicle batteries. The vast majority of batteries produced today are "maintenance-free," and include flame attenuator devices. Customer expectations are thus now tending to drive such changes as the agency was considering requiring, and these market forces are expected to result in safety benefits similar to those which rulemaking would achieve. Since the industry has moved toward such safer battery designs, and since sales competition is now maintaining acceptable levels of performance, the agency has determined that it is unnecessary to continue rulemaking in this area.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Kaehn, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1351).

SUPPLEMENTARY INFORMATION: In January 1977, the Consumer Product Safety Commission (CPSC) requested the National Highway Traffic Safety Administration to investigate injuries resulting from the explosion of motor vehicle batteries and to develop performance requirements to reduce the incidence of such explosions. The CPSC submitted an analysis prepared by its Bureau of Epidemiology's National Electronic Injury Surveillance System (NEISS) concerning battery-related accidents in 1976. That study indicated that there are approximately 10,000 battery-related injuries treated each year in hospital emergency rooms.

In response to that request, NHTSA studied the problem of battery explosions in a variety of ways. For example, the agency commissioned the Society of Automotive Engineers (SAE)

to undertake a research project concerning battery explosions. That study indicated, among other things that over 70 percent of the ignition sources leading to battery explosions start outside the battery. The agency considered establishing performance requirements and labelling requirements to reduce the incidence of battery explosions.

Since NHTSA began examining the problems of battery safety, however, significant changes have taken place in the design of batteries. Many companies now produce what are known as "maintenance-free" batteries. While that term defies precise definition since it is used for a variety of types of batteries, in many cases it is used to describe batteries which are sealed to the extent that water cannot be added. (No motor vehicle batteries can be completely sealed since there is a need to vent the gases produced by electrolysis.) Also, many manufacturers began producing a significant number of batteries whose vents contain flame attenuator devices.

Today, the vast majority of motor vehicle batteries produced are "maintenance-free" and contain flame attenuator devices. Because of these major changes in the design of batteries, which are expected to produce safety benefits, the agency has determined that it is no longer necessary to pursue this rulemaking proceeding. Indeed, it is likely that had the agency established performance requirements in this area, they would have required changes in battery design similar to those adopted voluntarily by many manufacturers. The agency does not consider it necessary to establish labelling requirements at this time since the CPSC currently requires a warning label on all wet-cell storage batteries, i.e., the type of battery used in motor vehicles.

The agency will continue to monitor any incidence of possible battery explosions to evaluate the safety assurance of the new types of batteries that are now being produced.

For the foregoing reasons, the NHTSA rulemaking proceeding concerning battery explosions is terminated.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: August 24, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-25199 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 81-11; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice is to ask for comments whether the National Highway Traffic Safety Administration should propose amendments to Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, to specify performance requirements and test procedures for aerodynamically designed headlamp systems, lightweight headlamp systems, increased candlepower output on the lower beam, and standardization of sizes of motorcycle headlamps.

The purpose of the notice is to investigate means that would improve fuel economy, at no expense to safety, enhance the safety of driving at night and under conditions of reduced visibility, and to insure an adequate supply of motorcycle headlamps for replacement purposes.

DATE: Comment closing date: November 30, 1981.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: On October 18, 1979, NHTSA denied the petition of Wagner Electric Corp. to allow an alternative vehicle headlighting system (44 FR 60194) noting, however, that it raised the possibility that use of smaller headlamp systems could contribute to improved fuel economy through reduction in weight and a more efficient aerodynamic vehicle design. The agency expressed its interest in exploring the possibility and announced its intent to issue a notice soliciting comments on alternative headlamp systems and appropriate photometrics. This is the basis of the present notice.

The notice also explores the possibility of an improved beam pattern on the low beam in the interests of international harmonization of standards. Finally, comments are requested on the issue of replacement headlamps for motorcycles.

Behind this Notice lies the continuing agency participation with such international groups as the International Standards Organization (ISO) and the Group of Rapporteurs on Lighting and Light Signalling (GRE) of the Economic Commission for Europe in a cooperative effort to standardize motor vehicle lighting systems. A primary goal of these groups is to remove unnecessary differences between countries that tend to serve as barriers to international trade. With the increasing trend towards international harmonization, both domestic and foreign manufacturers are advocating a new look at automotive headlighting. One impetus to an exploration of new headlighting concepts is the possibility that fuel economy could be enhanced by lighter weight headlamps and/or lessened wind resistance resulting from redesigning front ends incorporating headlamps of new designs.

Specifically, headlamps with contoured lenses mounted flush with the fenders have been used for many years on European automobiles. Such an aerodynamic design can reduce air drag, thereby improving the fuel efficiency of vehicles. In order to permit manufacturers to take full advantage of such a concept, the Federal lighting standard would have to be amended to allow headlamps of different shapes, angles and positions. Moreover, the European headlamps are not hermetically sealed and the latest data available, that covering vehicle inspection in 1979 in Germany, shows a deplorable increase in rejections for dull, corroded, and damaged headlamp reflectors; for example, in vehicles 2 years of age or less, rejections in 1979 increased almost 100 percent over 1976. Thus, the agency does not contemplate allowing other than sealed headlamps unless an acceptable corrosion test can be developed by industry.

Questions for which the agency seeks specific comments are:

1. A comparison of coefficients of drag between European automobiles with aerodynamic headlamp systems and European automobiles marketed with headlamp systems meeting Standard No. 108 (e.g., British Ford Escort/U.S. Ford Escort; Mercedes 500 SEL/Mercedes 380 SEL; British Rover/ U.S. Rover; French Peugeot 505/U.S. Peugeot 505). This agency is interested in wind tunnel test data or other engineering design data which relates to different headlamp configurations.

2. Means, other than by hermetic seal, by which headlamp reflector resistance

to corrosion can be assured and demonstrated.

3. The effect of proliferation upon the ability of European motorists to obtain a replacement headlamp, including cost factors attributable to lack of standardization.

A different path towards improved fuel economy may lie in plastic headlamps of currently acceptable dimensions, such as those made from polycarbonate. This material, which has one-third the weight of an equivalent amount of glass, can reduce the total weight of a four-headlamp system by up to 3 pounds. Plastic in general, however, do not offer the same resistance as glass to abrasion, chemicals, and distortion due to heat build up within the headlamp.

Questions for which the agency seeks specific comments are:

1. Test specifications appropriate for plastic headlamps to demonstrate,

a. resistance to abrasion,

b. resistance to chemicals,

c. resistance to distortion due to excessive heat build up.

d. relative cost factors associated with substitution of plastic for glass for weight reduction.

An additional approach to reducing weight and front end resistance would be the allowance of headlamps smaller than currently permitted, such as the two-lamp rectangular system covered by the Wagner petition, in which the lamps are identical in size to those used in a four-lamp rectangular system. The agency is willing to allow smaller headlamps as long as photometrics are adequately maintained and proliferation does not become a problem. NHTSA envisions the possible phase-out of headlamp types and sizes of lesser interest, while maintaining adequate provision for the replacement market, so that the number of systems available would continue to be limited.

Questions for which the agency seeks specific comments are:

1. The practicality of downsizing headlamps to reduce weight and improve fuel economy.

2. Photometrics appropriate for smaller headlamps.

3. Identification of existing headlamp systems which could be candidates for phase out.

The agency is also interested in improving existing headlamp systems through possible different beam patterns and increased candlepower on the lower beam. (The maximum permissible candlepower on the upper beam was doubled by an amendment to Standard No. 108 in 1978.) An improved beam pattern could combine both European and U.S. practices.

The agency seeks specific comments on appropriate new performance requirements for light intensity and light distribution for headlamp systems in the lower beam mode in order to provide drivers with better visibility without increasing glare that is uncomfortable or unsafe to other users of the roadway.

NHTSA is also interested in improvements in motorcycle headlighting. Standard No. 108 currently requires a motorcycle to have one headlamp but allows that lamp to be unsealed and of any size. The lack of seal allows disassembly of the lamp for immediate bulb replacement, an important factor when a vehicle has only one headlamp, but it also permits corrosion of the reflector. At least one European manufacturer has developed a headlamp that is sealed but whose design is such that the bulb may be replaced without disturbing the seal. Improved photometrics may be needed, as well as new methods of headlamp mounting and wiring. Improvements in headlighting for motor driven cycles such as mopeds and motor scooters appear called for.

Questions for which the agency seeks specific comments are:

1. Whether the current lack of standardization in motorcycle headlighting has resulted in a replacement problem for motorcycle owners.

2. The headlamps and combinations thereof that appear the most appropriate for standardization.

3. Suggested improvements in headlamp mounting and aiming.

4. Suggested improvements in upper and lower beam photometrics of motorcycle headlamps.

5. Suggested improvements in headlighting systems for motor driven cycles.

In evaluating each new passenger car and motorcycle headlamp design, the agency will always place the highest priority on the ability of the manufacturer to maintain the photometric performance of production lamps above the minimum levels specified in FMVSS No. 108.

This notice has been evaluated under EO 12221 and implementing departmental guidelines. Due to the agency's lack of data on particular points and to the uncertainty about the nature of any requirements or alternatives that might be adopted, the agency cannot now reach specific conclusions concerning the effects of the potential proposal. It is, however, highly unlikely that any proposal which might eventually be issued would be significant within the meaning of EO 12221.

The engineer and lawyer primarily responsible for the development of this notice are Marx Elliott and Taylor Vinson, respectively.

Interested persons are invited to submit comments on the notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and the disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that

interested persons continue to examine the docket for new material.

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

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 24, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-25301 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 81-05; Notice 2]

Low Tire Pressure Warning Devices; Termination of Rulemaking

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of termination of rulemaking.

SUMMARY: This notice terminates the rulemaking action begun by this agency when it published an advance notice of proposed rulemaking (ANPRM) requesting a comments on the appropriateness at this time of establishing a new motor vehicle safety standard on low tire pressure warning devices. The standard would have required that new motor vehicles be equipped with devices to warn the drivers of the vehicles when the pressure in any of the tires had fallen significantly below the recommended level. The comments received in response to he ANPRM indicate that the current warning devices fall into either of two groups, i.e., ones that have not been proven to be reliable in normal use and ones that would cost about $200 per vehicle. Further, an internal review of the comments and the underlying agency objectives suggest that this issue can be addressed as a consumer information issue first, before mandating any requirements.

FOR FURTHER INFORMATION CONTACT: Arthur Neill, Jr., Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2800).

SUPPLEMENTARY INFORMATION: Earlier this year, the National Highway Traffic Safety Administration (NHTSA) published an ANPRM seeking comments on the appropriateness of establishing a new Federal motor vehicle safety standard on low tire pressure warning devices (46 FR 8062; January 26, 1981). This new standard would have required that new motor vehicles be equipped with low tire pressure warning devices to warn the driver of the vehicle that the pressure in one of the tires had fallen significantly below the recommended operating pressure. Tires which are maintained at the proper inflation pressure are much less likely to experience a tire failure, reduce the fuel consumption of the vehicle, and have longer treadlife.

The ANPRM described two very different types of low tire pressure warning devices; i.e., the in-vehicle warning device and the on-tire warning device. The in-vehicle device has a monitor in each tire which relays information to a warning mechanism inside the vehicle, mounted on or under the dashboard. The comments received concerning these devices indicate that they are now being produced in limited quantities and that they have proven to be accurate and reliable. However, these devices would represent an aditional retail cost of about $200 for each passenger car if they were required. Such a cost increase cannot be justified by the potential benefits, although those benefits might be significant. Accordingly, the agency does not plan to give in-vehicle devices further consideration unless their cost is substantially reduced and their benefits are studied further.

The on-tire warning devices are much less expensive, costing about $5 for a passenger car. These devices attach to the valve stem of each tire and display a long red warning signal when the inflation in that tire falls significantly below the recommended inflation pressure. Comments received on these devices stated that they have not yet been developed to the point where they are accurate and reliable enough to be required, and also suggested that these devices are subject to road hazards, such as scuffing at curbs, ice, mud, etc.

In spite of these reported drawbacks, a major tire valve manufacturer (Schraeder Automotive Products) plans to begin high volume production of a tire valve that includes a low tire pressure warning indicator in June 1981. That company has indicated that it expects such valves to be widely used over the next few years. While a warning such as this would be useful to motorists who walk around their car to inspect their tires on a regular basis, NHTSA does not know whether these indicators would be carefully monitored by most drivers. NHTSA will monitor the sales and use of these devices and continue its efforts to develop information on the design, operation, and maintenance of low tire pressure warning devices.

Maintaining proper tire inflation pressure results in direct savings to drivers in terms of better gas mileage and longer tire life, as well as offering increased safety. It is possible that many drivers are not aware of these benefits, and that they would not allow their tires to run underinflated if they were made aware of the benefits. Accordingly, NHTSA is examining the feasibility and need for a consumer information program concerning the advantages of maintaining proper tire inflation levels. Such an information program, if successful, could obviate the need for any regulation in this area.

Issued on: August 24, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-25197 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1120

[Ex Parte No. 392]

Certificate To Construct, Acquire or Operate Railroad Lines; Application Procedures for a Certificate To Construct, Acquire or Operate Railroad Lines

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to modify our regulations regarding construction, acquisition or operation of railroad lines (49 CFR Part 1120). These revisions are being proposed in response to current transportation policy as reflected in recent legislation. In addition, we propose to revise the regulations to eliminate unnecessary and redundant informational requirements, and streamline our application procedures. In additibn, we propose to incorporate into the Code of Federal Regulations the rules for a certificate of designated operator which were adopted March 5, 1976, and the rules for a modified certificate of public convenience and necessity which were adopted on July 23, 1980.

DATES: Comments should be filed on or before October 15, 1981.

ADDRESSES: An original and 10 copies of comments should be submitted to: Section of Finance, Room 5417,

Interstate Commerce Commission,
Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Ellen D. Hanson, (202) 275-7245
or
Elaine Sehrt, (202) 275-7899.

SUPPLEMENTARY INFORMATION:

Subpart A—General Procedures

Under 49 U.S.C. 10901 a certificate of public convenience and necessity issued by this Commission is required before rail lines can be constructed, acquired, extended or operated. Section 10901 applies to both carriers and noncarriers. Noncarriers require Commission approval under section 10901 to construct, acquire or operate a rail line in interstate commerce. Existing carriers require approval under section 10901 only to construct or operate. (Acquisition of an active rail line by a carrier is covered by 49 U.S.C. 11343.)

Our existing regulations implementing section 10901 (formerly section 1(18)) were last reviewed in 1967, and appear at 49 CFR Part 1120 (1979). We propose to revise these regulations in this proceeding to reflect current policy, eliminate unnecessary and redundant informational requirements, and streamline our application procedures. The Staggers Rail Act of 1980, Pub. L. 96-448 (the Staggers Act), changed the standard to be applied in considering an application under 49 U.S.C. 10901.

Previously, we were to determine whether the public convenience and necessity require or will *be enhanced* by the proposal. This standard required an affirmative showing that there would be a gain or improvement from the proposal. Section 221 of the Staggers Act changed this standard; now to approve an application under section 10901 we need only find that the public convenience and necessity require *or permit* the proposal. This reflects a national policy to foster sound economic conditions in transportation and to insure effective competition and coordination between rail carriers and other modes of transportation (section 101 of the Staggers Act, enacting 49 U.S.C. 10101a(5)).

There are other statutory changes which necessitate revision of these regulations. The directive for expeditious processing of applications, expressed in the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210 (the 4-R Act), is reiterated in section 101 of the Staggers Act, enacting 49 U.S.C. 10101a(2). Another statutory change is the enactment of the National Environmental Policy Act of 1969. To implement that act, we have promulgated regulations which require notice to the public and the filing of detailed environmental information in a document separate from the application. See 49 CFR 1108, as revised by *Revision of Natl. Envi. Policy Act Guidelines*, 363 I.C.C. 653 (1980). These notice procedures and environmental information requirements duplicate certain requirements of the current regulations.

Finally, we believe that much of the information required under the current rules is either redundant or has not been sufficiently utilized by either the Commission or the parties to justify its submission.

Turning to specific changes, we propose deleting the term "extension" from the title as well as from general usage in these regulations. Originally the term "extension" was used to distinguish construction or acquisition of new line which required approval under section 10901 from spur, industrial or switching track which does not. However, since every "extension" is either an acquisition or a construction, use of the term is confusing and unnecessary. The title for this Part will be: Certificate to Construct, Acquire or Operate Railroad Lines.

We also propose to use waivers of informational requirements to tailor the general regulations to specific proposals. Waives have been used effectively in applications for rail consolidations (49 CFR Part 1111), and abandonments (49 CFR Part 1121), and generally in 49 CFR 1110.10. We encourage prospective applicants to review the informational requirements. Where the information called for is unavailable or not necessary or useful in analysis of the proposal, prospective applicants should seek an advance waiver, either on a permanent or temporary basis. However, if the information is clearly not applicable to the individual proposal, a waiver is not necessary and need not be sought.

No replies to a waiver petition will be permitted. We explained our waiver procedure recently in AB-1 (Sub-No. 113F), *Chicago and North Western Transportation Company—Abandonment Between Oelwein, IA and Randolph, MN* (not printed), decided April 8, 1981. At page 2 of that decision we stated:

> When we waive filing requirements for any type of information which applicants would otherwise be required to provide, we do not determine that future protestants will thereby be permanently denied access to the waived material. The waiver decision does not in any way consider the merits of an application. It is a preliminary determination that we will not reject as incomplete an application from which some otherwise-required information has been omitted. The adequacy of an initial filing to institute a proceeding is not normally a matter for adversary argument. Rather, it is an administrative matter, for our determination. When a request for advance guidance is made, we do not yet have an adjudicatory proceeding before us. Therefore, we do not require service of the request upon prospective parties to a future proceeding and do not permit argument from prospective parties.
>
> However, once an application has been filed, protestants have the opportunity to demonstrate that the waived information is relevant and necessary to full consideration of an issue in the proceeding, and that the record should be supplemented.[3] Thus, protestants are not deprived of due process by this procedure because they are entitled to seek the waived information after the application has been accepted.

[3] *Burlington Northern, Inc.—Control & Merger—St. L.*, 354 I.C.C. 182, 183 (1977).

We further propose a complete revision of our procedures for filing and processing applications. The current procedure requires an applicant first to file an abbreviated application; we then provide applicant with a notice of the filing and publish the notice in the **Federal Register**. Next, the applicant publishes the notice in newspapers of general circulation in the areas affected. Finally, applicant files a "return to questionnaire" which includes detailed information about the proposal.

This two-step application/return to questionnaire procedure results in the filing of duplicate information and lengthens the time required to process an application. Therefore, we propose to eliminate the return to questionnaire and incorporate this information in the application itself. Thus, the application should be complete when filed. In addition, we propose to delete the environmental information required under the current regulations at 1120.6. This information is duplicative of the information filed under the Environmental Regulations, at 49 CFR 1108.[1]

We propose modifying the notice procedure described above. A detailed summary notice of the proposal must be included in the application. Upon filing, the application will be assigned a docket number; the applicant will be notified of the number by mail (a self-addressed, stamped envelope must be attached to the application for this purpose). As soon as the docket number

[1] We note that our new Energy and Environment rules set up a procedure whereby a prospective applicant will consult with the Commission's Energy and Environment Branch, at least 6 months before filing an application, to begin the scoping process to identify environmental issues. Ex Parte No. 55 (Sub-No. 22), *Revision of Natl. Envi. Policy Act Guidelines*, 363 I.C.C. 653 (1980).

is supplied, applicant shall publish the notice of the application in the form prescribed (in proposed § 1120.10(f)). We would require only one newspaper publication (in each County involved), rather than the 3 required by the current regulations. The current regulations were adopted prior to the Environmental Regulations, which require extensive public notice. Thus, this change eliminates unnecessarily duplicative notice. Applicant must also serve the application upon certain State officers (see proposed § 1120.10(e)). As soon as practicable, we will either publish a summary of the application in the **Federal Register** [2] or reject the application if it is incomplete.

Written comments must be filed within 35 days after the application is filed. See proposed § 1120.10(g). On the basis of comments and the Draft Environmental Impact Statement, we will determine whether further hearing is needed; if so, we will issue an order setting the proceeding for either oral hearing or receipt of written statements (modified procedure). See 49 CFR 1100.43 *et seq.* If there is no opposition to the application, normally no additional evidence need be filed, and a decision will be reached using the information contained in the application.

The proposed rules also address the problem created when the constructing or acquiring applicant plans for another entity to operate the line. This type of arrangement is becoming more frequent. Both the construction/acquisition and the operation of the line require our approval under § 10901.[3] To avoid repetitious applications, a single application joined in by both parties should be filed, where possible. All relevant information concerning both the owner and the operator must be included.

Finally, Section 221(b) of the Staggers Act added section 10901(d), which provides that a rail carrier may not block construction of a rail line by refusing to let another carrier cross its property, under certain prescribed circumstances. Therefore, an applicant will be required to indicate if the proposed line will cross another rail line. If so, the applicant should include either an agreement permitting such crossing or a request for us to exercise our power to require the crossing.

[2] Section 10901 includes specific notice requirements concerning service upon certain State officers, publication in local newspapers and publication in the **Federal Register**.

Subpart B—Procedures for Designated Operators

A certificate under section 10901 is not required for operations conducted under section 304 of the Regional Rail Reorganization Act of 1973 (3–R Act) (as amended by the 4–R Act). That section applies to lines owned by the six bankrupt Northeast railroads which were not designated for transfer to Consolidated Rail Corporation (ConRail) and have not been sold to anyone else.

In *Continuation of Rail Service under Subsidy by Designated Operator*, 41 FR 10526 (1976), the Commission adopted implementing procedures whereby a designated operator providing service pursuant to a rail service continuation agreement under section 304 of the 3–R Act may commence and terminate operation in accordance with the terms of the agreement. The designated operator's certificate simply requires that, upon giving or receiving notice of termination of service or cancellation of the operating agreement, the railroad shall notify all patrons on the line. Although it need not seek our authority to commence or terminate operations, a designated operator is a rail common carrier subject to all other provisions of 49 U.S.C. Subtitle IV.[3]

The designated operator rules have never been included in the Code of Federal Regulations. Since the rules concerning designated operators are not readily available, both Commission staff and interested parties have spent considerable time in telephone conversations and in letter communications concerning these rules. Accordingly, we propose to codify the designated operator rules. The rules have been revised and edited for clarity and brevity, but the informational requirements remain the same as adopted in March 1976.

Subpart C—Modified Certificate

In *Common Carrier Status of States, State Agencies*, 363 I.C.C. 132 (1980), we exempted the acquisition and operation of rail lines abandoned or approved for abandonment and subsequently acquired by a State entity. Since petitions to reopen this proceeding are pending, we will not include the content of these rules in the Appendix. However, the final rules will include the rules for this Subpart, including any changes made upon reopening.

The proposed rules are set forth in the Appendix.

[3] However, we have exempted certain designated operators from some aspects of regulation. See *Exemption of Certain Designated Operators from § 11343*, 361 I.C.C. 379 (1979).

This action does not appear to have a significant effect on the quality of the human environment or energy consumption, and would have a positive impact on small business.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10901.

Decided: August 13, 1981.

By the Commission, Chairman Taylor, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Trantum did not participate.

Agatha L. Mergenovich,
Secretary.

Accordingly, it is proposed that 49 CFR Part 1120 be revised to read as follows:

Appendix

PART 1120—CERTIFICATE TO CONSTRUCT, ACQUIRE OR OPERATE RAILROAD LINES

Subpart A—Applications Under 49 U.S.C. 10901

Sec.

Subpart B—Certificate of Designated Operator

Subpart C—Modified Certificate of Public Convenience and Necessity

Authority: 49 U.S.C. 10321 and 10901.

Subpart A—Applications Under 49 U.S.C. 10901

§ 1120.1 Introduction.

(a) *When an application is required.* This subpart governs applications under 49 U.S.C. 10901 for a certificate of public convenience and necessity authorizing the construction, acquisition or operation of railroad lines. Noncarriers require Commission approval under section 10901 to construct, acquire or operate a rail line in interstate commerce. Existing carriers require

approval under section 10901 only to construct or operate, since acquisition of an active rail line by a carrier is covered by 49 U.S.C. 11343. We have exempted from these requirements the acquisition by a State entity of a rail line that has been approved for abandonment, as well as operations over these lines. See Subpart C of this Part. In addition, where appropriate, we have granted individual exemptions from these certification requirements. See 49 U.S.C. 10505.

(b) *Content of the Application.* Applications filed under this Subpart shall include the information set forth in §§ 1120.2 through 1120.9. The applicant must also comply with the Energy and Environmental Regulations, at 49 CFR Parts 1106 and 1108 (including consulting with the Commission's Energy and Environmental Branch at least *6 months prior to filing an application,* to begin the scoping process to identify environmental issues and outline procedures for analysis of this aspect of the proposal).

§ 1120.2 Overview.

(a) A brief narrative description of the proposal.

(b) The full name and address of applicant(s).

§ 1120.3 Information about applicant(s).

(a) The name, address, and phone number of the representative to receive correspondence corncerning this application.

(b) Facts showing that applicant is either a common carrier by railroad or has been organized to implement the proposal for which appoval is being sought.

(c) A statement indicating whether the rail line will be operated by applicant. If not, the operator which has been selected must join in the application, and provide all information required for an applicant. If the operator has not yet been selected, state who is being considered.

(d) A statement indicating whether applicant is affiliated by stock ownership or otherwise with any industry to be served by the line. If so, provide details about the nature and extent of the affiliation.

(e) If a corporation, submit:

(1) Date of incorporation and jurisdiction(s) under which incorporated.

(2) A list of officers, directors, and 10 principal stockholders of the corporation and their respective holdings. A statement whether any of these are officers, directors or major shareholders of other regulated carriers. Also a list of entities, corporation(s), individual(s), or group(s) who control applicant, the extent of control, and whether any of them control other common carriers.

(3) As *Exhibit A,* any resolution of the stockholders or directors authorizing the proposal.

(f) If a partnership or individual:

(1) Date and place where partnership was formed.

(2) The name and address of all general partners and their respective interests, and whether any of them control other carrriers.

(g) If applicant is an entity other than as described in paragraphs (e) or (f) of this section:

(1) Date and place of organization, and full description of the nature and objectives of the organization.

(2) Name, title, and business address of principals or trustee, and whether the entity controls any other common carriers.

(h) If applicant is a trustee, receiver, assignee, or a personal representative of the real party in interest, details about the appointment (including supporting documents, such as the court order authorizing the appointment and the filing) and about the real party in interest.

§ 1120.4 Information about the proposal.

(a) A description of the proposal and the significant terms and conditions, including consideration to be paid (monetary or otherwise). As *Exhibit B,* copies of all relevant agreements.

(b) Details about the amount of traffic and a general description of commodities.

(c) The purposes of the proposal and an explanation of why the public convenience and necessity require or permit the proposal.

(d) As *Exhibit C,* a map which clearly delineates the area to be served including origins, termini and stations, and cities, counties and States. The map should also delineate principal highways, rail routes and any possible interchange points with other railroads. If alternative routes are proposed for construction, the map should clearly indicate each route.

(e) A list of the counties and cities to be served under the proposal, and whether there is other rail service available to them. The names of the railroads with which the line would connect, and the proposed connecting points; the volume of traffic estimated to be interchanged; and a description of the principal terms of agreements with carriers covering operation, interchange of traffic, division of rates or trackage rights.

(f) The time schedule for consummation or completion of the proposal.

(g) If a new line is proposed for construction:

(1) The approximate area to be served by the line.

(2) The nature or type of existing and prospective industries in the area with general information about the age, size, growth potential and projected rail use of these industries.

(3) Whether the construction will cross another rail-line and the name and the name of the railroad(s) owning the line(s) to be crossed. If the crossing will be accomplished with the permission of the railroad(s), include supporting agreements. If a Commission determination under 49 U.S.C. 10901(d)(1) will be sought, include such request.

§ 1120.5 Operational data.

As *Exhibit D,* an operating plan, including traffic projection studies; a schedule of the operations; information about the crews to be used and where employees will be obtained; the rolling stock requirements and where it will be obtained; information about the operating experience and record of the proposed operator unless it is an operating railroad; any significant change in patterns of service; any associated discontinuance or abandonments; and expected operating economies.

§ 1120.6 Financial information.

(a) The manner in which applicant proposes to finance construction or acquisition, the kind and amount of securities to be issued, the approximate terms of their sale and total fixed charges, the extent to which funds for financing are now available, and whether any of the securities issued would be underwritten by industries to be served by the proposed line. Explain how the fixed charges will be met.

(b) As *Exhibit E,* a recent balance sheet. As *Exhibit F,* an income statement for the latest available calendar year prior to filing the application.

(c) A present value determination of the full costs of the proposal. If construction is proposed, the costs for each year of such construction (in a short narrative or by chart).

(d) A statement of projected net income for 2 years, based upon traffic projections. Where construction is contemplated, the statement should represent the 2 years following construction.

§ 1120.7 Environmental and energy data.

As *Exhibit H*, information and data prepared under 49 CFR 1108, and the *Revision of the Nat'l. Guidelines Environmental Policy Act of 1969*, 363 I.C.C. 653 (1980), and in accordance with *Implementation of the Energy Policy and Conservation Act of 1975*, 49 CFR Part 1106.

§ 1120.8 Additional support.

Any additional facts or reasons to show that the public convenience and necessity require or permit approval of this application. The Commission may require additional information to be filed where appropriate.

§ 1120.9 Notice.

A summary of the proposal which will be used to provide notice under § 1120.10(f).

§ 1120.10 Procedures.

(a) *Waivers.* Prior to filing an application, prospective applicants may seek an advance waiver either on a permanent or temporary basis, of required information which is unavailable or not necessary or useful in analysis of the proposal. However, if the information is clearly not applicable to the individual proposal, a waiver is not necessary and need not be sought. A petition must specify the sections for which waiver or clarification is sought and the reasons why it should be granted. No replies will be permitted.

(b) *Filing procedures.* The original and 5 copies of the application and all documents shall be filed with the Secretary. A $700 fee is required to file an application. (49 CFR 1002.2(d)(1).) Copies of documents shall be furnished promptly to interested parties upon request. The application shall include a stamped self-addressed envelope to be used to notify applicant of the docket number. Additionally, if possible, telephonic communication of the docket number shall be made.

(c) *Signatures.* The original of the application shall be signed by applicants (if a partnership, all general partners must sign; and if a corporation, association, or other similar form of organization, the signature should be that of its executive officer having knowledge of the matters and designated for that purpose). Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any persons controlling an applicant shall also sign the application.

(d) *Related Applications.* Applicant shall file concurrently all directly related applications (e.g., to issue securities, control motor carriers, obtain access to terminal operations, acquire trackage rights). All such applications will be considered with the main application.

(e) *Service.* As soon as the docket number is obtained, the applicant shall serve a conformed copy of the application by first class mail upon the Governor (or Executive Officer), Public Service Commission, and Department of Transportation of each State in which any part of the properties involved in the proposed transaction is located. Within 2 weeks of filing, applicant shall submit to the Commission a copy of the certificate of service indicating that all persons so designated have been served a copy of the application.

(f) *Publication.* Within 2 weeks of filing, applicant shall have published the summary of the application (prepared under § 1120.9) in a newspaper of general circulation in each county in which the line is located. The notice should inform interested parties that they must advise the Commission of their interest in the proceeding within 35 days of the filing of the application. Applicant must file an affidavit of publication immediately after the publication has been completed. The Commission will, as soon as practicable, either publish the notice summary in the **Federal Register** or reject the application if it is incomplete.

(g) *Public participation.* Written comments (with 5 copies) must be filed within 35 days of the filing of the application. Comments must contain the basis for the party's position either in support or opposition. Applicant must be served with a copy of each comment. On the basis of the comments and the assessment by the Energy and Environmental Branch, the Commission will decide if a hearing is necessary. A hearing may be either oral or through receipt of written statements (modified procedure). (See 49 CFR 1100.43 et seq.). If there is no opposition to the application, additional evidence normally need not be filed, and a decision will be reached using the information contained in the application.

Subpart B—Certificate of Designated Operator

§ 1120.11 Introduction.

A certificate of designated operator will be issued to an operator providing service pursuant to a rail service continuation agreement under section 304 of the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976. The designated operator (D–OP) may commence and terminate service in accordance with the terms of the agreement. When service is terminated the D–OP must notify all shippers on the line. To obtain a D–OP certificate, the information in this Subpart must be filed with the Commission.

§ 1120.12 Information about the designated operator.

(a) The name and address of the D–OP.

(b) If a new corporation or other new business entity, a copy of the certificate of incorporation or, if unincorporated, the facts and official organizational documents relating to the business entity.

(c) The names and addresses of all officers and directors, with a statement from each which indicates present affiliation, if any, with a railroad.

(d) Sufficient information to establish its financial responsibility for the proposed undertaking, unless the D–OP is a common carrier by railroad. The nature and extent of all liability insurance coverage, including insurance binder or policy number, and name of insurer.

§ 1120.13 Relevant dates.

The exact dates of the period of operation which have been agreed upon by the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated, in their lease and operating agreements.

§ 1120.14 Proposed service.

(a) A copy of all agreements between the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated.

(b) Any additional information which is necessary to provide the Commission with a description of:

(1) The line over which service is to be provided (e.g. U.S.R.A. Line); and

(2) All interline connections, including the names of the connecting railroads.

§ 1120.15 Information about offeror.

(a) The name and address of the offeror of the rail service continuation payment.

(b) Sufficient information to establish the financial responsibility of the offeror for the proposed undertaking, or if the offeror is a State or municipal corporation or authority, a statement that it has authority to perform the service or enter into the agreement for subsidy.

§ 1120.16 Procedures.

Upon receipt of this information, the matter will be docketed by the prefix initials "D-OP". Operations may commence immediately upon the filing of the necessary information (plus 3 copies). Although the designated operator will not be required to seek and obtain authority from the Commission to either commence or terminate operations, the designated operator is a common carrier by railroad subject to all other applicable provisions of 49 U.S.C. Subtitle IV. However, we have exempted designated operators from some aspects of regulation. See *Exemption of Certain Designated Operators from § 11343,* 361 I.C.C. 379 (1979).

Subpart C—Modified Certificate of Public Convenience and Necessity

§ 1120.21 Scope of rules.

These special rules apply to the operations over abandoned rail line, which has been acquired (through purchase or lease) by a State. The rail line must have been fully abandoned, or approved for abandonment by the Commission or a Bankruptcy Court. As used in these rules, the term "State" includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this section or a common carrier certificate under 49 U.S.C. 10901 and 49 CFR Part 1120.

§ 1120.22 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Interstate Commerce Commission. The acquisition by a State of a line approved for abandonment and not yet fully abandoned is exempted from the Commission's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under § 1120A.1 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. Subtitle IV, however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 I.C.C. 132.)

§ 1120.23 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Commission for a modified certificate of public convenience and necessity. Operations may commence immediately upon the filing; however the Commission will review the information filed, and, if complete, will issue a modified certificate notice. If an operator has an application pending under section 10901 at the time the rules become effective, it may file a request to convert the application to a modified certificate within 60 days of the effective date of these rules.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) the names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) sufficient information to establish the financial responsibility of the operator.

(2) Information about the prior abandonment, including docket number, status and date of the first decision approving the abandonment;

(3) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(4) A description of the service to be performed including, where applicable, a description of:

(i) the line over which service is to be performed;

(ii) all interline connections including the names of the connecting railroads;

(iii) the nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) any preconditions which shippers must meet to receive service.

(5) The name and address of any subsidizers, and,

(6) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator pursuant to the Commission's rules.

§ 1120.24 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be: (a) filed with the State and the Commission, and (b) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

[FR Doc. 81-25376 Filed 8-28-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 168
Monday, August 31, 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.

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Board of Certification; United States Courts of Appeals; Circuit Executive Meeting

AGENCY: Board of Certification, United States Courts of Appeals, Circuit Executive.

ACTION: Notice of meeting of Board of Certification in New York, New York on November 10, 1981 to interview applicants who are interested in being certified for the positions of circuit executive.

Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. Section 332 (f). While certification is a prerequisite for appointment as circuit executive, it does not insure employment.

A personal inteview with the Board is necessary for certification and the Board cannot reimburse candidates for attendant travel expense.

Details on how to apply may be had by writing to: Board of Certification, Federal Judicial Center, 1520 H Street NW., Washington, D.C. 2005.

The next meeting of the Board will be held in New York City on November 10, 1981. Applications must be received well in advance in order to be considered for a possible appointment on this date.

William E. Foley,

Secretary of the Board of Certification and Director, Administrative Office of the U.S. Courts.

[FR Doc. 81-25362 Filed 8-28-81; 8:45 am]

BILLING CODE 2210-01-M

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Changed Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Deleware Advisory Committee of the Commission originally scheduled for September 29, 1981, at the University of Delaware, Student Center, Newark, DE. (FR Doc. 81-23505 on page 40909) has been changed.

The meeting now will be held on September 22, 1981, beginning at 12:30 p.m. and will end at 3:30 p.m., University of Delaware, Student Center, Williamson Room, Academy Street, Newark, DE 19711.

Dated at Washington, D.C., August 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-25287 Filed 8-28-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping; Unrefined Montan Wax From the German Democratic Republic; Amended Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Amended Final Determination of Sales at Less than Fair Value.

SUMMARY: On July 28, 1981, we announced our determination that unrefined montan wax from the German Democratic Republic (GDR) is being sold in the United States at a weighted-average dumping margin of 6.58 percent.

We directed the Customs Service to require the posting of a cash deposit, bond, or other security in the amount of 6.58 percent of the ex-factory value of unrefined montan wax from the GDR for all entries, or withdrawals from warehouse, for consumption on or after that date.

We are amending our determination by directing the U.S. Customs Service to require the posting of a cash deposit, bond, or other security in the amount of 13.02 percent of the ex-factory value of unrefined montan wax from the GDR for all entries, or withdrawals from warehouse, for consumption.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3003.

SUPPLEMENTARY INFORMATION: Our notice of July 28, 1981 (46 FR 38555), stated that in constructing a value of montan wax from the GDR, we allocated to the wax a portion of certain processing costs which were shared by the various products which result from the high wax lignite that flows through the wax extraction process. We allocated these processing costs on the basis of the ratio of the weighted value of these products, namely, wax, briquettes, and electricity. After a review of the calculations, we have concluded that the value was overstated for the amount of electricity that could be produced by the lignite which is routed to the steam/electric generation plant. A recalculation of the product values has resulted in a change in the ratio used to allocate the common processing costs. We also made an adjustment in the calculation of the cost of steam. We used the caloric content of lignite in the GDR instead of that in the Federal Republic of Germany, the surrogate country, in order to more accurately reflect the physical characteristics of the raw material in the GDR. Using the corrected figures, we have revised the weighted-average dumping margin to 13.02 percent.

Accordingly, we are directing the U.S. Customs Service, effective upon the date of publication of this notice and until further notice, to require posting of a cash deposit, bond, or other security in the amount of 13.02 percent of the ex-factory value of unrefined montan wax from the GDR for all entries, or withdrawals from warehouse, for consumption on or after the date of publication of this notice. The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The cash deposit, bonds or other security on merchandise entered since the preliminary determination will remain in effect.

We have notified the International Trade Commission of this action.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

August 25, 1981.

[FR Doc. 81-25891 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-25-M

Memorial Hospital Medical Center of Long Beach; Consolidated Decision on Applications for Duty-Free Entry of Election Microscopes

The following is a consolidated decision on applications for duty-free entry of election microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81-00177. Applicant: Memorial Hospital Medical Center of Long Beach, 2801 Atlantic Avenue, Long Beach, CA 90801. Article: Electron Microscope, Model EM 109R with Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: See Notice on page 27745 in the **Federal Register** of May 21, 1981. Article Ordered: January 7, 1981.

Docket Number 81-00179. Applicant: The Institute of Paper Chemistry, P.O. Box 1039, Appleton, Wisconsin 54912. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice of page 27745 in the **Federal Register** of May 21, 1981. Article Ordered: February 4, 1981.

Docket Number 81-00180. Applicant: Northwestern University Medical School, Department of Pathology, 745 N. Fairbanks Court, Chicago, IL 60611. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 28204 in the **Federal Register** of May 26, 1981. Article Ordered: March 13, 1981.

Docket Number 81-00196. Applicant: University of California, Pathology Department, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 31464 in the **Federal Register** of June 16, 1981. Article Ordered: December 27, 1979.

Docket Number 81-00199. Applicant: Princeton University, Department of Biology, Princeton, N.J. 08544. Article: Electron Microscope, Model JEM 100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 31464 in the **Federal Register** of June 16, 1981. Article Ordered: September 12, 1980.

Docket Number 81-00204. Applicant: Vanderbilt University, Nashville, Tennessee 37232. Article: Electron Microscope, Model H-600. Manufacturer: Hitachi Ltd., Japan. Intended use of article: See Notice on page 31466 in the **Federal Register** of June 16, 1981. Application received by Commissioner of Customs: April 20, 1981.

Docket Number 81-00207. Applicant: Mercy Hospital Medical Center, Sixth & University Avenues, Des Moines, IA 50314. Article: Electron Microscope, Model JEM 100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 31466 in the **Federal Register** of June 16, 1981. Article Ordered: February 6, 1980.

Docket Number 81-00214. Applicant: Northwestern University, Materials Science Department, The Technological Institute, 2145 Sheridan Road, Evanston, IL 60201. Article: Electron Microscope, Hitachi Model H-700H and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: See Notice on page 31467 in the **Federal Register** of June 16, 1981. Article Ordered: January 7, 1981.

Docket Number 81-00227. Applicant: University of Wisconsin, Department of Anatomy, 1300 University Avenue, Madison, WI 53706. Article: Electron Microscope, Model JEM-100CX/SEGZ-4D. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 35327 in the **Federal Register** of July 8, 1981. Article Ordered: March 31, 1981.

Docket Number 81-00229. Applicant: Tulane University School of Medicine, 1430 Tulane Avenue, New Orleans, LA 70112. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 36223 in the **Federal Register** of July 14, 1981.

Docket Number 81-00234. Applicant: University of Florida, College of Engineering, Department of Materials Science & Engineering, Gainesville, Florida 32611. Article: Electron Microscope, Model JEM 200CX with Accessories. Manufacturer: Japan Electron Optical Lab., Ltd., Japan. Intended use of article: See Notice on page 36223 in the **Federal Register** of July 14, 1981. Article Ordered: March 31, 1981.

Docket Number 81-00237. Applicant: Ohio University, Department of Zoology and Microbiology, Irvine Hall, Athens, OH 45701. Article: ElectroMicroscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 36223 in the **Federal Register** of July 14, 1981. Article ordered: August 27, 1980.

Docket Number 81-00248. Applicant: Marine Biological Laboratory, Water Street, Woods Hole, MA 02543. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 37302 in the **Federal Register** of July 20, 1981. Article ordered: May 12, 1981.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Dometic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 81-25359 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-25-M

St. John Medical Center, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81-00319. Applicant: St. John Medical Center, 1923 S. Utica Avenue, Tulsa, Oklahoma 74104. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine biological material including human tissue, body fluids, cytology specimens and microbiological material, i.e. bacteria, viruses, fungi and chlamydiae. The ultrastructure properties of the above materials will be studied and correlated with other investigative procedures in the following research projects:

a. Study of kidney tissue to determine the ultrastructural alterations of immune mechanisms in the pathogenesis of glomerulonephritis.

b. Study of lung tissue to determine specific ultrastructural markers of malignant tumors.

c. Study of liver tissue to determine the role of viruses and viral particles in inflammatory liver diseases.

d. Study of cervical tissue to identify herpetic and condyloma viruses to establish their role as a factor in the etiology of cancer of the cervix.

e. Study of culture negative granulomatous lesions to determine etiological agents.

f. Identification and study of viruses that are not readily isolated by culture techniques.

g. Study of the role of fibrinogen in coagulation.

Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00320. Applicant: SRI International, Physical Sciences Division, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Pulsed Gas Laser Kits, Model K-9215 and Power Supply. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for studies of reactive mixtures of fuel and oxidants. Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00321. Applicant: Smithsonian Institution, Department of Anthropology, National Museum of Natural History, Mail Stop 112, Washington, D.C. 20560. Article: Electromagnetic Terrain Conductivity Meter, EM 31 with Spare Parts Kit. Manufacturer: Geonics Limited, Canada. Intended use of article: The article is intended to be used in identifying variation in soil resistivity associated with archaeological features. The article allows the applicant to circumvent costly test excavations at archaeological sites. On the basis of meter readings, contour plans are prepared showing patterns of changes on soil resistivity. These patterns can then be compared with patterns of known archaeological features such as underground tombs. Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00322. Applicant: Texas Tech University, Department of Industrial Engineering, Lubbock, TX 79409. Article: Respiration Gas Meter Model 59 with Accessories. Manufacturer: Gesellschaft Fur Geratebau, West Germany. Intended use of article: The article is intended to be used for investigation of the energy expenditures of underground miners while performing various tasks. Specifically, it will be used to measure ventilation volumes of underground miners while they perform various tasks such as roof bolting, shoveling, stoop walking, etc., that have been identified from survey questionnaires, and observation, as being physically demanding. A conversion equation can then be used to estimate the energy requirements for performing the various tasks. Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00323. Applicant: Medical University of South Carolina, 171 Ashley Avenue, Charleston, South Carolina 29425. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera and 100 Film Cassettes. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for ultrastructural studies of the nervous system and other tissues from a variety of biomedical experiments. The article will also be used for training in ultrastructure and methods of ultrastructural research for graduate students, postdoctoral follows and residents. Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00325. Applicant: University of Rochester, Laboratory for Laser Energetics, 250 East River Road, Rochester, NY 14623. Article: Neodymium Doped Laser Rods. Manufacturer: Hoya Optics, Japan. Intended use of article: The article is intended to be used as a match to heat a target or fuel pellet to temperatures comparable to those which exist on the sun's surface. The experiments to be conducted will consist of trying to understand the physics of fusion by varying any of the following:

(a) target composition and design,

(b) laser power incident on target, and

(c) focusing geometrics for target irradiation.

Application received by Commissioner of Customs: July 24, 1981.

Docket Number 81-00326. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Virtual Objective Aperture for Model HB5 Electron Microscope. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended use of article: The article is an accessory to an existing electron microscope manufactured by the same manufacturer which will be used for a wide range of material analysis by x-ray emission and electron energy loss spectroscopy as applied in electron microscopy. Application received by Commissioner of Customs: July 24, 1981.

Docket Number 81-00327. Applicant: Texas A&M University, (Department of Agriculture Engineering), College Station, Texas 77843. Article: Fermentation Ethanol Distillery. Manufacturer: Coulter Cooper & Brass, Ltd., Canada. Intended use of article: The article is intended to be used for studies of processes and feedstocks for production of ethanol and methods of utilization of ethanol for fuel use. The feedstocks studied will contain starch and/or sugar that may be fermented to produce ethanol. The ethanol produced has properties to make it usable as a liquid fuel. Application received by Commissioner of Customs: July 24, 1981.

Docket Number 81-00328. Applicant: La Jolla Cancer Research Foundation, 2945 Science Park Road, La Jolla, CA 92037. Article: Electron Microscope, Model H-600-2. Manufacturer: Hitachi Scientific Instruments, Ltd., Japan. Intended use of article: The article is intended to be used for the examination of cells and cellular material, from both humans and animals. Most of the experiments will involve determining the ultrastructure of cells. Of particular interest is studying the nature of extracellular matrix of cells, which is a complex arrangement of cellular products that are deposited outside the cell. The article will also be used to identify the distribution of various proteins on the cell surface and intracellularly. Application received by Commissioner of Customs: July 24, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-25357 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-25-M

University of Iowa, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Department of Commerce, Washington, D.C. 20230, on or before September 21, 1981.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 81-00294. Applicant: University of Iowa, University TEM Facility, Basic Science Building, Iowa City, Iowa 52242. Article: Electron Microscope, Model H-600-2 with Accompanying Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended to be used for a wide range of research projects including but not limited to the following:

(1) Study on the effects of acidic amino acids on the neonatal mouse and cat hypothalmus.

(2) Examination of the innervation of the dorsal horn in rat spinal cord.

(3) Investigation of urinary bladder lumen membrane structure during conditions of altered proton secretion.

(4) Comparative examination of normal lamb fetal kidney and hydronephrotic kidney due to induced ureter stricture.

(5) Ultrastructural examination of abnormal human urogenital surgical specimens.

(6) Electron microscopic evaluation on cerebrovascular permeability during acute hypertension.

(7) Fundamental studies of the rat brain following bilibrubin intoxication in a mutant rat.

(8) Three-dimenstional electron microscopic visualization of cytoskeletal structures in cultured mouse and chicken fibroblasts.

(9) Immunocytochemical localization of neuropeptides and their receptors in cultured rat brain cells.

(10) Investigation of linkage between cell surface receptor protein to intracellular cytoskeletal structures in chicken fibroblasts.

The article will also be used in training faculty, staff and graduate students in use of the electron microscope in the courses Introduction to Electron Microscope (218) and Biochemical Research Techniques (220).

Application received by Commissioner of Customs: August 4, 1981.

Docket Number 81-00314. Applicant: University of Lowell, College of Engineering, 1 University Avenue, Lowell, MA 01854. Article: Mobile Solar Test Facility, Model MSTF-1. Manufacturer: Solarfin Products, Ltd., Canada. Intended use of article: The article is intended to be used to teach basic engineering techniques in the course Mechanical Engineering Laboratory. Application received by Commissioner of Customs: July 17, 1981.

Docket Number 81-00329. Applicant: University of Illinois at Chicago Circle, Department of Physics, P.O. 4348, Chicago, Illinois 60680. Article: Excimer Laser Pumped Laser System with Accessories. Manufacturer: Lambda-Physik, West Germany. Intended use of article: The article is intended to be used to generate tunable radiation of highest spectral and spatial quality in the ultraviolet via harmonic generation, sum frequency mixing and coherent antistokes Raman scattering. This radiation, in turn, will then be amplified to obtain ultrahigh spectral brightness at 193 nm and 248 nm. Experiments will also include the development of a multiphoton pumped laser emitting below 100 nm, feasibility studies of VUV light source for plasma diagnostics and spectroscopic and kinetic studies relevant to XUV lasers. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81-00330. Applicant: Princeton University, Office of Research Administration, 509 South Building, P.O. Box 36, Princeton, New Jersey 08540. Article: DA3.02 Spectrophotometer with Subassembly. Manufacturer: BOMEM, Inc., Canada. Intended use of article: The article is intended to be used in performing pressure broadening and lineshape studies on the vibration-rotation spectroscopic transition of gases. The widths and shapes of the spectroscopic transitions will be examined with a high resolution spectrophotometer. These measurements will be performed at a number of different pressures and the widths of these transitions will be determined as a function of the gas pressure. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81-00331. Applicant: Montana State University, Bozeman, Montana 59717. Article: Surface Analysis System. Manufacturer: Leybold-Heraeus GMBH & Co., West Germany. Intended use of article: The article is intended to be used for studies of surfaces, thin films, and interfaces of various elements, organic and inorganic compounds, and adsorbed gases. Experiments to be conducted include preparation and reaction of materials in selected atmospheres followed by study using the available surface analysis techniques. The objectives pursued in the course of the investigations will be to obtain an understanding of the physics of surfaces and interfaces. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81-00333. Applicant: Ohio University, Athens, OH 45701. Article: Excimer Laser, Model TE-861S. Manufacturer: Lumonics, Inc., Canada. Intended use of article: The article is intended to be used for studies of hydrocarbon compounds known as knots and catenanes. The experiment to be conducted is laser photolysis of detergent solutions in which specially designed guest detergent precursors to the above compounds are suspended in

ordinary host detergents. On photolysis, the guest detergents will decarbonylate to form radicals which will then couple under the influence of the host micelle and form knots in theory. Catenanes and large rings will arise via side reactions. In addition, the article will be used in chemistry courses to teach practical organic research to undergraduates and graduate students. The current emphasis is on synthetic aspects of organic photochemistry. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81–00334. Applicant: University of Delaware, Department of Chemical Engineering, Newark, DE 19711. Article: Potentiostat with Accessories. Manufacturer: Santron, Sweden. Intended use of article: The article is intended to be used to determine automatically critical pitting and crevice corrosion temperatures while the metal specimens are polarized to a constant pre-set potential. The article automatically raises the temperature of the corrosive solution in pre-set increments and records the results. The article is used to train graduate students in corrosion research. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81–00335. Applicant: Washington University, Box 1105, Lindell and Skinker Campus, St. Louis, MO 63130. Article: Ion Microprobe. Manufacturer: Cameca Instruments, France. Intended use of article: The article is intended to be used for basic research in the area of space sciences, specifically for the study of the elemental and isotopic composition of a wide variety of materials ranging from terrestrial minerals to meteoritic and lunar samples to interplanetary dust particles collected in the upper atmosphere. Some of the experiments to be conducted will be the measurement of solar wind implanted ions in lunar samples and the search for isotopic anomalies in selected meteoritic mineral phases. In this way information will be obtained about the composition of the sun and its activity as well as about the processes and timescales important for the formation of the solar system. The educational use of the article will be the training of Ph.D. students in physics and the earth and planetary sciences. Application received by Commissioner of Customs: August 3, 1981.

Docket Number 81–00336. Applicant: University of New Orleans, Biological Sciences, Lakefront Drive, New Orleans, LA 70122. Article: Diamond Knife No. 263. Manufacturer: Venezolano DeLnv., Venezuela. Intended use of article: The article is intended to be used to cut ultrathin, plastic embedded sections for the transmission electron microscope. Application received by Commissioner of Customs: August 3, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–25356 Filed 8–28–81; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Placement of Cordell Bank, Calif., on the Marine Sanctuary List of Recommended Areas

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: Pursuant to the Guidelines implementing Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, (16 U.S.C. 1431–1434) NOAA announces the recommendation of Cordell Bank, off the coast of northern California, as a national marine sanctuary. NOAA has reviewed the information provided with recommendation in accordance with the site evaluation criteria stated in the General Marine Sanctuary Regulations (15 CFR Part 922) and finds that it meets the requirements for placement on the List of Recommended Areas (LRA). Therefore, NOAA is adding this site to the LRA. The LRA is a list of areas that have at least some potential for being designated a marine sanctuary. However, placement on the LRA is a preliminary step only and does not imply that a designation will occur. Information and comments will be requested on the feasibility and desirability of establishing this site as a national marine sanctuary before further steps are taken.

FOR FURTHER INFORMATION CONTACT: Rafael V. Lopez, (202) 634–4236.

ADDRESS: Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as national marine sanctuaries for the purpose of preserving or restoring their conservational, ecological or esthetic values.

In July 1981 the Office of Coastal Zone Management received a marine sanctuary recommendation from Cordell Bank Expeditions, a nonprofit scientific association dedicated to the exploration and description of Cordell Bank. The information provided with the recommendation included the reports of several visits to survey portions of the Bank. These surveys consisted of underwater dives to observe conditions and collect biological specimens and surface transects to refine depth contours. The dives were the first research-motivated human descents to the Bank and resulted in the collection and subsequent identification of over 100 species of plant and animal life.

Cordell Bank is an undersea elevation located 20 miles due west of Point Reyes, and approximately 50 miles west-northwest of San Francisco, California. The Bank lies on a seafloor plateau 300–400 feet deep and rises to within about 125 feet of the surface. Many uncharted pinnacles are found throughout the area. These shallow areas support extensive biological communities that form the basis for the recommendation.

Cordell Bank is being added to the LRA. The recommendation has been reviewed and found eligible for inclusion on the LRA by meeting the following site evaluation criteria stated in 15 CFR 922.21(b) of the marine sanctuary program regulations:

(1) *Important habitat on which any of the following depend for one or more life cycle activity including breeding, feeding, rearing young, staging, resting or migrating:*

(i) *Rare, endangered or theatened species.* Brown pelicans have been sighted at the Bank. Other valuable species include pinnipeds such as the California and Steller sea lions, which have been seen at the site, and cetaceans such as the gray whale, which is known to migrate along the California coast.

(ii) *Species with limited geographic distribution.* Examination of the specimens recovered from Cordell Bank resulted in the identification of many algal and invertebrate species whose presence at the Banks set new range and depth extension records.

(iii) *Species rare in the waters to which the Act applies.* The specimens also yielded a new genus of the algal family Delesseriaceae, a new species of scallop (*Chlamys Sp. nov.*) and a new diatom sub-species (*Entopyla incurvata var. nov.*). The diatom genus *Entopyla*

itself is very rare and not often found in these waters.

(iv) *Commercially or recreationally valuable marine species.* The combination of nutrient-laden water and an unusually high light level make for a rich biological community, as evidenced by the substantial number of recreational fishing boats that visit the Bank.

(2) *A marine ecosystem of exceptional productivity indicated by an abundance and variety of marine species at the various trophic levels in the food web.*

Over 100 different species of marine plants and animals were collected from an average depth of 150 feet. Because of the water depth, the dives were of short duration. Therefore the initial dives have consisted of general specimen collecting rather than systematic surveys to characterize the Bank. Subsequent expeditions will provide a more extensive picture of the Bank. Divers report that the bottom is heavily encrusted with marine organisms. Among the species identified are sponges, urchins, crabs, branching and solitary corals, anemones, snails, worms, starfish, kelp bass, rockfish, cod and sharks.

(5) *Distinctive or fragile ecological or geologic features of exceptional scientific research or educational value.*

The Banks unique position off the California coast, isolated by surrounding deeper waters and situated at the precipitous edge of the outer continental shelf, creates an unexpectedly productive habitat. Currents regularly produce periods of upwelling during which nutrient-rich waters rise to the surface and stimulate productivity. The many pinnacles, some rising to within 125 feet of the surface, provide a hard substrate where many sessile organisms can thrive. The unusually high light levels discovered during the first dives contribute to the uncommonly heavy, for that depth, plant growth. This abundance of light also appears to be responsible for the development of protective coloration in some of the deepwater mollusks found there.

Cordell Bank (CA) will be considered for Active Candidate status and possible future designation on the basis of further evaluation criteria, as stated in the regulations. Placement of this site on the LRA or selection as an Active Candidate does not establish any regulatory controls; rather it is a means by which NOAA acquires additional information on the characteristics of the site and encourages informal comments on the feasibility and disirability of sanctuary designation. Regulatory controls can be established only after the designation of a marine sanctuary in accordance with the regulations. LRA listing and Active Candidate status are prerequisites to designation as a marine sanctuary but they do not imply that designation will occur.

All interested persons or groups may submit information on this site. Before NOAA can name this, or any, site an Active Candidate extensive consultations with Federal agencies and other parties must be held. A notice soliciting comments concerning the feasibility of this site as a possible marine sanctuary will be published in the **Federal Register** before any further action is taken.

A copy of the recommendation is available for public review in room 330, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: August 25, 1981.

JoAnn Chandler,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 81-25348 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-08-M

Scientific Research; Issuance of Permit

On July 21, 1981, Notice was published in the **Federal Register** (46 FR 37538), that an application had been filed with the National Marine Fisheries Service by California Department of Fish and Game, Sacramento, California 95814, for a Scientific Research Permit to roto-tag and/or mark with pelage dye 520 harbor seals (*Phoca vitulina*) and to harass an unspecified number of harbor seals, California sea lions, and pilot whales.

Notice is hereby given that on August 26, 1981, the National Marine Fisheries Service issued a Scientific Research Permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to the California Department of Fish and Game subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 28, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-25364 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-22-M

Taking and Importation of Marine Mammals; Modification of Permit

Notice is hereby given that pursuant to the provisions of Section 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 336 issued to Richard H. Lambertsen, Woods Hole Oceanographic Institution on May 19, 1981 is modified in the following manner: Section A1. has been changed to read "An unspecified number of specimen materials from fin whales (*Balaenoptera physalus*), sei whales (*Balaenoptera borealis*), minke whales (*Balaenoptera acutorostrata*) and sperm whales (*Physeter catodon*) may be imported from Iceland, Norway, and Denmark." Section B1. is changed to include Norway and Denmark as sources of legally taken animals.

The Permit as modified and documentation pertaining to the modification are available for review in the following Offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 26, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-25363 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation, Commerce.

ACTION: Notice of public workshop to develop the technical requirements of a laboratory accreditation program for solid fuel room heaters.

SUMMARY: The Department of Commerce hereby announces that it will hold an informal public workshop to provide interested parties an

opportunity to participate in the development of technical requirements of a laboratory accreditation program (LAP) for solid fuel room heaters (Solid Fuel Room Heaters LAP) under the Procedures of the National Voluntary Laboratory Accreditation Program (NVLAP), 15 CFR Part 7b, as amended (46 FR 37029 (July 17, 1981)).

DATE: The workshop will start on Tuesday, October 13, 1981, at 9:30 a.m., and end on Wednesday, October 14, 1981, at 5:00 p.m.

ADDRESSES: The workshop will take place at the National Bureau of Standards, Gaithersburg, MD. On October 13, the workshop will be held in Lecture Room A, Administration Building. On October 14, the workshop will be in room A340, Metrology Building.

FOR FURTHER INFORMATION CONTACT: Dr. Gerald A. Berman, Room B06, Technology Bldg., National Bureau of Standards, Washington, D.C. 20234, phone: 301–921–2427. Persons who wish to attend the workshop should inform Dr. Berman at the above address or phone number not later than Thursday, 5:00 p.m., October 1, 1981, in order to allow enough time for mail delivery of preparatory documents for the workshop.

SUPPLEMENTARY INFORMATION: On March 17, 1981, the U.S. Department of Commerce (DOC) published in the **Federal Register** (46 FR 17073) the formal request from the U.S. Department of Housing and Urban Development (HUD) to establish a laboratory accreditation program (LAP) for solid fuel room heaters. That request was based on Underwriters Laboratories (UL) Standards UL 737 and 1482. After 60 days of public review of its request, HUD confirmed its desire to have DOC proceed with the LAP.

Before DOC can formally establish this LAP, the technical requirements for accrediting laboratories that test solid fuel room heaters must be developed. Information needed and issues to be discussed at the workshop include:

1. Precision and accuracy expectations for the test methods (*i.e.*, test methods contained in UL standards 737 and 1482);

2. Possible approaches to proficiency testing;

3. Necessary materials and protocols for assessing a laboratory's performance, including appropriate documentation;

4. The portions of the electrical and physical test methods which represent accreditable functions;

5. Potential for offering this LAP in two parts:

(a) Physical/fire tests and

(b) Electrical tests, including the testing of electrical components;

6. Supplemental information which will tailor the criteria (referenced in section 7a.19 of 15 CFR Part 7a, NVLAP Procedures and made applicable to Part 7b programs by section 7b.11(c) of 15 CFR) to the test methods to be included in this LAP (such supplemental information could include requirements for dimensions and geometry of test installation and specific auxiliary measurement apparatus such as read-out instrumentation for each test); and

7. Sources of assessors for this LAP and credentials or qualifications which assessors should possess.

The following procedures are established for the workshop:

1. *Purpose.* The purpose of the workshop is to provide all interested persons with an opportunity to participate in the development of the technical requirements of the Solid Fuel Room Heater LAP and to enable DOC to secure valuable expert advice to develop these requirements.

2. *Conduct of Workshop.* This workshop will be an informal non-adversary meeting. The presiding officer shall have the right to allocate the time available for discussion of each issue on the workshop agenda and to exercise such authority as may be necessary to insure the equitable and efficient conduct of the workshop and to maintain order.

3. *General Provisions.* This informal workshop will be open to the public. Summary minutes of the workshop will be prepared. A copy of those minutes will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW, Washington, D.C. 20230.

Dated: August 25, 1981.

Ernest Ambler,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 81-25336 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-BP-M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on EW; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on EW will meet in closed session 1 October 1981 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of the elctromagnetically controlled weapons employed or projected for employment by potentially hostile forces and identify electronic warfare countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with 5 U.S.C. App. I section 10(d)(1976), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

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

August 26, 1981.

[FR Doc. 81-25360 Filed 8-28-81; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50543; PH-FRL-1923-7]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits: 239–EUP–97. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of 1,500 pounds of the insecticide acephate on corn seed to evaluate control of cutworms. A total of 30,000 acres are involved. The program is authorized only in the States of Florida, Georgia, Illinois, Indiana, Iowa,

Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 4, 1981 to June 15, 1983. Temporary tolerances for residues of the active ingredient in or on corn grain, fresh corn, and corn forage and fodder have been established. (William Miller, PM 16, Rm. 403, CM#2, (703-557-7040))

100-EUP-68. Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409. This experimental use permit allows the use of 5,760 pounds of the insecticide chlordimeform on cotton to evaluate control of cotton insects. A total of 2,000 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from June 10, 1981 to June 10, 1982. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.285). (Jay S. Ellenberger, PM 12, Rm. 400, CM#2, (703-557-7024))

10182-EUP-24. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 0.06 pound of the rodenticide brodifacoum on rangeland to evaluate control of ground squirrels. A total of 300 acres are involved. The program is authorized only in the State of Montana. The experimental use permit is effective from June 26, 1981 to June 26, 1982. This permit is issued with the limitation that food animals not be allowed to graze the treated area. (William Miller, PM 16, Rm. 403, MC#2, (703-557-7040))

3125-EUP-168. Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 4,000 pounds of the fungicide β-([1,1'-Biphenyl]-4-yloxy)-α-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol on apples to evaluate control of apple scab, cedar apple rust, fly speck, powdery mildew, and sooty blotch. A total of 415 acres are involved. The program is authorized only in the States of California, Maine, Michigan, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin. The experimental use permit is effective from April 24, 1981 to December 31, 1982. A temporary tolerance for residues of the active ingredient in or on fresh apples has been established. If established tolerances are exceeded the crop must be destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 418, CM#2, (703-557-7060))

20954-EUP-18. Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304. This experimental use permit allows the use of 9.3 pounds of the pheromone gossyplure on cotton to evaluate control of pink bollworm. The total of 200 acres are involved. The program is authorized only in the States of Arizona and California. The experimental use permit is effective from May 18, 1981 to May 18, 1982. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cottonseed has been established. (Franklin Gee, PM 17, Rm. 401, CM#2, (703-557-7028))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: August 19, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-25320 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL-1923-6; Docket No. A-81-17]

Revised Motor Vehicle Compliance Program; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: On July 27, 1981, EPA announced in the **Federal Register** (46 FR 38404) a delay of the public workshop scheduled to discuss possible revisions to the motor vehicle compliance program. [The original announcement was in the June 29, 1981 **Federal Register** (46 FR 33365)]. The delay in holding the workshop was at the request of the Motor Vehicle Manufacturers Association and the Engine Manufacturers Association in order to allow additional time to prepare for the workshop. This notice announces the rescheduling of the workshop.

DATE: The workshop will be convened at 9:00 a.m., Wednesday, September 30, 1981 and reconvene at 9:00 a.m Thursday, October 1, 1981. Sessions will be adjourned at 5:00 p.m. each day or at a later time if necessary to complete the business of the workshop.

Requests to make a presentation should be submitted to EPA by September 21, 1981.

The record of the workshop will be left open for 30 days following the close of the workshop for subsequent written submissions and thus will close on November 2, 1981.

ADDRESS: The workshop will be held at the Holiday Inn, 1489 Jefferson Davis Highway, Arlington, Virginia 22202 (703) 521-1600. Supporting materials relevant to this workshop are available in Public Docket No. A-81-17. The docket is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Thomas M. Ball, U.S. Environmental Protection Agency, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4280.

SUPPLEMENTARY INFORMATION: On July 17, 1981, EPA provided an agenda (available in the docket) to parties who had indicated an interest in observing or participating in the workshop. This same agenda will be followed in the September 30, 1981 workshop.

Several manufacturers of heavy-duty engines and their association, the Engine Manufacturers Association, requested that a separate workshop be held for the heavy-duty manufacturers because of insufficient time to prepare for the July 29, 1981 meeting. Subsequently, the Motor Vehicle Manufacturers Association, on behalf of its member organizations, similarly requested a delay in the workshop to allow more adequate preparation. EPA will address both heavy-duty and light-duty issues at the September 30, 1981 workshop.

The supplementary information contained in the original workshop announcement (46 FR 33365) provides for an overview of the concepts for the revisions anticipated along with the general protocol to be followed during the workshop. This information will not be repeated in this notice. However, interested parties may obtain a copy of this information, along with the agenda, from the public docket.

Dated: August 19, 1981

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-25319 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-26-M

[WH-9-FRL-1911-8]

Territory of American Samoa; Water Programs; Determinations of Primary Enforcement Responsibility

This public notice is issued pursuant to Section 1413 of the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.),* and 40 CFR 142.10, published at 41 FR 2918 (January 20, 1976).

An application dated May 8, 1980, was received from the Chairman, American Samoa Environmental Quality Commission, requesting that the Territory of American Samoa be granted primary enforcement responsibility for public water systems in the Territory of American Samoa, in accordance with the provisions of this Act. The Office of the Governor submitted a revised copy of American Samoa's "Safe Drinking Water Regulations" following adoption of the regulations by the American Samoa Legislature on January 26, 1981. The revised regulation became affective on February 16, 1981. In response to comments by EPA, the Chairman of Samoa's Environmental Quality Commission, by letter dated May 29, 1981, agreed to make additional technical amendments to the regulations. These amendments became effective on July 13, 1981. Finally, the Attorney General for American Samoa, by letter dated June 10, 1981, confirmed American Samoa's authority to enforce and administer the Territory's Safe Drinking Water Act.

In response, I have determined that the Territory of American Samoa has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the Territory of American Samoa. The Territory—

1. Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

2. Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

3. Will keep such records and make such reports as required;

4. If it variances of exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Primary Drinking Water Regulations;

5. Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency conditions.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Executive Secretary, American Samoa Environmental Quality Commission, Office of the Governor, Pago Pago, American Samoa 96799;

Regional Administrator, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before September 30, 1981. A request for public hearing shall include the following information:

1. The name, address and telephone number of the individual, organization or other entity requesting a hearing.

2. A brief statement of the requesting person's interest in the Regional Administrator's determination and information that the requesting person intends to submit at such hearing.

3. The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for public hearing is made within thirty (30) days after this notice, a public hearing will be held. The Regional Administrative will give further notice in the **Federal Register** and in a newspaper or newspapers of general circulation in the Territory of American Samoa of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the Territory. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of that order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days after issuance of this initial notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: August 25, 1981.

Sheila M. Prindiville,

Acting Regional Administrator, Region IX, Environmental Protection Agency.

[FR Doc. 81-25321 Filed 8-28-81; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-587, File No. 20107-CD-P-2-80; CC Docket No. 81-588, File No. 22228-CD-P-2-79]

Fresno Mobile Radio, Inc. and Airsignal of California, Inc.; Memorandum Opinion and Order

Adopted August 20, 1981.

Released August 25, 1981.

In re application of Fresno Mobile Radio, Inc., CC Docket No. 81-587, File No. 20107-CD-P-2-80, for a construction permit to operate on frequencies 454.075 and 454.350 MHz at a new site at Hanford, California, as a modification to the facilities of DPLMRS Station KMD988; Airsignal of California, Inc., CC Docket No. 81-588, File No. 22228-CD-P-2-79, for a construction permit to establish facilities to operate on frequencies 454.075 and 454.350 MHz on DPLMRS Station KMA261 at Visalia, California; designating applications for consolidated hearing on stated issues.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Fresno Mobile Radio, Inc. (Fresno) [1] and Airsignal of California, Inc. (Airsignal). These applications are electrically mutually exclusive because they request the same frequencies in the same general area; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. Fresno and Airsignal have filed petitions to dismiss

[1] This application as originally filed by Hanford Mobile Radio, Inc That applicant later changed its name to Fresno Mobile Radio, Inc.

or deny each other's application. Responsive pleadings have been filed.

2. The following issues are before us for consideration:[2]

(a) whether Airsignal has demonstrated adequate public need for its proposed facilities;

(b) whether the Airsignal proposal would cause harmful electrical co-channel interference to Fresno's existing facilities;

(c) whether Fresno has demonstrated adequate public need for its proposed facilities; and

(d) whether the Fresno application is a "strike" application.

3. *Airsignal need.* Airsignal presents a § 22.516 traffic loading study for one existing VHF frequency and two existing UHF frequencies. Airsignal does not state that it is holding any orders for additional units. Section 22.516 of the Rules requires that traffic loading studies be made when an applicant requests additional frequencies. The VHF traffic loading study provided is relevant to the present application because more than 50% of the proposed reliable service contour is already being served by the existing VHF contour.[3] However, the VHF traffic loading study does not show sufficient loading to justify any additonal channels. The two UHF loading studies are not relevant to this application, and thus cannot affect our decision on this issue, because: (1) less than 50% of the proposed reliable service area contour is already served by the existing UHF contours; (2) less than 50% of the reliable service area contours of the UHF frequencies will be served by the reliable area contour of the pending application; and (3) the facility proposed will not serve a major market already served by the UHF frequencies. Thus, the proposed frequencies are not additional channels relative to the existing UHF frequencies. In any event, the UHF studies do not show sufficient loading to justify any additional channels, even when viewed in conjunction with the VHF loading study. As a result, we find that there exists a material and substantial question regarding whether there is a sufficient public need for the facilities proposed by Airsignal. Thus, we will designate for hearing an issue as to whether Airsignal has adequately demonstrated a need for the two channels.

4. *Interference.* Fresno argues that the Airsignal proposal would cause harmful electrical co-channel interference to Fresno's existing facilities. Although interference studies conducted in accordance with § 22.504 of our Rules and the Carey Report [4] show no harmful interference, Fresno argues that such interference will occur because irregular terrain causes the Fresno radio signal to extend far beyond the 39 dbu contour predicted by Carey into an area where the Airsignal proposal would interfere with it. Thus, in challenging the Airsignal proposal on the basis of interference, Fresno requests that we provided protection for its facilities beyond the 39 dbu contour predicted by Carey and contemplated by our Rules.

5. The Commission normally protects only the area specified in § 22.504 of our Rules. However, the Commission has recognized that there are situations that may call for propagation determinations at variance with the Carey Report. *Memorandum Opinion and Order,* Docket No. 15694, released August 15, 1967, 32 FR 12040 (August 22, 1967). In the Order the Commission stated:

> * * * We expect such requests to be supportd by extensive quantitative engineering field strength measurement data gathered over a significant geographic area and covering a substantial time period within each of the four seasons of the year.

In a Public Noitce [5] issued on May 2, 1980, the Chief, Mobile Services Division, Common Carrier Bureau, reiterated the Division's position that claims that an actual reliable service contour differs from that predicted by the Carey Report would be considered only if supported by the type of showing discussed above. Fresno has made no such showing. Thus we will not designate an issue involving interference against Airsignal, nor will we restrict any authority provided to it in any way because of the Fresno challenge.

6. *Fresno need.* The Fresno application presents no demonstration of public need. Instead, Fresno argues that no such demonstration is required because the proposed contours lie within existing contours for Fresno facilities operating on the same frequencies. However, Fresno concedes that in making this argument it has adjusted its existing contours to take into account irregular terrain and thus they do not conform to Carey. Fresno has not, however, provided us with the supporting data required where an applicant seeks propagation determinations at variance with Carey. *See* par. 5, *supra.* As computed in accordance with Carsey, considerably less than 50 % of the reliable service area contours of the proposed facilities are encompassed by the reliable service area contour of an existing transmitter on the same frequency. *See* our Public Notice dicussed in Footnote 5, *supra.* Thus, the Fresno application requests two new frequencies, but it includes no showing of a public need for those frequencies. As a result, we find that Airsignal has raised a material and substantial question regarding public need for the proposed facilities. Therefore, we will designate an issue for hearing as to whether Fresno has adequately demonstrated a need for any of the channels it requests.

7. *Strike application.* Airsignal argues that the Fresno proposal is a strike application. In support of this charge, Airsignal states that the application was filed 58 days after Airsignal applied for the same frequencies and that Fresno elected to request those frequencies, rather than other available ones, in order to obstruct the Airsignal application. In response, Fresno states that its instant proposal is for part of a system offering wide area service, and thus, that the frequencies proposed are the only ones which can accommodate the particular needs of the system.

8. The elements to be considered in determining whether a request is a strike application were set forth by the Commission in *Grenco, Inc.,* 28 FCC 2d, 66 (1971). The elements include: (1) the timing of the application; (2) the economic and competitive benefit occurring from the application; (3) the good faith of the applicant; and (4) questions concerning frequency allocation. A review of the Airsignal strike allegations relative to these *Grenco* criteria shows that the allegations raise no material or substantial questions on this issue. The mere fact that Fresno filed its application 58 days after the filing by Airsignal does not demonstrate that a strike application was filed. *See Camdem Broadcasting Inc.,* 36 FCC 776 (1964). In addition, the Airsignal charges regarding lack of good faith and frequency selection have been

[2] Airsignal also raised a financial qualifications issue against Fresno. However, applicants in the DPLMRS are no longer required to demonstrate their financial qualifications. *See Elimination of Financial Qualifications,* 82 FCC 2d 1152 (1980). Therefore, this issue is moot.

[3] See Public Notice entitled "Clarification of Existing Policy", Mimeo 002411, released July 27, 1981, wherein the Mobile Services Division explained its existing policy regarding classfication of applications for additional channels and fill-in transmitters.

[4] FCC Report No. R-6406 by Roger B. Carey, entitled "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service." Section 22.504(b) of our Rules includes charts for determining signal propagation identical to those found in the Carey Report.

[5] Public Notice entitled "Domestic Public Land Mobile Radio Service Procedures for Processing Construction Permit Applications for Base Stations in Areas of Irregular Terrain", Mimeo 20803, released May 2, 1980.

adequately answered by Fresno's explanation that the freqencies requested are the only ones available which could be used to provide the wide area service which Fresno intends to offer. Thus, we will not desigate an issue against Fresno regarding the filing of a strike application.

9. Accordingly, it is ordered, that the Petition to Dismiss or Deny filed by Fresno Mobile Radio, Inc., File No. 22228-CD-P-79, is denied, that the Petition to Dismiss or Deny filed by Arisignal of California, Inc., File No., 20107-CD-P-2-80, is granted in part and is denied in part, to the extent noted herein, and the application of Fresno Mobile Radio Inc., File No. 20107-CD-P-80, and the application of Airsignal of California, Inc., File No. 22228-CD-P-2-79, are designated for hearing in a consolidated proceeding, pursuant to Section 309 of the Communications Act of 1934, as amended, upon the following issues:

(a) to determine whether Fresno Mobile Radio Inc., had demonstrated a need for any of the frequencies it requests;

(b) to determine whether Airsignal of California, Inc. has demonstrated a need for any of the frequencies it requests;

(c) to determine on a comparative basis, the nature and extend of service proposed by each applicant, including the rates, charges maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) to determine on a comparative basis, the areas and populations that each appliant will serve within the prospective interference-free area within the 39 dBu contours,[6] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[7] and to determine and compare the need for the proposed services in said areas; and

(e) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

[6] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504 in which the ratio of desired-to-undesired signal is always equal to or greater than R in FCC Report No. R-6406, equation 8.

[7] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service areas for base stations engaged in two-way communications service on frequencies in the 450-460 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult Bureau counsel in an effort to submit joint technical exhibits.)

10. It is further ordered, That with respect to issue (a) the burden of proof and the burden of proceeding with the introduction of evidence are placed upon Fresno Mobile Radio, Inc.

11. It is further ordered, That with respect to the issue (b) the burden of proof and the burden of proceeding with the introduction of evidence are placed upon Airsignal of California, Inc.

12. It is further ordered, That with respect to issues (c) and (d), the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants as the issues affect them, and that the ultimate burden of proof with respect to issue (e) is similarly placed on each of the applicants.

13. It is further ordered, That the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

14. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

15. It is further ordered, That the applicants may avail themselves to an opportunity to be heard by filing with the Commission pursant to § 1.221(c) of the Rules within 20 days of the release hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

16. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Myron C. Pick,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-25289 Filed 8-28-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-528, etc.; File No. BPCT-5042, etc.]

Washington's Christian Television Outreach, Inc., et al.; Hearing Designation Order

Adopted: July 31, 1981.

Released: August 19, 1981.

In re applications of: Washington's Christian Television Outreach, Inc., Washington, D.C., BC Docket No. 81-528, File No. BPCT-5042; Century Communications, Inc., Washington, D.C., BC Docket No. 81-529, File No. BPCT-800117KE; Capital Communications of Washington, Inc., Washington, D.C., BC Docket No. 81-530, File No. BPCT-800118KF; Community Service Broadcasters, Inc., Washington, D.C., BC Docket No. 81-531, File No. BPCT-800118KH; Focus Broadcasting of Washington, D.C., Inc., Washington, D.C., BC Docket No. 81-532, File No. BPCT-800118KJ; Grant Broadcasting Corp., 533 Washington, D.C., BC Docket No. 81-533, File No. BPCT-800118KK; Kent of Washington, Inc., Washington, D.C., BC Docket No. 81-534, File No. BPCT-800118KL; Television Communications, Inc., Washington, D.C., BC Docket No. 81-535, File No. BPCT-800118KM; Urban Telecommunications Corp., Arlington, Virginia, BC Docket No. 81-536, File No. BPCT-800118KN; Washington Television, Inc., Washington, D.C., BC Docket No. 81-537, File No. BPCT-800118KO;WSCT-TV, Inc., Washington, D.C., BC Docket No. 81-538, File No. BPCT-800118KP;Metropolitan Television, Inc., Washington, D.C., BC Docket No. 81-539, File No. BPCT-800714KH; for construction permit; designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 14, Washington, District of Columbia.

2. Urban Telecommunications Corporation (Urban), Kent of Washington, Inc. (Kent), Focus Broadcasting of Washington, D.C., Inc. (Focus), Century Communications, Inc. (Century), Capital Communications of Washington, Inc. (Capital), Community Service Broadcasters, Inc. (Community) and WSCT-TV, Inc. (WSCT-TV) contemplate operating subscription television (STV) over their proposed facilities. Century, Capital, Community and WSTC-TV already have applications for STV authorizations pending before the Commission. STV is essentially an entertainment format comparable to other entertainment packages except that it is supported directly by viewers' subscriptions rather than by advertising revenues. In the *Second Report and Order in Docket 21502,* FCC 81-13 (released March 25, 1981) the Commission decided not to consolidate STV authorization requests with applications designated for hearing, where some propose STV operation and others conventional facilities. Accordingly, the STV authorization requests will not be consolidated for hearing in this proceeding.

3. Channel 14 is allocated to Washington, D.C. Eleven applicants have chosen Washington as their community of license. However, Urban Telecommunications Corporation has

proposed Arlington, Virginia as its community of license. Therefore, a 307(b) issue will be designated. The respective proposals, although for different communities, would serve substantial areas in common. Since the 307(b) issue may not be decisive, a contingent comparative issue will also be specified.

4. The applicants have proposed operation from several sites, and utilize different antenna heights and power. As a result, the approximate proposed Grade B contour service areas vary as much as 100%. Therefore, the area and populations which would receive grade B service from the applicants' proposed contours and the availability of other primary service to such areas and populations will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Prior to or on the "B" cut-off date, three applicants submitted complete engineering exhibits indicating they would place their transmitter on the grounds of the Kenwood Country Club. WSCT–TV and Grant proposed this site in their applications filed on January 18, 1980. On January 24, 1980 the Federal Aviation Administration issued a determination that the site was not a hazard to air navigation. Grant amended its application on May 8, 1980 to include the Notice of No Air Hazard. During the first few weeks of September, SJR Communications, Inc. (SJR), leasor of the Kenwood site, mailed all the applicants a letter notifying them that the Kenwood site was available and had received FAA clearance. On September 15, 1980, CSB submitted a complete engineering amendment designating the Kenwood site. Since three applicants submitted the engineering information required by Form 301, prior to or by the B cut-off date, they may accrue a comparative advantage, if one is warranted, from the use of the Kenwood site.

6. Focus and Capital notified the Commission of their intent to use the Kenwood site on September 15, 1980. Focus submitted revised engineering Sections V–C and V–G along with a statement by their consulting engineer that they had just received SJR's letter and had not had time to complete their engineering studies. Focus promised to submit the remaining information as soon as the study was completed. Capital did not submit a revised engineering exhibit. Instead, it stated it would utilize the Kenwood site, gave the site coordinates, mentioned the tower's proposed height above mean sea level, and indicated it would submit complete engineering exhibits. Capital stated SJR's letter provided its first notice that the site had received FAA approval. Focus submitted its supplementary engineering exhibits on October 16, 1980. It consisted of vertical plan sketches, vertical radiation patterns, topographic maps, profile maps, and maps depicting the grade A, B, and principal community service contours. Capital's revised Section V–C and V–G of Form 301, and other engineering exhibits were not submitted until December 9, 1980 as part of an Erratum and Addendum.

7. Kent was the last applicant to notify the Commission that it would use the Kenwood site. On September 30, 1980, two weeks after the cut-off date, Kent filed a letter announcing its intent to use the Kenwood site. The only engineering information provided was the site coordinates. Kent stated that it never received a copy of SJR's letter, and did not learn of the FAA approval until after cut-off when it reviewed other applicants' September 15, 1980 filings, after the cut-off date. On October 29, 1980, Kent submitted revised Sections V–C and V–G of Form 301, along with a new engineering study.

8. On October 6, 1980, CSB petitioned to reject Focus' and Kent's amendments. CSB stated that Focus' September 15, 1980 amendment was not substantially complete because it lacked a vertical plan sketch of the antenna noting height above ground, a vertical radiation pattern for beam tilted antenna, topographic maps, profile graphs, maps depicting transmitter locations, maps illustrating predicted contour coverage and an environmental statement. CSB alleges that these deficiences render amendment not substantially complete pursuant to § 73.3564. CSB argues that since it is not substantially complete it should be rejected pursuant to § 73.3522(a) of the Rules. CSB filed its petition before Kent had submitted its promised amendment. CSB states that neither Kent nor Focus should be able to show good cause because neither were diligent in determining that the site was available. It claims that Kent and Focus should have been coginzant of both the availability of the site and FAA approval in time to submit a complete revised engineering amendment prior to cut-off. It argues that since the site was proposed in January 1980 by two applicants, Kent and Focus should have been cognizant of the site's existence. Further, CSB argues that Grant's inclusion of the FAA determination in its file in May 1980, should have been sufficient to put Focus and Kent on notice of FAA approval five months before cut-off. Finally, CSB argues that since it was able to amend to the Kenwood site on the cut-off date, Kent and Focus should have been able to do so. CSB urges the Commission to reject Kent and Focus' amendments because by acceptance their comparative posture might be improved. Finally, CSB contends that acceptance of these late filed amendments would contravene the policies announced in *Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 209–210, 45 RR 2d 1220, 1227–1228 (1979), encourage filing of skeletal applications, and unnecessarily delay the processing of the Washington applications.

9. On December 17, 1980, WCTO objected, by letter, to Capital's Erratum and Addendum. In its addendum Capital submitted revised engineering Sections V–C and V–G of Form 301 and an engineering study for the Kenwood site. It also remedied several typographic errors. WCTO objected to Capital's Erratum, claiming Captial's comparative posture would be improved by the pleading. WCTO also claimed that the pleading was an amendment submitted under the pretext of being an erratum.

10. We find that Focus' amendment of September 15, 1980 was substantially complete when it was filed. The information provided by its amendment of October 16, 1980 was supplementary in nature. The predicted grade A, B, and community service contours could have been plotted utilizing the information supplied in the revised Sections V–C and V–G it submitted on the cut-off date. Since the applicant's September 15, 1980, amendment was substantially complete when filed, and was filed as a matter of right, applicant may improve its comparative posture by its acceptance. Therefore, that portion of CSB's Petition which urged the rejection of Focus' amendment will be denied.

11. Neither Capital nor Kent submitted substantially complete engineering amendments by or on the B cut-off date. Although Capital notified the Commission on the cut-off date that it would utilize the Kenwood site, its engineering showing was not substantially complete on that date. With the exception of site location, coordinates and antenna height, Capital failed to provide the engineering data required by Form 301, Sections V–C and V–G. Capital did not submit its revised engineering sections until December 9, 1980, almost three months after the B cut-off date. Kent did not notify the Commission that it would utilize the Kenwood site until two weeks after the B cut-off date. Kent's revised

engineering was not submitted until October 29, 1980. Since neither Capital nor Kent submitted substantially complete engineering amendments designating the Kenwood site, by or on the B cut-off date, neither applicant may improve its comparative posture by virtue of their amendments discussed above. *See, Mid-Florida Television Corporation*, 76 FCC 2d 158, 163, 46 RR 2d 1503, 1507 (1980); *Processing of Contested Broadcast Applications*. Both Capital and Kent state that the SJR letter provided them with the first indication that the site had received FAA approval. However, as CSB pointed out in its petition, two applicants had proposed that site in January of 1980, and in the same month the FAA had made a determination of no air hazard. In addition, in May, Grant submitted a copy of the FAA's determination of no air hazard. If either applicant had reviewed Grant's application in the five month interim between Grant's submission of the FAA document and B cut-off date, Kent or Capital would have had ample time to file a substantially complete engineering amendment before the B cut-off date had passed. Moreover, an applicant is expected to show sufficient concern in the selection of its antenna site to maintain an ongoing and up-to-date awareness of available locations. It is not unreasonable to expect applicants to learn the status of FAA air hazard determinations by diligently contracting the FAA or the owner of the site in question. The fact that SJR Communications, Inc., unilaterally sent applicants a letter disclosing its site's availability and announcing it had received FAA approval, does not provide these applicants with a time period from which diligence should be measured. Therefore we find that these post cut-off amendments were not in fact, filed diligently. However, we find it to be in the public interest to accept both Kent's October 29, 1980 amendment and Capital's December 9, 1980 amendment since their acceptance will result in more complete and accurate applications without delaying the processing of the applications.

12. On January 18, 1980, National Association of Business and Educational Radio, Inc. (NABER), filed an informal objection against Washington Chirstian Telecommunications Outreach, Inc.'s (WCTO), application. NABER submitted its letter to apprise the Commission of a potential interference problem between an applicant operating on Channel 14 and various land mobile licensees operating in Virginia, Maryland, and the District of Columbia. Due to the proximity of frequencies utilized by Channel 14 and land mobile services, a Channel 14 permittee who inadequately suppresses its secondary emissions could cause interference to land mobile services. The Commission requires permittees to avoid causing interference to other radio services. *See*, § 73.687(i)(1) of the Commission's Rules. Accordingly, the grant of a construction permit to any of the Channel 14 applicants will be conditioned to require the permittee to take adequate measures prior to program test authority, to prevent interference to land mobile stations in the 460–470 MHz band. To this extent the NABER informal objection is granted.

13. The *First Report and Order, Land Mobile Use of TV Channels 14 through 20* (Docket 18261), 23 FCC 2d 325 (1970), established mileage separation requirements between Channel 14–20 licensees and land mobile licensees. Reference points for transmitter sites were selected and the permissible grade B contour was defined by operation from those points at maximum height and power. In Washington, the reference point for Channel 14 is 38°53'51", 77°00'33". While none of the applicants propose this transmitter site, operating at their specified power and antenna height, they would not exceed the grade B contour prescribed in the *First Report and Order*.

14. *Century Communications, Inc.* Analysis of the financial data submitted by applicant reveals that $1,692,017 will be required to construct and operate the proposed staton for three months, itemized as follows:

Equipment down payment	$585,750
Equipment payments with interest, three months	144,267
Building	85,000
Miscellaneous	577,000
Operating Costs, 3 months	320,000
Total	1,692,017

Century plans to finance construction and operation with the following funds: a $2,810,312 convertible bond subscription, a $500,000 bank loan and $25,442 in existing capital.

15. It is unclear whether applicant has included in its cost estimate the expense of leasing land. Although it states it will lease land it fails to itemize that expense under either miscellaneous or three month operating costs. Accordingly, an issue will be designated to determine what the cost of leasing land will be, and what portion of it, if any, must be paid during the first three months of operation.

16. Applicant relies on $2,810,312 of net convertible bond subscriptions.[1] The applicant has submitted subsecription agreements for each of its 14 subscribers. Analysis of the balance sheets of these fourteen subscribers has revealed that Pauline Wechsler, Herbert M. Wechsler, Everett J. Gordon, Charles B. Fisher, Claudia Rayford, Drs. Charles and Roselyn Epps, Dr. George and Edna Jones, and Dr. Floyd and Sarah Keene do not have net liquid assets. Accordingly, their subscription agreements cannot by relied upon as a source of funding. However, six of Century's subscribers have documented that they have either sufficient net liquid assets or earmarked bank loans to meet all or part of their subscription agreements. Analysis of Jorge L. Lopez-Balboa's balance sheet reveals that he has sufficient net liquid assets to meet his $100,000 commitment. Drs. Edward and Frances Rankin have insufficient net liquid assets to meet their $125,000 subscription agreement. They have $25,500 in net liquid assets. While this sum is insufficient to meet their commitment, the applicant can rely on their documented net liquid assets. While George and Doris Hale have subscribed for $125,000 worth of bonds, analysis of their balance sheet reveals they have $115,124 in net liquid assets. Again, the applicant may rely on the lesser document amount. Steven E. Weschler and Peter K. Yeskel have each agreed to purchase $200,000 in bonds. Neither Mr. Wechler nor Mr. Yeskel have sufficient net liquid assets to purchase $200,000 worth of bonds. However, both have submitted bank letters which would meet their respective commentments. Since the bank letter restrict the use of funds to the construction and operation of the proposed station, they may be relied upon in lieu of net liquid assets. *Contemporary Television Broadcast, Inc.*, 46 FR 9202, January 28, 1981. Accordingly, the applicant may rely on $400,000 in bond subscriptions from Mr. Steven Weschler and Mr. Peter K. Yeskel. Dr. Major P. and Brenda Gladden have subscribed for $250,000 in bonds. Analysis of their balance sheet reveals that they do not have net liquid

[1] Applicant submitted bond subscription agreements totalling $2,875,000. Applicant states that in the first year it will pay out $258,750 in interest to the bondholders. To determine the interest applicant would pay its subscribers during the first three months, the yearly interest was divided by four. Century will pay out $64,688 in interest during the three month period. To arrive at the net value of the convertible bond subscriptions, the interest which Century will pay out during the first three months was subtracted from the total value of the bonds.

assets. However, the Gladdens have submitted a bank loan for $100,000. The loan earmarks the funds for the construction and operation of a television station in Washington. Since the bank loan is earmarked, it may be relied upon in lieu of net liquid assets. *Contemporary Television Broadcast, Inc.* Applicant may rely upon $100,000 from the Gladden's subscription agreement. In light of the above, Century may rely on $740,624 from its bond subscribers.

17. Applicant submitted a letter of intent from a bank evidencing its intent to loan applicant $500.000. Form 301, Section III, Page 3, requires a bank loaning an applicant funds provide a document showing: "* * * the amount of loan or credit, terms of payment or repayment of the loan, collateral or security required, and rate of interest to be charged." The bank letter applicant submitted mentions the amount of money it will lend but is silent as to rate of interest, the terms of repayment, and the collateral or security required. Accordingly, applicant may not rely on the bank loan to finance the construction and operation of its proposed station. However, applicant has demonstrated that it has $740,624 in subscriptions and $25,442 in existing capital. Accordingly, an issue will be designated to determine whether applicant can obtain the additional funds over the $766,066 necessary to construct and operate its proposed television station for three months.

18. *Community Service Broadcasters, Inc.* Analysis of the financial data submitted by Community reveals that $6,302,000 will be required to construct and operate the proposed station for three months, estimated as follows:

Equipment	$2,219,000
Building	1,250,000
Miscellaneous	1,781,000
Operating Costs 3 months	1,052,000
Total	6,302,000

Community plans to finance construction and operation with the following funds: a $6,000,000 loan from Golden West Broadcasters (GWB), $250,000 for legal expenses from GWB, a $350,000 STV franchisee fee from GWB, 4% of the gross monthly STV revenues from GWB and a $500,000 line of credit from a bank. The $6,000,000 loan, the $350,000 STV francisee fee, and the payment of 4% of gross monthly STV revenues are conditioned upon the grant of a construction permit and STV authorization. Since the grant of the construction permit and STV authorization are made independently, applicant cannot rely on these three sources of funding.[2] In addition, GWB failed to provide sufficient information to demonstrate it has sufficient net liquid assets to loan $6,000,000. Although it lists $9,934,321 as cash and short terms securities on its balance sheet, GWB did not provide sufficient information to demonstrate these were liquid assets. *See*, Form 301, Section III, page 3, Item 4(b). However, since the $250,000 for legal expenses is not conditioned on STV authorization, the applicant may rely on these funds to finance its proposal. In addition, applicant has available a $500,000 bank line of credit. Accordingly, an issue will be designated to determine whether applicant can obtain the additional $5,552,000 necessary to finance the construction and operation of its proposed station.

19. Ronald H. Brown, Vice-President and 14⅔% shareholder of applicant, is also the Chairman of the Board of Trustees, of the University of the District of Columbia (UDC). UDC operates a carrier current radio station,[3] WDUC, on its campus, within the District of Columbia. Due to the nature of carrier current radio service and its limited potential audience, it is not considered a broadcast interest for the purpose of the multiple ownership rule, § 73.636 of the Rules. Accordingly, no issue will be specified nor any condition imposed on the grant of a construction permit to applicant due to Mr. Brown's association with the University.

20. *Focus Broadcasting of Washington, D.C., Inc.* Analysis of the financial data submitted by applicant reveals that approximately $909,503 will be required to construct and operate the proposed station for three months estimated as follows:

Equipment down payment	$475,250
Equipment payments with interest 3 months	124,753
Miscellaneous	[1] 60,000
Operating Cost, 3 months	[2] 249,500
Total	909,503

[1] Installment sales payments on $21,000 of STL equipment are included in Equipment payments with interest, 3 months.
[2] Includes rent for studio, office and tower site.

To meet these expenditures Focus relied on Oak Communications, Inc. (OAK), for financial assistance. By three separate letters of intent Oak stated it would provide various amounts of money. However, on March 27, 1981, Focus amended its application to indicate that Oak was withdrawing its financial support. Focus did not propose any alternate sources of funding. Accordingly, an issue will be specified to determine whether Focus has $909,503 available to meet its estimated expenses.

21. *Grant Broadcasting Corporation (GBC).* Analysis of the financial data submitted by applicant shows that it will require $3,960,200 to construct the proposed facility and to operate for three months, itemized as follows:

Equipment	$2,662,000
Land	[1]
Building	250,000
Legal costs	150,000
Engineering costs	5,000
Installation costs	112,000
Miscellaneous costs	79,700
Operating costs (3 months)	701,500
Total	3,960,200

[1] Lease.

To meet these expenses, GBC relies upon $15,000 in existing capital, $150,000 in stock subscriptions, and a net bank loan of $4,250,000. Since the loan from its bank is more than adequate to cover it proposed expenses, analysis of GBC's other financial sources is not necessary.

22. Section 73.636(a)(1) sets out a policy against granting a television construction permit to an applicant with principals who, directly or indirectly own, operate, or control an AM or FM radio station licensed to the same community as its proposed television station. GBC states that Theodore Hagans, a director and 25 percent stockholder of the applicant, is also a director and 13 percent stockholder of Washington Community Broadcasting Co., licensee of WYCB, Washington, D.C. Due to Mr. Hagans' broadcasting interest in Washington, D.C., a one-to-market issue is presented. Note 8 of the Rule provides that applications for UHF television will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. The applicant states that Mr. Hagans will divest himself of his interest in and resign as a director of Washington Community Broadcasting Co., if GBC's application is granted. Therefor, a one-to-a-market problem is not raised. Accordingly, any grant of a construction permit to GBC will be conditioned on Mr. Hagans' divestiture of his interest in Washington Community Broadcasting Co.

23. *Television Communications, Inc. (TCI).* Analysis of the financial data submitted by TCI indicates that it will require $398,250 to construct and

[2] As an alternative, GWB has stated it would construct, equip, and prepare a complete UHF-STV station and lease it to the applicant. However, GWB conditioned the construction of the station on the grant of STV authority. Additionally, GWB has not documented it is financially qualified to construct and equip a station.
[3] Carrier current radio stations transmit their signal through metal conductors rather than over the air.

operate its proposed facility for three months, itemized as follows:

Equipment, 3 months [1]	$33,750
Land, 3 months	15,000
Building, 3 months	10,000
Legal costs	3,000
Engineering costs	1,500
Installation costs	20,000
Miscellaneous costs	15,000
Operating costs (3 months)	300,000
Total	398,250

[1] Applicant calculates it will make 5 monthly payments for equipment, land, and building costs during the period of construction and first three months of operation.

TCI has estimated its legal costs at $3,000. Since the applicant will be involved in a comparative hearing, this estimate seems unreasonably low. Accordingly, an issue will be specified to determine TCI's basis for its estimate for legal services.

24. To meet its expenses, TCI intends to rely upon $50,000 in existing capital and a $400,000 loan from Evangel Temple Television Outreach (ETTV). Form 301, Section III, page 3, item 4(b), requires any party (except an equipment manufacturer or financial institution) loaning an applicant more than one percent of its needed capital, to provide a balance sheet which indicates the party's ability to comply with the terms of the agreement. ETTV has not provided a copy of its balance sheet. ETTV states that it will place another mortgage on its Temple Building in order to secure $400,000 to lend to the applicant. A letter from a bank showing its willingness to lend funds to ETTV has not been submitted. Since ETTV has not demonstrated that it can fulfull its loan commitment, TCI cannot rely on the loan. However, TCI has demonstrated the availability of its $50,000 existing capital. Accordingly, financial issues will be specified to determine whether the applicant can obtain additional funds over and above the $50,000 mentioned above, to construct and operate as proposed.

25. *Urban Telecommunications Corporation.* Analysis of the financial data submitted by Urban reveals that it will require $2,175,000 to construct its proposed facility and operate for three months, itemized as follows:

Equipment (includes STL)	$1,890,000
Land	(1)
Building	20,000
Legal costs	20,000
Engineering costs	3,000
Installation costs	10,000
Miscellaneous costs [2]	232,000
Operating costs, 3 months	350,000
Total	2,525,000

[1] Lease.
[2] By its September 15, 1981 amendment Urban increased its estimated construction and operational expenses by $222,000. It did not itemize the source or sources of the increase. Accordingly, this unexplained increase has been included under miscellaneous costs.

26. To meet these expenses, Urban intends to rely upon a $4,000,000 loan from Sefel J. and Associates Ltd. (Sefel). Form 301, Section III, page 3, item 4(b) requires any party (except any equipment manufacturer or financial institution) loaning an applicant more than one percent of its needed capital, to provide a balanced sheet which indicates that party's financial ability to comply with the terms of the agreement. Sefel has not provided a balance sheet. Furthermore, Sefel has conditioned the availability of the funds on the grant of both the construction permit and the STV authorization and has also included a 30 day back-out clause. Since the availability of funds depends on a grant of an STV authorization, and STV authorization is granted independently from the grant of the construction permit, applicant cannot rely on the $4,000,000 to demonstrate its financial qualifications. In addition, the 30 day back-out clause also renders the loan indefinite. Sefel has retained the right to decide whether or not to fund applicant until 30 days after Urban is granted a license. However, without Sefel's assistance Urban could not construct its facilities and conduct the necessary engineering tests required before licensure. Moreover, the loan agreement does not comply with the requirements of Form 301, Section III, page 3, item 4(e), in that it does not specify the interest rate of the loan, the terms of repayment, and the collateral or security required. For the reasons specified above, applicant may not rely on the $4,000,000 loan from Sefel. Accordingly, a financial issue will be specified to determine if Urban has the $2,525,000 it needs to construct and operate as proposed.

27. *Washington Television, Inc. (WTI).* Analysis of the financial data submitted by applicant indicates that it will require $1,145,099 to construct its proposed facility and operate for three months, itemized as follows:

Equipment (down payment	$485,250
Equipment, 3 months payment	123,739
Land	(1)
Building	150,000
Legal costs	1,000
Engineering costs	1,000
Installation costs	150,000
Miscellaneous costs	65,400
Operating costs (3 months)	168,710
Total	1,145,099

[1] Lease.

28. WTI has estimated its legal costs at $1,000. This estimate seems unreasonably low since WTI's application is herein designated for a comparative hearing. Accordingly, an issue will be specified inquiring into the basis of WTI's estimate for legal services.

29. To meet its expenses, WTI relies upon $1,300,000 in loans from seven Minority Enterprise Small Business Investment Corporations (MESBICs).[4] Opportunity Capital Corporation (OCC) offers applicant a loan of $150,000. OCC conditions this proposed loan with the requirement that it receive warrants to purchase ownership in WTI. WTI has not indicated that it will accept this condition. Therefore, WTI may not rely on OCC's loan. Another MESBIC, North Street Capital Corp. (NSCC), proposes providing up to $150,000 for qualified leverage buy-outs, rather than providing a loan. Applicant has not indicated its willingness to be bought out. Therefore, WTI may not rely on NSCC's offer. Further, Vanguard Investment Company, Inc. (VICI), does not make a firm loan commitment. Its president proposes to recommend that VICI consider investing $200,000 in WTI. This is far too speculative to rely on as a source of funding. However, applicant may rely on loans totalling $800,000 from the four remaining MESBICs. Accordingly, financial issues will be specified to determine the availability of funds over and above the $800,000 indicated.

30. *WSCT–TV, Inc.* WSCT–TV, filed a petition for leave to amend on December 11, 1980, three months after the time to amend as a matter of right had expired. It amended its application to show that applicant's sole shareholder, Formula Telecommunications, Inc. (Formula), had acquired another shareholder, Mr. Erik H. R. Haldane. Mr. Haldane acquired 1.67% of the outstanding shares of common stock. In addition the amendment reflects a change of residence of WSCT's Vice-President of sales. WCTO filed an opposition on December 24, 1980. WCTO alleges that WSCT failed to establish that the amendment was promptly filed under §1.65, and that WCTO failed to show good cause under § 73.3522 since it failed to comply with § 1.65. WCTO also objects to WSCT's alleged failure to explicitly disclaim any possible comparative preference resulting from this amendment. WSCT filed its reply on January 8, 1981. WSCT concedes that it failed to report the ownership change within the 30 day period permitted by § 1.65. Applicant exceeded the 30 day period by 25 days. Applicant states that Mr. Haldane did not supply the applicant with the requisite biographical

[4] Minority Enterprises Small Business Investment Corporations are in the business of investing in and loaning money to minority enterprises. Their activities are overseen by the Small Business Administration. Accordingly, for the purposes of Section III, page 3, (4) we will consider MESBICs to be financial institutions.

information until November 5, 1980. Applicant's counsel states it did not receive the information, or know of the addition of Mr. Haldane, until November 17, 1980. Applicant urges the Commission to accept the amendment in light of the relatively short period of delay, the fact that the information was voluntarily submitted, and that there was no intent to mislead the Commission or gain any possible advantage as a result of the amendment. In light of the reasons given above, the amendment will be accepted. However, since the amendment was filed after the time to amend as of right has passed, the acceptance of amendment is conditioned upon applicant not gaining a comparative advantage as a result. WCTO's opposition will be denied.

31. Analysis of the financial data submitted by WSCT indicates that it will require $817,633 to construct its proposed facility and operate for three months. WSCT plans to finance the construction and operation with a net loan of $1,441,875 from Maryland National Bank (MNB), a $500,000 loan from Syncom Capital Corporation and pre-paid advance revenue totalling $360,000. The loan from MNB is being made to Formula Telecommunications, Inc. (Formula), the parent corporation and 100% owner of the applicant. Since the bank letter restricts (earmarks) the use of the funds to the construction and operation of a television station on Channel 14, in Washington, D.C., Formula will not be required to submit the financial data outlined in Form 301, Section III, page 3, item 4(b). *Contemporary Television Broadcast, Inc.* Since the loan from MNB is sufficient to cover the construction and operation of the proposed facility, further analysis of WSCT's financial sources is not necessary. Accordingly, a financial issue will not be specified.

32. *Metropolitan Television, Inc.* (Metropolitan). After the B cut-off list had been published, the Commission discovered that an "A" cut-off list containing Washington applicants had not been properly published in the **Federal Register.** To meet the publication requirement the Commission staff published a new "A" list, setting July 14, 1980 as the cut-off date. On July 14, 1980 Metropolitan Television, Inc., filed an application for a construction permit for Channel 14 in Washington, D.C. On September 15, 1980 Washington Christian Television Outreach, Inc. filed its petition to dismiss Metropolitan's application. Metropolitan filed two extensions of time to respond, on September 22, 1980 and October 8, 1980. On November 3, 1980 Metropolitan filed its opposition to WCTO's petition. WCTO submitted its reply November 18, 1980.

33. WCTO urges dismissal of Metropolitan's application since some of its principals allegedly had actual notice of the defective cut-off list. Petitioner cites *Way of Life Television Network, Inc.* v. *Federal Communications Commission*, 592 F. 2d 1356 (D.C. Cir. 1979) for the proposition that only parties without actual notice of the original cut-off date may file applications pursuant to a corrective cut-off list. WCTO also claims that § 0.445(e) of the Rules applies to cut-off lists and would bar those who had actual knowledge of the original cut-off list from applying when the corrective list was published.

34. In *Way of Life*, the court held that a party petitioning for waiver of the cut-off date would not be successful if it had actual knowledge of the defectively published date. Unlike in the *Way of Life* situation here the Commission, on its own volition, published a curative "A" list and subsequently Metropolitan filed its application. We find that in this situation the applicant's alleged actual knowledge is immaterial. To hold otherwise would require a substantial delay in the processing of applications to resolve the factual question of whether an applicant had actual knowledge. WCTO incorrectly sought to apply § 0.445 of the Rules to the instant case. Section 0.445 of the Rules outlines the publication requirements for Commission policy statements, orders, and opinions. It does not apply to cut-off lists. Cut-off lists and the requirement that they be published in the **Federal Register** are discussed in § 73.3572(c) of the Rules.[*] In light of the inapplicability of *Way of Life* and § 0.455 of the Rules to the instant case, WCTO's petition to dismiss will be denied.

35. Except as indicated by the issues specified below, the applicants are qualified to contruct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

36. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Century Communications, Inc.:

(a) Whether the applicant had included the cost of leasing land elsewhere in its cost estimates;

(b) In light of the evidence adduced pursuant to (a), what applicant's proposed station would cost to construct and operate for three months;

(c) The availability of additional funds over and above the $766,066 indicated; and

(d) Whether in light of the evidence adduced pursuant to (a) through (c), applicant is financially qualified.

2. To determine with respect to Community Service Broadcasters Inc.:

(a) Whether applicant has the additional $5,552,000 available necessary to finance the construction and operation expenses; and

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is financially qualified.

3. To determine with respect to Focus Broadcasting of Washington, D.C., Inc.:

(a) Whether it has $909,503 available to meet its estimated construction and operational expenses; and

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is financially qualified.

4. To determine with respect to Television Communications, Inc.:

(a) Whether its estimate of $3,000 for legal costs is adequate;

(b) Whether, in light of the evidence adduced pursuant to issue (a), what applicant's proposed station would cost to construct and operate for three months.

(c) Whether, it has the necessary additional funds over and above the $50,000 indicated, available;

(d) Whether, in light of the evidence adduced pursuant to issues (a) through (c), applicant is financially qualified.

5. To determine with respect to Urban Telecommunications Corporation:

(a) Whether it has $2,525,000 available for construction and operation of the proposed station;

(b) Whether, in light of the evidence adduced pursuant to issue (a), applicant is financially qualified.

6. To determine with respect to Washington Television, Inc.:

(a) Whether its estimate for legal expenses is adequate;

(b) In light of the evidence adduced pursuant to issue (a), construction and operational expenses.

(c) The availability of additional funds over and above the $800,000 indicated.

(d) Whether, in light of the evidence adduced pursuant to issues (a) through (c), applicant is financially qualified.

[*] By Commission action June 16, 1981 the Commission eliminated the requirement that cut-off lists be published in the **Federal Register.**

37. It is further ordered, That, any grant of a construction permit to Grant Broadcasting Corporation will be subject to the condition that Mr. Hagans divest himself of all interest in Washington Community Broadcasting Co.

38. It is further ordered, That, Washington Christian Television Outreach, Inc.'s petition to dismiss Metropolitan's application, Community Service Broadcasters, Inc.'s, petition to reject Kent and Focus's amendments, Washington's Christian Television Outreach, Inc.'s, opposition to WSCT-TV, Inc.'s, petition to amend, and Washington's Christian Television Outreach, Inc.'s, informal objection to Capital's amendment are denied.

39. It is further ordered, That, the grant of the construction permit is conditioned on the permittee taking adequate measures to provide interference protection to land mobile services in the 460–470 MHz band *prior to program test authorization.* No automatic equipment or program test authority will be permitted. Prior to conducting equipment tests, the permittee shall gain Commission approval of its plan to prevent undue interference to land mobile services. The permittee will be required to file a request for program test authority along with the license application, and document that objectionable interference will not be caused to land mobile services as a result of Channel 14 operation.

40. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

41. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-25288 Filed 8-28-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of 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 request 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 writting and received by the appropriate Federal Reserve Bank not later than September 19, 1981.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **Industrial National Corporation,** Providence, Rhode Island (mortgage banking, Wyoming): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination, sale, and servicing of residential mortgage loans. These activities would be conducted from an existing office in Murray, Utah, and the service area of this office will be expanded to cover the entire State of Wyoming.

2. **Industrial National Corporation,** Providence, Rhode Island (mortgage banking; Colorado, Idaho, Montana, Utah, and Wyoming): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination, sale, and servicing of commercial mortgage loans. These activities would be conducted from an existing office in Orem, Utah serving the States of Utah, Colorado, Idaho, Montana, and Wyoming.

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,** each a bankholding company whose principal office is in London, England (secured business lending; North Carolina): to engage through their subsidiary, BarclaysAmerican/Credit, Inc., ("BAC") 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 mortgage finance office located in Charlotte, North Carolina, serving customers in Charlotte and surrounding areas in North Carolina.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25335 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Central Wisconsin Bankshares, Inc.; Acquisition of Bank

Central Wisconsin Bankshares, Inc., Wausau, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The First National Bank at Neillsville, Neillsville, Wisconsin. 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 September 17, 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, August 10, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25336 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

First Equity Bancshares, Inc.; Formation of Bank Holding Company

First Equity Bancshares, Inc., Stewartsville, 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 100 per cent of the voting shares of First Bank of Stewartsville, Stewartsville, 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 at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 21, 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, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25341 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

First University Corp.; Formation of Bank Holding Company

First University Corporation, Houston, 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 percent, less directors' qualifying shares, of the voting shares of the successor by consolidation to First National Bank of West University Place, Houston, 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 September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25342 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Geneva Bancshares, Inc.; Formation of Bank Holding Company

Geneva Bancshares, Inc., Geneva, Alabama, 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 80.1 percent or more of the voting shares of The American Bank, Geneva, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25336 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Illinois Central Bancorporation, Inc.; Formation of Bank Holding Company

Illinois Central Bancorporation, Inc., Glen Ellyn, 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 per cent, less directors' qualifying shares, of the voting shares of the successor by merger to the First Security Bank of Glen Ellyn, Glen Ellyn, 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 September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25343 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

NBD Bancorp, Inc.; Acquisition of Bank

NBD Bancorp, Inc., Detroit, Michigan, 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 Wolverine State Bank, Sandusky, Michigan. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25339 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

NBD Bancorp, Inc.; Acquisition of Bank

NBD Bancorp, Inc., Detroit, Michigan, 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 The Roscommon State Bank, Roscommon, Michigan. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25340 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Pine City Bancorporation, Inc.; Formation of Bank Holding Company

Pine City Bancorporation, Inc., Pine City, Minnesota, 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 96 per cent or more of the voting shares of Pine City State Bank, Pine City, Minnesota. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25337 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Security Bancorp, Inc.; Proposed Retention of Central Computer Corporation

Security Bancorp, Inc., Southgate, Michigan, has 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 retain, through its wholly-owned subsidiary, SecureData Corp., Troy, Michigan, the voting shares of Central Computer Corporation, Gaylord, Michigan, and to merge Central Computer Corporation into SecureData Corp.

Applicant states that Central Computer Corporation engages in the following activities: (1) provide full data processing services as they may be required or desired by the six banks in the northern part of Michigan which formerly owned the Company; (2) to provide data processing services to any bank in northern Michigan that may wish to contract for such services; (3) to provide payroll service for any business firm in northern Michigan either through banks or directly, as appropriate; (4) to provide billing services to the medical industry through client banks or directly; (5) to offer to sell excess equipment capacity on a one-time and single use basis to the general public (not to exceed 5% of total capacity). These activities would be performed from offices of Applicant's subsidiary in Gaylord, Michigan, and the geographic area to be served is the entire State of Michigan. 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 interests, 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 Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 19, 1981.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Boad.

[FR Doc. 81-25334 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

Warner Bancorp, Inc.; Formation of Bank Holding Company

Warner Bancorp, Inc., Warner, 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 Security Bank, Warner, 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)).

Warner Bancorp, Inc., Warner, Oklahoma, 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 acquire voting shares of Warner Insurance Agency, Inc., Warner, Oklahoma.

Applicant states that the proposed subsidiary would act as agent for the sale of credit life, accident and health insurance directly related to extensions of credit by Security Bank. 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 interests,

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 woud 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 Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than September 17, 1981.

Board of Governors of the Federal Reserve System, August 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25333 Filed 8-28-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 139]

Baltimore Gas and Electric Co., the Maryland Public Service Commission; Proposed Intervention in Electric and Gas Rate Increase Proceeding

The General Services Administration (GSA) seeks to intervene in a proceeding before the Maryland Public Service Commission concerning the application of the Baltimore Gas and Electric Company for an increase in its electric, gas and steam rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Albert Vicchiolla, Assistant General Counsel, Transportation and Public Utilities Division, General Services Administration, 425 I Street, NW, Room 3001, Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20406), on or before September 30, 1981, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. (Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)).

Dated: August 19, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-25278 Filed 8-28-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-12]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Oklahoma Corporation Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Oklahoma Corporation Commission involving the application of the Oklahoma Gas and Electric Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: August 17, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-25283 Filed 8-28-81; 8:45 am]

BILLING CODE 6820-AM-M

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Executive Committee of the National Archives and Records Service Advisory Committee on Preservation will meet in room 105 on September 29, 1981 from 10:00 a.m. to 4:00 p.m., and September 30 from 9:00 a.m. to noon at the National Archives Building, Washington, D.C. The Executive Committee will discuss Subcommittee assignments for fiscal year 1982.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3195.

Dated: August 18, 1981.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-25279 Filed 8-28-81; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-72]

Southtown Tax Increment Redevelopment Project Area, Peoria, Ill.; Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that the City of Peoria, Illinois intends to prepare an Environmental Impact Statement (EIS) for the following project under HUD programs as described in the appendix to this Notice: Southtown Tax Increment Redevelopment Project Area. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., August 25, 1981.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on the Southtown Tax Increment Redevelopment Project Area

The City of Peoria, Illinois intends to prepare an Environmental Impact Statement for the project described below and solicits information and comments for consideration in the EIS.

Description: This 300 acre Southtown Area is bounded by 7th Avenue on the north and northwest, Kempf Boulevard on the east, Jefferson Avenue on the southeast and MacArthur Highway on the west. A portion of the site contains on-going redevelopment and development activities such as the Peoria School of Medicine, the Peoria Civic Center, and the Caterpillar Tractor Company Training Center. The remaining acreage will be assembled for commercial, public and semi-public uses and residential uses. A total of approximately 850 housing units are anticipated in the project area.

The proposed project may be assisted under the following Federal Programs: Community Development Block Grant and/or Urban Development Action Grant, and Section 8.

Need: It has been determined by the City of Peoria that the overall project exceeds the 800 threshold level for EIS's established by HUD.

Alternatives Perceived: Alternatives to be considered are: no project, accept project as proposed, accept project with conditions or modifications of project.

Scoping: Response to this Notice will assist in identifying data sources and significant environmental issues which the EIS should address.

Comments: On or before September 18, 1981, comments should be mailed to or delivered to: Rodney D. Haynes, Program Manager, Department of Community Development, City of Peoria, City Hall, Room 402, 419 Fulton Street, Peoria, Illinois 61602.

[FR Doc. 81-25297 Filed 8-28-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Quintana Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3411, Block 15, portion, 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 Office 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 governments, 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: August 24, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-25282 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Big Desert Grazing Final Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the final environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed grazing management program for the Big Desert Planning Unit of the Idaho Falls District in southeastern Idaho. The proposal includes changes in stocking rates, implementing improved grazing systems and installation of range improvements on approximately 1.1 million acres of public land. No action can be taken for at least 30 days following filing of this statement with the Environmental Protection Agency and the distribution to the public. Copies of the final environmental impact statement are available for review at the following locations:

Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529-1020

Idaho State Office Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 334-1770

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: O'dell Frandsen or Roger Wickstrom, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone: (208) 529-1020.

Dated August 24, 1981

Theodore G. Bingham,

Associate State Director, Idaho.

[FR Doc. 81-25326 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 81-35]

Proposed Grazing and Wilderness Management For The Cal/Neva Planning Unit, Eagle Lake Resource Area, Susanville District, California; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed intensive grazing management program for the Cal/Neva Planning Unit in Lassen County, California and Washoe County, Nevada. Management proposals are presented and analyzed for each of nine grazing allotments. Intensive Management will occur on eight of the allotments and less intensive management will occur on one allotment. The planning unit covers 797,925 acres, of which 81 percent is Federal land.

Comments on the final environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by to the District Manager, Susanville District, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130.

A limited number of copies of the final environmental impact statement are available upon requiest at the following offices:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484-4541

Susanville District Office, P.O. Box 1090, Susanville, California 96130, Telephone (916) 257–5381.

Copies of the final environmental impact statement will be available for public reading and review at the following locations:

Division of Rangeland Management, Bureau of Land Management, Interior Building, 18th & C Streets NW., Washington, D.C. 20240

California State Office (911), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telophone (916) 484–4541

Susanville District Office, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, Telephone (916) 257–5381.

Dated: August 24, 1981.

Bruce P. Conrad,

Acting State Director.

[FR Doc. 81-25923 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Apostle Islands National Lakeshore, Wisconsin Boundary Change

Section 7(c) of the Land and Water Conservation Fund Act of 1965, 16 USC 4601 et seq, added by Section 1(5) of the Act of June 10, 1977, 91 Stat. 210, 16 USC 4601–9(c), provides for publication of boundary changes in units of the National Park System.

The National Park Service in January 1980 acquired a tract of land in Bayfield County, Wisconsin. At its southern extremity, this tract is bisected by State Highway 13. That portion of the ownership lying south of State Highway 13 was not acquired. It was intended to amend the boundaries to delete approximately 19 acres of land lying south of the highway, including the county right-of-way, to provide the National Park Service with a more managable boundary. During negotiations, the landowner was advised of this intention and posed no objections. Accordingly, the boundary revision we are now proposing will delete this 19-acre privately owned parcel.

The Bayfield County Board has been advised of our intent and in turn has advised the National Park Service in writing that the county board was presented our letter. No objections was surfaced and the letter was filed.

Notice is given that the boundary of the Apostle Islands National Lakeshore is hereby changed by the deletion of certain lands. The change is delineated on map numbered 633–92, 002, dated February 1981.

A copy of the map is available for inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C.

August 15, 1981.

Donald Paul Hodel,

Acting Secretary of the Interior.

[FR Doc. 81-25908 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-70-M

Golden Spike National Historic Site Utah; Publication of Boundary Map

There is hereby published the official boundary map for Golden Spike National Historic Site, Utah, numbered 431–80,026 and dated December 6, 1978, as provided pursuant to section 7 of the Act of September 8, 1980 (Pub. L. 96–344; 94 Stat. 1133). The lands located within the boundaries of Golden Spike National Historic Site shall be administered in accordance with the statutes and regulations of the National Park Service which are generally applicable to areas of the National Park System.

Dated: August 21, 1981.

Russell E. Dickenson,

Director, National Park Service.

BILLING CODE 4310-70-M

[FR Doc. 81-25319 Filed 8-28-81; 8:45 am]

BILLING CODE 4310-70-C

Grant-Kohrs Ranch National Historic Site, Montana; Publication of Boundary Map

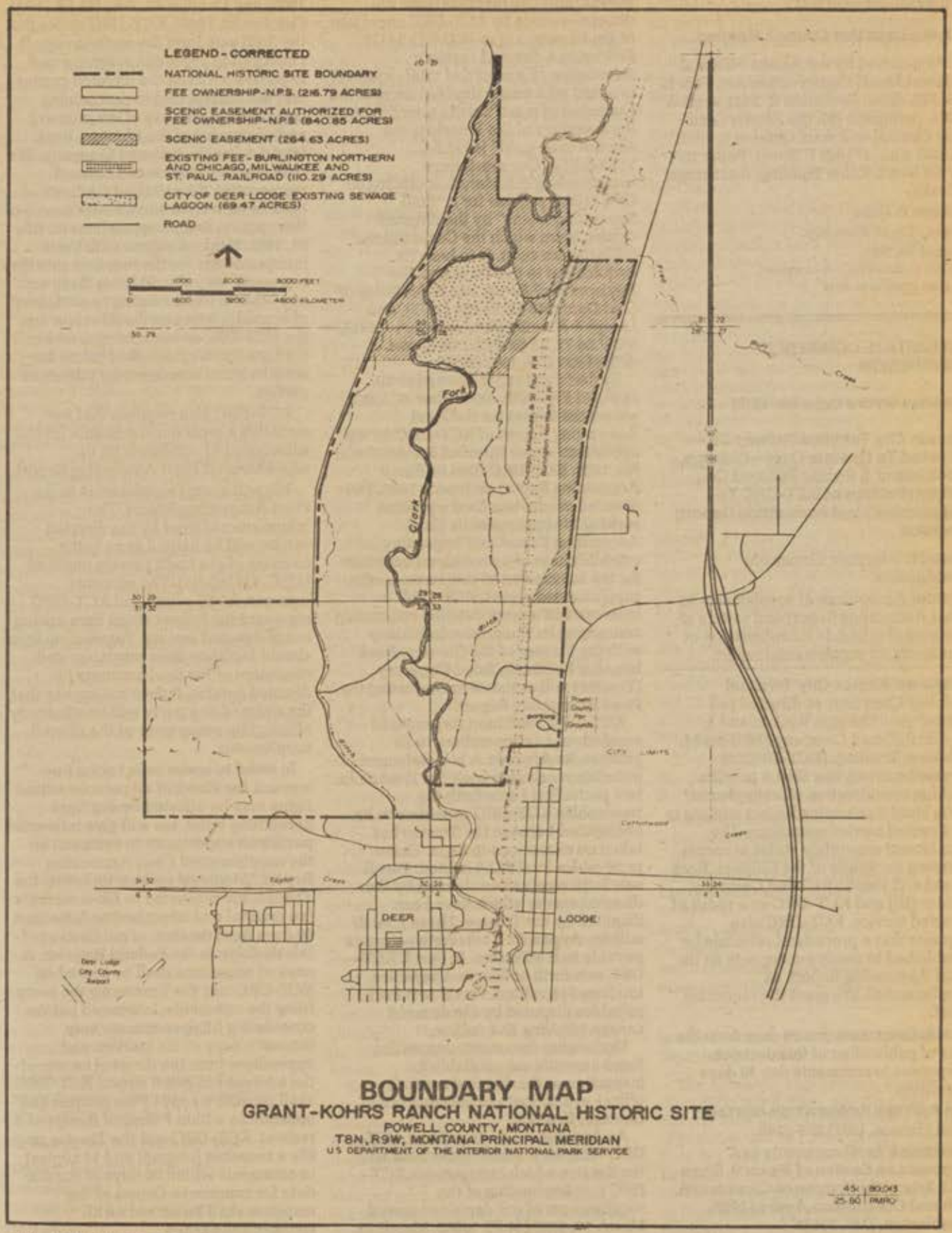
There is hereby published the official boundary map for Grant-Kohrs Ranch National Historic Site in Powell County, Montana, numbered 451–80,013 and dated January 25, 1980, as provided pursuant to Title XI of the Act of December 28, 1980 (Pub. L. 96–607; 94 Stat. 3539). The ownership of lands depicted on the aforesaid map are intended to represent their status once federal acquisition has been completed. The lands located within the boundaries of Grant-Kohrs Ranch National Historic Site shall be administered in accordance with the statutes and regulations of the National Park Service which are generally applicable to areas of the National Park System.

Dated: August 21, 1981.

Russell E. Dickenson,

Director, National Park Service.

BILLING CODE 4310-70-M



BOUNDARY MAP
GRANT-KOHRS RANCH NATIONAL HISTORIC SITE
POWELL COUNTY, MONTANA
T8N., R9W., MONTANA PRINCIPAL MERIDIAN
U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE

45x 80.043
25-80 PMRO

[FR Doc. 81-25309 Filed 8-28-81; 8:45 am]
BILLING CODE 4310-70-C

Office of the Secretary

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, dated December 2, 1980, section 1201, paragraph (h), the Alaska Land Use Council will meet October 5, 1981, at 9:00 a.m., at 1689 C Street, Room 107, in the South Kaloa Building, Anchorage, Alaska.

William P. Horn,

Deputy Under Secretary.

August 26, 1981.

[FR Doc. 81–25322 Filed 8–28–81; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor; Petition of KCT–DRC To Supplement Final Accounting Report; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of supplements to Final Accounting Report and setting of procedural schedule for submission of comments on supplemental report.

SUMMARY: Kansas City Terminal Railway Company, as directed rail carrier over Chicago, Rock Island & Pacific Railroad Company (William M. Gibbons, Trustee), (KCT–DRC, or directed carrier), has filed a petition seeking consideration of a supplement to its Final Accounting Report relating to its directed carrier operations. The supplement separately states accounts between the estate of the Chicago, Rock Island and Pacific Railroad Company, Debtor (RI) and KCT–DRC as a result of directed service. KCT–DRC also requests that a procedural schedule be established to receive comments on its Final Accounting Report, as supplemented. We grant the requested relief.

DATES: Comments due 60 days from the date of publication of this decision. Responses to comments due 30 days thereafter.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245.

ADDRESS: File all comments and responses at: Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

SUPPLEMENTARY INFORMATION: We directed service by KCT–DRC over lines of the RI pursuant to 49 U.S.C. 11125. Following a directed carrier's submission of a record of total expenses incurred performing directed service, the Commission must "certify promptly, to the Secretary of the Treasury, the amount to be paid" [49 U.S.C. 11125(b)(5)]. Our regulations implementing this statute, including 49 CFR 1126.3, provide for a "final accounting report" by the directed carrier, upon which the Commission, following an audit, is to base its certification to the Treasury. *See Regional Rail Reorg. Act-Submission of Cost Data,* 348 I.C.C. 251 (1975), and *Lehigh & New England Ry. Co.* v. *I.C.C.,* 540 F.2d 71, 78 (3rd Cir. 1976) cert. denied 429 U.S. 1061 (1977).

By decision served November 18, 1980, [44 FR 78839, November 26, 1980] we set the format for the Final Accounting Report of KCT–DRC for its operations under Directed Service Order No. 1398. KCT–DRC filed its Final Accounting Report on June 2, 1981. The directed carrier has filed a petition seeking to supplement its Final Accounting Report and requesting establishment of a procedural schedule for the submission of comments on the supplemented report. KCT–DRC believes that a more detailed accounting concerning its financial relationship with the Trustee of the Chicago, Rock Island & Pacific Railroad Company (Trustee) will assist us in evaluating the Final Accounting Report.

KCT–DRC submitted its proposed supplements as appendices to its petition. Its Appenix A is a statement of accounts receivable from the Trustee, in two parts. Part I sets forth the receivables KCT–DRC considers to be undisputed because the Trustee has taken no exceptions to them. These receivables total $52.5 million. Part II sets forth receivables claimed by the directed carrier which have been disputed by the Trustee. These total $7 million. Appendix B sets forth accounts payable to the Trustee. In Part I, KCT–DRC sets forth undisputed payables, totalling $44 million. Part II sets forth payables disputed by the directed carrier, totalling $7.4 million.

Underlying documents supporting these amounts are available for inspection at the directed carrier's offices at 332 South Michigan Avenue, Chicago, IL 60604.

As Appendix C to its petition, KCT–DRC submitted a draft agreement with the Trustee which incorporates KCT–DRC's understanding of the requirements of our decisions served March 19, 1980 [44 FR 19663, March 26, 1980] and October 20, 1980 [44 FR 70332, October 23, 1980]. KCT–DRC states that the draft sets forth the methodology it employed to apportion revenues and expenses between the directed carrier and the Trustee and in determining compensation for use of the property and equipment of the Chicago, Rock Island & Pacific Railroad Company. We note that the Trustee and counsel representing the principal creditors of the RI estate were served with copies of this petition and its appendices on July 24, 1981. If they disagree with these interpretations for the requirements they represent, they should bring these and any other matters relating to settlement of accounts between the RI estate and the KCT–DRC to our attention within the time limits established below for submission of comments by interested parties.

KCT–DRC also requests that we establish a procedural schedule for the submission of comments on the supplemented Final Accounting Report.

We will accept supplements to the Final Accounting Report. The information offered by the directed carrier will be helpful to us in the exercise of our audit powers under 49 U.S.C. 11125(b)(5). The accounts between the RI estate and KCT–DRC represent the largest single item arising out of directed service. Segregating them should facilitate their resolution and resolution of the final accounts for directed service. It does not appear that the rights of any party will be adversely affected by acceptance of the offered supplements.

In order to assist us in taking into account the views of all persons whose rights may be affected by our final accounting order, we will give interested parties an opportunity to comment on the supplemented Final Accounting Report. Interested parties, including the Trustee, are requested to file comments (an original and 10 copies) no later than 60 days from the date of publication of this decision in the **Federal Register.** A copy of comments shall be served on KCT–DRC and the Trustee by the party filing the comments. Interested parties considering filing comments may request a copy of the petition and appendices from the directed carrier at the address indicated above. KCT–DRC shall provide a copy of the petition and appendices within 7 days of receipt of a request. KCT–DRC and the Trustee may file a response (original and 10 copies) to comments within 30 days of the due date for comments. Copies of the response shall be served on all commenting parties.

We will endeavor to issue a final decision on the accounts between the RI estate and KCT–DRC within 90 days after the date we receive response to comments.

Our acceptance of the supplements to the directed service accounting, and establishment of a procedural schedule for the filing of comments, is done with full cognizance of the bankruptcy proceeding in No. 75–B–2697, *In re Chicago, Rock Island & Pacific Railroad Co., Debtor,* now pending in the United States District Court for the Northern District of Illinois, before Judge Frank McGarr. In that proceeding, the RI Trustee and several creditors' groups have filed a complaint against KCT–DRC seeking an accounting before the bankruptcy court of the amounts due to the RI estate as a result of the use of the property, facilities, and equipment of the RI by KCT–DRC and the recovery of costs involved in providing directed service. We do not believe that the pending bankruptcy proceeding (and any proceedings filed under the bankruptcy proceeding) before Judge McGarr limits our jurisdiction or diminishes our responsibility to determine the compensable costs of directed service pursuant to 49 U.S.C. 11125. It is incumbent upon the Commission to complete a final accounting for the compensable costs of directed service in the first instance for certification to the United States Treasury. This, of necessity, includes a final resolution of what we believe to be a proper statement of accounts between the RI Trustee and KCT–DRC arising out of directed service.

This action is taken pursuant to 49 U.S.C. 11125 and our regulations implementing that statute.

It is ordered:

1. The petition is granted as stated above.

2. This decision shall be effective on August 27, 1981.

Decided: August 25, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25318 Filed 8-28-81; 8:45 am]

BILLING CODE 7035-01-M

Norfolk & Western Railway Co. Exemption for Contract Tariff ICC-NW-C-0003; Decision

[EX PARTE NO. 387 (SUB-NO. 44)]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The previously filed contract and contract tariff may be made effective September 1, 1981 on no less than 1 day's notice. This exemption may be revoked if protests are filed on or before September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: By petition filed August 7, 1981, the Norfolk and Western Railway Company (N&W) has requested an exemption from the 30 day notice requirement of 49 U.S.C. 10713(e), in order to advance the effective date of its contract and contract tariff five days. The contract tariff, ICC NW–C–0003, was filed August 7, 1981, to take effect on September 6, 1981. A grant of N&W's request would make the contract and contract tariff effective September 1, 1981.

The contract provides for use of multi-level rail cars in carriage of motor vehicles in conjunction with a shipper reload program. The terms of the shipper reload program include a joint shipper-carrier committee which controls the forwarding of empty multi-level rail cars assigned to the involved shipper. It is expected that control by the joint shipper-carrier committee will improve car use and decrease empty mileage. N&W states that the involved shipper will have all of its U.S. plants in the reload program by September 1, 1981. September 1, 1981 is also the beginning of the 1982 model year. The change in effective date would permit shipments of the new models at commencement of the model year. It would also simplify accounting procedures, since the contract terms would become effective at the beginning of a calendar month.

N&W does not expect any protests concerning the earlier effective date. It contends that a 30-day notice period is not required to protect the shipper from abuse of market power.

There is no provision for waiving the section 10713(e) requirement that contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. Cf. former section 10762(d)(i). However, we may address the same relief under our section 10505 exemption authority and we do so here.

Section 10505 permits an exemption where a statutory provision is not necessary to carry out the national transportation policy, and where the transaction is of limited scope. We believe the circumstances existing here warrant such an exemption. The contract will result in improvements in car utilization and in accounting efficiency. Since the shipper will have all its U.S. plants in the reload program by September 1, and since September 1 is the beginning of the 1982 model year, commencement of the contract on September 1, 1981 would be more convenient for the parties than on September 6, 1981. The scope of this change is minimal since it involves only 5 days difference in the effective date of the contract.

N&W has indicated in its petition a willingness to be bound by the conditions which have been imposed in similar exemption proceedings. We will impose the following conditions:

If the Commission permits the contract to become effective on September 1, 1981, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review the addendum or to disapprove it.

Subject to compliance with the conditions set out above, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. The contract tariff to be filed in conformity with our tariff publishing regulations on no less than 1 day's notice may become effective on September 1, 1981. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: August 24, 1981.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25329 Filed 8-28-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–2–162

Decided: August 21, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 14903 (Sub-5), filed August 10, 1981. Applicant: ERY'S HORSE TRANSPORTATION, INC., 3886 Elm St., Grove City, OH 43123. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *horses*, other than ordinary horses, and in the same vehicle therewith, *mascots, personal effects of attendants, and supplies and equipment* used in the care and exhibition of horses, between points in the U.S.

MC 32122 (Sub-6) filed August 11, 1981. Applicant: PAZEN TRANSFER LINES, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912, 1–(414) 734–5608. Transporting *food and related products and lumber and wood products*, between points in Columbia, Fond Du Lac, Rusk, Taylor, and Winnebago Counties, WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 107012 (Sub-732) filed August 14, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429–2110. Transporting *appliances*, between points in Shelby County, TN on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, KS, KY, LA, MN, MS, NC, NM, NV, OK, SC, SD, TX, UT, VA, and WY.

MC 107012 (Sub-733) filed August 14, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429–2110. Transporting *textile mill products*, between point in Moore County, NC, on the one hand, and, on the other, points in KS and KY.

MC 125973 (Sub-8) filed August 11, 1981. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Ave., P.O. Box M799A, Gary, IN 46401. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Federated Distributors, Inc., of Chicago, IL.

MC 135052 (Sub-42) filed August 14, 1981. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Glenn L. Katzman (same as applicant), (317) 398–0173. Transporting (1) *pulp, paper and related products*, (2) *rubber and plastic products* and (3) *metal products* between St. Louis, MO, Cleveland, OH, and points in Miami, Montgomery, Warren Counties, OH, Hillsborough County, FL, Caddo Parish, LA, and Mecklenburg County, NC, 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 139843 (Sub-17), filed August 10, 1981. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203, (318) 322–5252. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of malt beverages, between points in Jefferson County, CO, on the one hand, and, on the other, points in TX, LA, MS, and TN.

MC 139973 (Sub-92), filed August 12, 1981. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *chemicals and related products*, and (2) *electrical machinery*, between points in Harford County, MD, on the one hand, and, on the other, points in the U.S.

MC 145103 (Sub-7), filed August 10, 1981. Applicant: UNITED TRANSPORT CORP., 319 O'Brien Rd., Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives), between points in NJ and NY, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 148632 (Sub-7), filed August 12, 1981. Applicant: DIXON MOTOR FREIGHT, INC., 2620 Old Egg Harbor Rd., Lindenwold, NJ 08021. Representative: Gary V. Dixon (same address as applicant), 609–767–5885. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cooling rooms, shelving, and checkout counters, between points in Camden County, NJ, on the one hand, and, on the other, points in the U.S.

MC 149142 (Sub-3), filed August 13, 1981. Applicant: WESLEY J. REYNOLDS, d.b.a. W. R. TRUCKING,

3022 MacArthur Blvd., Oakland, CA 94602. Representative: John H. King, 50015 S.E. Coalman Rd., Sandy, OR 97055, 503–668–4742. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Publishers Paper Company, of Portland, OR.

MC 150812 (Sub-4), filed August 11, 1981. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating, Jr., 121, S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *general commodities* (except classes A and B explsives), having a prior or subsequent move be rail or water, between Philadelphia, PA and Chicago, IL, on the one hand, and, on the other, points in NY, NJ, and PA.

MC 151262 (Sub-2), filed August 12, 1981. Applicant: CAR CARE, INC., Bldg. 302, Port Newark, NJ 07114. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting *transportation equipment*, between New York, NY, Baltimore, MD, Jacksonville, FL, Portsmouth, VA, Los Angeles, CA, and Wilmington, DE, on the one hand, and, on the other, points in the U.S.

MC 152292, filed August 14, 1981. Applicant: SUNBELT EXPRESS, INC., 3129 Robin Hill Lane, Dallas, TX 75042. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting (1) *chemicals and related products* (a) between points in Ellis County, TX on the one hand, and, on the other, points in AZ, CA, ID, MT, NM, NV, OR, WA, and WY, and (b) between points in Dallas County, TX, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, OR, UT, WA, and WY, (2) *clay, concrete, glass or stone products*, between points in CA, on the one hand, and, on the other, points in TX and OK, and (3) *food and related products, pulp, paper and related products, and rubber and plastic products*, between points in AZ, CA, CO, ID, NM, NV, OR, TX, UT, and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NM, NV, OR, TX, UT, and WA.

MC 153913 (Sub-4), filed August 12, 1981. Applicant: MISSOURI ALCOHOL FUEL, INC., 408 Thompson Bldg., Tulsa, OK 74103. Representative: Richard S. Brownlee III, P.O. Box 1069, Jefferson City, MO 65102, (314) 636–8135. Transporting *petroleum, natural gas, and their products*, between points in IL, MO, and KS. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of liquified petroleum gasses, it shall be limited to a period expiring 5 years from its date of issuance.

MC 157513, filed August 13, 1981. Applicant: EVERREADY DRAYAGE SERVICE, INC., 3 Crutcher St., Port Wentworth, GA 31407. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904–632–2300. Transporting *general commodities* (except classes A and B explosives), between points in Charleston County, SC and Chatham County, GA, on the one hand, and, on the other, points in GA and SC.

MC 157653, filed August 10, 1981. Applicant: ARNOLD J. MCKAY and DONALD GENE, MCKAY, d.b.a. TWINS TRUCKING, 1130 James Rd., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *building materials*, between points in Kern County, CA, on the one hand, and, on the other, points in Los Angeles County, CA.

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Decided: August 21, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 99888 (Sub-9), filed August 11, 1981. Applicant: MAYFIELD TRANSFER CO., INC., 3200 West Lake Street, Melrose Park, IL 60160. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives) between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 107678 (Sub-83), filed August 12, 1981. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Michael J. Stecher, 256 Montgomery St., Fifth Floor, San Francisco, CA 94104, (415) 421–6743. Transporting *commodities* which because of their size or weight require the use of special handling or equipment, 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 5, Room 6370.

MC 124059 (Sub-4), filed August 11, 1981. Applicant: REJER TRANSPORT, INC., P.O. Box 566, Marietta, OH 45750. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *such commodities* as are manufactured, processed, or dealt in by petroleum and chemical manufacturers between the facilities of Shell Oil Company in OH, PA, and WV, on the one hand, and, on the other, points in the U.S.

MC 127478 (Sub-22), filed August 11, 1981. Applicant: WILLIAM HAYES, d.b.a. HAYES TRUCKING COMPANY, P.O. Box 31, Winterville, GA 30683. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., N.W., Washington, DC 20036, (202) 223–5900. Transporting *food and related products*, between points in MN, WI, MI, IA, MO, IL, IN, and OH, on the one hand, and, on the other, points in FL, AL, GA, TN, SC, NC, and VA.

MC 128539 (Sub-19), filed August 12, 1981. Applicant: EAGLE TRANSPORT CORPORATION, P.O. Box 4508, 3204 Sunset Ave., Rocky Mount, NC 27801. Representative: Robert J. Corber, 1250 Connecticut Ave., N.W., Wasington, DC 20036, (202) 862–2038. Transporting *petroleum and petroleum products*, between points in VA, NC, SC, and GA.

MC 133478 (Sub-29), filed August 12, 1981. Applicant: INTERSTATE TRANSPORT, INC., P.O. Box 23727, Portland, OR 97223. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258, (503) 227–1681. Transporting *metal products*, between points in CA, OR, WA, NV, ID, AZ, UT, CO, NM, and TX.

MC 139858 (Sub-39), filed August 11, 1981. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H St., N.W., Washington, D.C. 20006, (202) 337–6500. Transporting (1) *food and related products*, and (2) *such commodities* as are dealt in or used by restaurants (except those described (1)), between points in the U.S., under continuing contract(s) with The Pillsbury Company, of Minneapolis, MN.

MC 141428 (Sub-2), filed August 12, 1981. Applicant: ROSS TRANSFER & STORAGE, INC., P.O. Box 2164, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *household goods*, as defined by the Commission, between points in Morgan, Berkeley, and Jefferson Counties, WV, Frederick and Washington Counties, MD, and Franklin, Fulton, and Adams Counties, PA, on the one hand, and, on the other, points in NY, VT, NH, ME, MA, RI, CT, NJ, DE, MD, PA, OH, WV, VA, NC, SC, and DC.

MC 141459 (Sub-23), filed August 11, 1981. Applicant: AGS ENTERPRISES,

INC., 809 Columbia Blvd., Litchfield, IL 62056. Representative: Michael R. Solomon (same address as applicant), (217) 324–3713. Transporting *general commodities* (except classes A and B exposives), between points in MO and IL, and between points in MO and IL, on the one hand, and, on the other, points in the U.S.

MC 143059 (Sub-184), filed July 31, 1981. Applicant: MERCER TRANSPORTATION CO., INC., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant), (502) 584–2301. Transporting (1) *lumber and wood products*, (2) *forest products*, (3) *lumber mill products*, and (4) *sawmill products*, between points in the U.S.

MC 143169 (Sub-2), filed August 12, 1981. Applicant: HARRY BROTTON and HENRY LUCERO, d.b.a. LUCERO FILM SERVICE, 3630 Locke Ave., Los Angeles, CA 90032. Representative: Harry Brotton (same address as applicant), (213) 225–6722. Transporting *such commodities* as are used or dealt in by motion picture exhibitors, between points in CA, AZ, and NV.

MC 145529 (Sub-4), filed August 17, 1981. Applicant: ROBERT STEEN, d.b.a STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Thomas J. Simmons, 5301 N. Cliff, Box 480, Sioux Falls, SD 57101. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Pope and Talbot, Inc., of Portland, OR.

MC 151158 (Sub-5), filed August 11, 1981. Applicant: BROWN TRANSIT, INC., 325 Ingram, Conway, AR 72032. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *pulp, paper and related products*, between points in Pulaski County, AR, on the one hand, and, on the other, points in Shelby County, TN.

MC 157568, filed August 5, 1981. Applicant: MIDWEST GENERAL, INC., 6006 Northland Road, Indianapolis, IN 46208. Representative: George Sawyer, 266 Reed Bldg., 7th Promande, Richmond, IN 47374, (317) 966–7694. Transporting (1) *paper and paper products*, between points in IL, IN, WI, MI, OH, PA, KY, MO, AR, TN, MS, and AL, and (2) *food and related products*, between points in IA, MO, IL, PA, TN, OH, KS, MS, WV, and CO, on the one hand, and, on the other, points in IN, IL, MI, OH, WI, KY, MO, TN, KS, OK, IA, PA, AL, GA, LA, AR, MS, NE, TX, NC, SC, MD, VA, WV, and CO.

MC 157619, filed August 11, 1981. Applicant: N.E.B. TRANSPORTATION & ASSOCIATES, INC., 27883 Aberdeen Rd., Bay Village, OH 44140. Representative: Lewis J. Ringler, 300 Leader Bldg., Cleveland, OH 44114, (216) 867–1311. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with National Carrier Service of Anaheim, CA.

MC 157659, filed August 10, 1981. Applicant: ROSWELL BEEMAN, d.b.a. BEEMAN REFRIGERATED TRANSPORT COMPANY, P.O. Box 685, Chazy, NY 12921. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801, (518) 792–0957. Transporting *food and related products* between points in Franklin County, VT, on the one hand, and, on the other, points in the U.S.

MC 157698, filed August 13, 1981. Applicant: NORTHEAST TRANSPORTATION CO., INC., 2965 Sunset Road, Melbourne, FL 32901. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *general commodities* (except classes A and B explosives), between points in Brevard County, FL and NY, on the one hand, and, on the other, those points in the U.S. in and east of NY, PA, MD, VA, NC, GA, and FL.

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Decided: August 21, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 109448 (Sub-37), filed August 13, 1981. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and air conditioning units, between points in Marshall, Rutherford and Davidson Counties, TN, on the one hand, and, on the other, points in the U.S.

MC 12899 (Sub-2), filed August 14, 1981. Applicant: M. K. & O. HIGHWAY TOURS, INC., 321 S. Cincinnati, Tulsa, OK 74103. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. To operate as a *broker* at Tulsa, OK, and St. Louis, MO, in arranging for transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the U.S.

MC 133478 (Sub-30), filed August 12, 1981. Applicant: INTERSTATE TRANSPORT, INC., P.O. Box 23727, Portland, OR 97223. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258, (503) 227–1681. Transporting (1) *building materials* and (2) *forest products*, between points in CA, OR, WA, NV, ID, UT, AZ, CO, NE, TX, OK, and MO.

MC 136818 (Sub-131), filed August 12, 1981. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 5601 W. Mohave, Phoenix, AZ 85031. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008, (602) 275–3124. Transporting *general commodities* (except classes A and B explosives), between Denver, CO, Dallas, TX, St. Louis, MO, Phoenix, AZ, and Albuquerque, NM, and points in CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 138609 (Sub-12), filed August 14, 1981. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT COMPANY, P.O. Box 2044, Albany, GA 31702. Representative: Robert L. Ar (same address as applicant), (912) 883–4019. Transporting (1) *machinery*, (2) *metal products*, (3) *rubber and plastic products*, and (4) *clay, concrete, glass or stone products*, between points in and east of TX, OK, KS, NE, SD, and ND.

MC 142119 (Sub-5), filed August 13, 1981. Applicant: COMMERCIAL TRAFFIC SERVICES, INC., 2001 West 12th St., Erie, PA 16005. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *hospital equipment*, between points in the U.S., under containing contract(s) with American Sterilizer Co., of Erie, PA.

MC 146899 (Sub-1), filed August 14, 1981. Applicant: TOLEDO-DETROIT EXPRESS, INC., 6180 Benore Rd., Toledo, OH 43612. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *metal products*, between Detroit, MI and Toledo, OH, on the one hand, and, on the other, points in MI, OH, IN, PA, and WV.

MC 153328 (Sub-15), filed August 14, 1981. Applicant: RED K TRANSPORT, INC., 2545 Peach Tree St., Cape Girardeau, MO 63701. Representative: Guy H. Boles, 400 State St., Madison, IL 62060, (618) 451–2323. Transporting (1) *chemicals and related products*, (2) *rubber and plastic products*, and (3) *textile mill products*, between points in the U.S., under continuing contract(s) with Monsanto Company of St. Louis, MO.

MC 153998, filed August 10, 1981. Applicant: OLIVE EXPRESS, INCORPORATED, P.O. Box 3865, Visalia, CA 93278. Representative: Earl

N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting (1) *paper and related products* between points in Multnomah County, OR, on the one hand, and, on the other, San Francisco and Los Angeles, CA, and (2) *food and related products* between points in CA, on the one hand, and, on the other, points in AZ, CO, GA, IL, IN, MN, NM, OH, OR, PA, TX, UT, and WA.

MC 154509 (Sub-1), filed August 10, 1981. Applicant: MEMPHIS COURIER DELIVERY, 3638 Old Getwell Road, Memphis, TN 38118. Representative: Ralph D. Golden, Suite 2348, 100 North Main Bldg., Memphis, TN 38103, (901) 526–1122. Transporting *toiletries* and *jewelry*, between points in TN, AR, MS, AL, and MO.

MC 157339, filed July 27, 1981. Applicant: KLEBBA McGOVERN TRUCKING, INC., Rural Route #2, Mt. Vernon, IL 62864. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. (214) 544–5468. Transporting (1) *metal products*, and (2) *natural gas engines*, between points in IL, MI, OH, and PA, on the one hand, and, on the other, points in AR, CO, KS, LA, MN, OK, OH, and TX.

MC 157648, filed August 10, 1981. Applicant: RONALD T. CLAIBORNE TRUCKING, CO., Route #4, Box 65, LaFollette, TN 37766. Representative: Ronald T. Claiborne (same address as applicant) (615) 562–9759. Transporting *building materials*, between points in the U.S., under continuing contract(s) A & S Building Systems, of Caryville, TN.

MC 157709, filed August 14, 1981. Applicant: CIRCLE W EXPRESS, INC., 1810 So. Elm, Greenville, IL 62296. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *petroleum and petroleum products*, between points in IN and MO, on the one hand, and, on the other, points in IL.

MC 157739, filed August 17, 1981. Applicant: BECKHAM S. PRATHER, JR. d.b.a. BECK'S AUTO TRANSPORT, 2544 Highway 28, Pleasant Plain, OH 45162. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215 (614) 224–3161. Transporting *transportation equipment* between Columbus, OH, and Cincinnati, OH, on the one hand, and, on the other, points in FL, GA, IL, IN, KY, MI, MO, NY, PA, TN, and WV.

MC 153138, filed August 13, 1981. Applicant: LARRY DON EASLEY d.b.a. EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *iron and plastic pipe, and fittings and gaskets for iron and plastic pipe*, between points in Smith County, TX, on the one hand, and, on the other, points in MT, ID, WY, CA, NV, WA, and OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25316 Filed 8-28-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–148

The following applications were filed in region I: Send Protest To: INTERSTATE COMMERCE COMMISSION, REGIONAL AUTHORITY CENTER, 150 CAUSEWAY STREET, ROOM 501, BOSTON, MA 02114.

MC 157765 (Sub-1–1TA) filed August 17, 1981. Applicant: EDWARD C. SMITH d.b.a. PATHFINDER COACH, LINE, 10 Chestnut St., Cooperstown, NY 13326. Representative: Edward C. Smith (same as applicant). *Passengers and their baggage in special and charter operations*, beginning and ending in New York State Counties of Otsego, Chenango and Delaware and extending to points in the U.S. Supporting shipper(s): There are 15 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 152663 (Sub-1–2TA), filed August 14, 1981. Applicant: ISC TRANSYSTEMS, INC., 100 Jericho Quadrangel, Jericho, NY 11753. Representative: Larsh B. Mewhinney, Esq., Moore, Berson, Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. *Contract Carrier:* irregular routes: *General commodities except commodities in bulk, Class A and B explosives and hazardous waste* between points in the U.S. under continuing contract(s) with Distribution Services, Inc. of Boston, MA. Supporting shipper: Distribution Services, Inc., 666 Summer Street, Boston, MA 02210.

MC 133590 (Sub-1–5TA) filed August 19, 1981. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, 1060 Millbury Street, Worcester, MA 01613. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *General commodities (except Class A and B explosives and hazardous waste)* between the facilities of Allied Stores Marketing Corp. located at points in the U.S. on the one hand, and, on the other, points in the U.S. Supporting shipper: Allied Stores Marketing Corp., 1114 Avenue of Americas, New York, NY 10036.

MC 37830 (Sub-1–1TA), filed August 17, 1981. Applicant: COHENNO, INC., 92 Evans Drive, Stoughton, MA 02072. Representative: John G. Feehan, Esq., Hewes, Culley, Feehan and Beals, 178 Middle Street, Portland, ME 04112. *Lumber, building materials and supplies and tools*, between points and places in the States of ME, NH, VT, MA, RI, CT, NY and NJ. Applicant intends to tack to present Docket. Supporting shipper(s): Prudential Metal Supply Corp., 171 Milton St., E. Dedham, MA 02026; Bill Carden Lumber Sales, 32 Industrial Ct., Seekonk, MA 00771; H. F. Lynch Lumber Co., 202 Day St., W. Springfield, MA 01089; Furman Lumber, Inc., P.O. Box 96, Boston, MA 02123; Prudential Forest Products, P.O. Box 159, E. Dedham, MA 02026.

MC 146870 (Sub-1–2TA), filed August 17, 1981. Applicant: C. L. MORTELLO

TRUCKING, INC., P.O. Box 945, 13 Hagemount Ave., Hightstown, NJ 08520. Representative: Lorraine L. Mortello/ Charles Mortello (same address as applicant). *Contract carrier:* irregular routes: *Refined cane sugar, in bags, cartons, and packages, not bulk,* from the facilities of Amstar Corp., Philadelphia, PA to points in OH, under continuing contract(s) with Amstar Corp., Philadelphia, PA. Applicant intends to tack to present Docket. Supporting shipper: Amstar Corp., P.O. Box 356, Philadelphia, PA 19105.

MC 157744 (Sub-1–1TA), filed August 17, 1981. Applicant: JAMES GANNON d.b.a. J. GANNON & SONS TRANSPORT, 95 Highland Ave., Pennsville, NJ 08070. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract carrier:* irregular routes: *Chemicals and materials, equipment and supplies used in the manufacture and distribution thereof (except hazardous waste)* between Pennsville, NJ and Carlstadt, NJ on the one hand, and, on the other, points in the U.S. (except AK and HI) under continuing contract(s) with Ganes Chemicals, Inc. of Pennsville, NJ. Supporting shipper: Ganes Chemicals, Inc., Industrial Park Road, Pennsville, NJ 08070.

MC 157745 (Sub-1–1TA), filed August 17, 1981. Applicant: MIDWAY MACHINERY MOVERS INC., 92 Bercey Street, Aurora, Ontario, CD L4G 3M1. Representative: William J. Hirsch, P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Bakery waste products and animal food ingredients* between ports of entry on the International Boundary line between the U.S. and CD, located in NY, on the one hand, and, on the other, Lackawanna, NY, under continuing contract(s) with Bakery Salvage Corp., Lackawanna, NY. Supporting shipper: Bakery Salvage Corporation, Fisher Road, Lackawanna, NY 14218.

MC 152098 (Sub-1–5TA), filed August 17, 1981. Applicant: OAKHURST TRANSPORTATION, INC., 175 Oakhurst Street, Lockport, NY 14094. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Electrical apparatus, components and accessories, temperature sensing devices, sealing devices (pressure and vacuum), Class C explosives, non-explosive ammunition and materials, supplies and equipment used in manufacture or distribution of such commodities* between points in AL, AZ, CA, CT, FL, GA, IL, IN, LA, MD, MN, MO, NJ, NY, OH, PA, TX, VA and WI, restricted to traffic originating at or destined to the facilities and/or customers of Conax Corporation, Buffalo, NY. Supporting shipper: Conax Corporation, 2300 Walde Avenue, Buffalo, NY 14225.

MC 143698 (Sub-1–1TA), filed August 13, 1981. Applicant: CAST NORTH AMERICA, LTD., 4150 Sainte Catherine St., W., Montreal, Quebec CD H3Z 2R8. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. *General commodities, in foreign commerce, (except hazardous waste)* between points on the International Boundary between CD and the U.S., on the one hand, and, on the other, points in the New York City Commercial Zone, restricted to movements in intermodal containers having a prior or subsequent movement by water. Supporting shipper: Cast North America (Agencies), Ltd., 4150 Sainte Catherine St., W., Montreal, Quebec, CD H3Z 2R8.

MC 143697 (Sub-1–1TA), filed August 17, 1981. Applicant: NORTH JERSEY TANK LINES, INC., P.O. Box 397, Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Liquid and dry bulk, other than chemicals and petroleum and petroleum products* between New York, NY Commercial Zone and Montezuma, NY, on the one hand, and, on the other, points in the US in and east of MN, IA, MO, AR and TX. Supporting shipper(s): Revere Sugar Corporation, 280 Richmond St., Brooklyn, NY 11236; D. D. Williamson & Co., Inc., 250 Circle Drive, Piscataway, NJ 08854.

MC 151193 (Sub-1–22TA), filed August 17, 1981. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Representative: Michael Beam (Same as applicant). *Contract carrier:* irregular routes: *Pharmaceuticals, chemicals, drugs, medicines and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities (except in bulk),* between points in NJ, IL, IN and TX, under continuing contract(s) with Hoechst-Roussel Pharmaceuticals, Inc., Somerville, NJ. Supporting shipper: Hoechst-Roussel Pharmaceuticals, Inc., Hwy 202–206, Somerville, NJ 08876.

MC 152663 (Sub-1–3TA), filed August 14, 1981. Applicant: ISC TRANSYSTEMS, INC., 100 Jericho Quadrangel, Jericho, NY 11753. Representative: Larsh B. Mewhinney, Esq., Moore, Berson, Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. *Contract Carrier:* irregular routes: *General commodities except commodities in bulk, Class A and B explosives and hazardous waste* between points in the U.S. under continuing contract(s) with the United Freight, Inc., of Morrow, GA. Supporting shipper: United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

MC 154631 (Sub-1–3TA), filed August 14, 1981. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, 357 Arnold Street, Woonsocket, RI 02895. *Contract carrier:* irregular routes: (1) *Plastics,* from Leominster, MA to points in the U.S. (except AK & HI) and (2) *Equipment, materials and supplies used in the manufacture, distribution and sale of plastics,* from the above-named destinations to the above-named origin, under continuing contract(s) with Abbott Industries, Inc., Leominster, MA. Supporting shipper: Abbott Industries, Inc., 20 Mohawk Drive, Leominster, MA 01453.

MC 157695 (Sub-1–1TA), filed August 13, 1981. Applicant: ALL-AMERICAN TRANSPORT, INC., 10 West Third Street, Everett, MA 02149. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. *New furniture, auto body supplies, aluminum nails, radiation protection equipment and materials, supplies and equipment related thereto* between points in MA and FL, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK and TX. Supporting shipper(s): Adden Furniture, Inc., 26 Jackson Street, Lowell, MA 01852; Marson Corporation, 130 Crescent Ave., Chelsea, MA 02150; Great Northern Manufacturing, Inc., 230 Crescent Ave., Chelsea, MA 02150; Colonial X-ray, Inc., 35G Industrial Parkway, Wobrun, MA 01801.

MC 156800 (Sub-1–2TA), filed August 19, 1981. Applciant: SEABOARD EXPRESS, INC., 565 Plank Road, Waterbury, CT 06705. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517. *Contract carrier:* irregular routes: (1) *Electrical raceways and associated fittings, flexible air ducts, auto loom and all associated component parts and raw materials* between the facilities of The Wiremold Co. at W. Hartford, CT, Rocky Hill, CT, Pico Rivera, CA, Atlanta, GA, on the one hand, and, on the other, all points in the U.S. (except AK and HI) under continuing contract(s) with The Wiremold Co. of W. Hartford, CT; (2) *Cleaning compounds* from the facilities of Barrier Industries, Inc., Port Jervis, NY to points in the U.S. under continuing contract(s) with Barrier Industries, Inc., Port Jervis, NY. Supporting shipper(s): The Wiremold

Co., Woodlawn St., West Hartford, CT 06110; Barrier Industries, Inc., 200 E. Main St., Port Jervis, NY 12771.

MC 153993 (Sub-1–2TA), filed August 20, 1981. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02741. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036. *Contract carrier:* irregular routes: (1) *Oil well and water well steel pipe* and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above* from (1) Minneapolis, MN to points in OK, TX, LA and WY; (2) from Beaver Falls, PA and Shelby, OH to Minneapolis, MN and Houston, TX; and (3) from points in OK and TX to Minneapolis, MN and points in LA and WS for the account of Tooltech, Inc., Minneapolis, MN under continuing contract(s) with Tooltech, Inc., Minneapolis, MN. Supporting shipper: Tooltech, Inc., 3145 Columbia Ave., Minneapolis, MN 55418.

MC 145108 (Sub-1–18TA), filed August 20, 1981. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Sporting goods, clothing, athletic equipment, related articles necessary for the operation of a sporting goods store,* from Carteret, NJ, to points in WI, IL, OH, MI, PA, NY, and VA under continuing contract(s) with Herman's World of Sporting Goods, Div. W. R. Grace Co., Carteret, NJ. Supporting shipper: Herman's World of Sporting Goods, Div. W. R. Grace Co., 2 Germak Drive, Carteret, NJ 07008.

MC 134806 (Sub-1–16TA), filed August 20, 1981. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1227, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Washington, DC 20014. *Contract carrier:* irregular routes: (1) Heating and air conditioning; furnaces, heating equipment; and (2) parts, materials and supplies used in the manufacture, assembly and distribution of those commodities named in (1) above, from points in CA to Syracuse, NY under continuing contract(s) with Carrier Corporation, Subsidiary of United Technologies Corporation, Syracuse, NY. Supporting shipper: Carrier Corporation, Subsidiary of United Technologies Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 157789 (Sub-1–1TA), filed August 19, 1981. Applicant: ELEAZER ST. LOUIS, JR. d.b.a. DOUBLE 'E' TRUCKING, Ridge Road, Galway, NY 12074. Representative: John Simoni, 908 State Street, Schenectady, NY 12304. *Contract carrier:* irregular routes: *Baby food and related products and materials used in the manufacture of the same* between Canajoharie, NY and points in KY, OH, PA, NY, and WV, under continuing contract(s) with Beech-Nut Food Corp., Canajoharie, NY. Supporting shipper: Beech-Nut Food Corp., Church Street, Canajoharie, NY 13317.

MC 157689 (Sub-1–1TA), filed August 13, 1981. Applicant: T & L EXPRESS, LTD., 1211 Majestic Way, Webster, NY 14580. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Food and related products; pulp, paper and related products, rubber and plastic products, clay, concrete, glass or stone products; metal products; chemicals and related products,* between points in CT, DC, DE, IA, IL, IN, KY, MA, MD, MI, MO, NJ, NY, OH, PA, RI, VA, WI, WV. Supporting shipper(s): Genesee Brewing Co., Inc., 445 St. Paul St., Rochester, NY 14605; Cantisano Foods, Inc., 1069 Lyell Avenue, Rochester, NY 14606; Duffy-Mott Company, Inc., 370 Lexington Ave., New York, NY 10017; Independence Can Company, 1001 S. Lakewood Avenue, Baltimore, MD 21224; Seneca Foods Corporation, 3736 S. Main Street, Marion, NY 14505.

MC 151004 (Sub-1–5TA), filed August 20, 1981. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06602. Representative: John F. Ryan, Vice Pres. (same address as applicant). *Contract carrier:* irregular routes: *Yarn* between points in GA, MA, SC, NC, under continuing contract(s) with Garland Corp., Brockton, MA. Supporting shipper: Garland Corp., 33 Dover St., Brockton, MA 02401.

MC 149114 (Sub-1–8TA), filed August 20, 1981. Applicant: NATIONAL TRANSPORT SERVICES CO., INC., 100 Industrial Avenue, Edison, NJ 08837. Representative: Barbara R. Klein, 1101 Connecticut Avenue, N.W., Washington, DC 20036. *Contract carrier:* irregular routes: *Non-exempt foodstuffs and other kindred products* from the plant site of Nestle's Co., Inc., at or near New Milford, CT, Fulton, NY, and Freehold, NJ to all points in the States of MA, NJ, NY, OH, MI, IL, MO, IN, FL, NC, under continuing contract(s) with Nestle's Co., Inc., White Plains, NY. Supporting shipper: Nestle's Co., Inc., 100 Bloomingdale Road, White Plains, NY 10605.

MC 142593 (Sub-1–1TA), filed August 19, 1981. Applicant: WARNER BROS. INC., Route 116, P.O. Box 395, Sunderland, MA 01375. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such commodities as are dealt in by a manufacturer or distributor of coal and coke* between Sunderland and Deerfield, MA, on the one hand, and, on the other, points in ME, NJ, VT, CT, RI, and NY under continuing contract(s) with George E. Warren Corporation of Boston, MA. Supporting shipper: George E. Warren Corporation, One Beacon Street, Boston, MA 02108.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 157720 (Sub-II–1TA), filed August 19, 1981. Applicant: B.E.I. TRANSPORT, INC., 799 Garver Road, Monroe, OH 45050. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. 1. *Paper, plastic and foam cups, and cans* from points in the Chicago, IL commercial zone, and Jackson, TN to Dayton, OH. 2. *Pastry and Shortening* from points in the Chicago, IL commercial zone to Dayton, OH. 3. *Processed frozen chickens and cleaning supplies* from points in North Carolina to Dayton, OH. 4. *Sauces* from points in the Chicago, IL commercial zone and Atlanta and Conyers, GA to Dayton, OH. 5. *Syrups and Toppings* from Battle Creek, MI to Dayton, OH. 6. *Cookies* from Grand Rapids, MI to Dayton, OH for 270 days.

An underlying ETA seeks 120 days authority, supporting shipper: Bill Krafts Distribution Center, 3581 Dayton Park Drive, Dayton, OH 45414.

MC 146148 (Sub-II–5TA), filed April 19, 1981. Applicant: B–RIGHT TRUCKING CO., 7087 West Blvd., Suite 8, Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Food and related products,* between Chicago, IL, on the one hand, and, on the other, points in the US, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: National Piggyback, 475 W. 55th St., Countryside, IL 60525.

MC 488 (Sub-II–19TA), filed August 20, 1981. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same as Applicant). *General commodities (except Classes A and B explosives, household goods as defined by the Commission)* between the facilities of Westinghouse Electric Corporation in Westmoreland County, PA, on the one hand, and, on the other, points in the US in and east of MN, IA,

MO, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Westinghouse Electric Corporation, Porcelain Park, 3rd Street, Derry, PA 15627.

MC 29647 (Sub-II–3TA), filed August 17, 1981. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., 552 Jefferson St., Hagerstown, MD 21740. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *Ink and materials used in its production,* between Williamsport, MD on the one hand, and, on the other, all points in the US east of the Mississippi River for 270 days. Supporting shipper: Sun Chemical Corp., 222 Bridge Plaza South, Fort Lee, NJ 07024.

MC 44302 (Sub-II–7TA), filed August 18, 1981. Appplicant: DEFAZIO EXPRESS, INC., 1024–26 Springbrook Ave., Moosic, PA 18507–1899. Representative: Paul J. Kenworthy (Same and applicant). Contract, irregular: *Such Merchandise as is dealt in by wholesale, retail, and chain grocery stores and food business houses; and equipment, supplies, and materials used or useful in the production, manufacture and distribution of same* between the facilities of S. M. Flickinger Co., Inc. in Lackawanna County, PA, and Chemung County, NY, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, and PA under continuing contract(s) with S. M. Flickinger Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: S. M. Flickinger Co., Inc., P.O. Box 2300, 22nd St. Elmira Heights, NY 14903.

MC 145282 (Sub-II–5TA), filed August 17, 1981. Appplicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. *Building materials, metal products and materials, supplies and equipment used in the manufacture or distribution of such commodities* between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI. An underlying ETA seeks 120 days authority. Supporting shipper(s): U N Alloy Corp., 795 Trumbull St., Elizabeth, NJ. National Rolling Mills, Inc., Moorehall Rd., Malvern, PA. Standard Pipe & Supply Co., 301 City Line Ave., Bala Cynwyd, PA.

MC 113666 (Sub-II–21TA), filed August 20, 1981. Appplicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, P.O. Drawer A, Freeport, PA 16229. Representative: R. Scott Mahood (Same as applicant). *Ammonium nitrate, in bulk, in tank vehicles,* From Green Township, Harrison County, OH to points in OH, PA and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gulf Oil Chemical Co., P.O. Box 252, Cadiz, OH 43907.

MC 108452 (Sub-II–3TA), filed August 19, 1981. Applicant: GOLD LINE, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Common, regular: *Passengers and their baggage, and express and newspapers, in the same vehicle with passengers,* between the junction of MD Hwys. 5 and 235, south of Mechanicsville, MD and Lexington Park, MD as follows: from the junction MD Hyws. 5 and 235 over MD Hwy. 5 to junction with MD Hwy. 246, then over MD Hwy. 246 to Lexington Park MD and return over the same route serving all intermediate pts., for 180 days. An underlying ETA seeks 120 days authority. Applicant intends to tack. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at the ICC Reg. Ofc., Phila., PA.

MC 157810 (Sub-II–1TA), filed August 20, 1981. Appplicant: JIMCO TRUCKING INC., Route #4, 7900 Muncaster Mill Road, Gaithersburg, MD 20877. Representative: David H. Baker, 888 17th St, N.W., Washington, D.C. 20006. *Lumber and wood products* between points in Prince William County, VA, on the one hand and points in Jefferson County, WV and points in MD, on the other, for 270 days. Supporting shipper: 84 Lumber Co., P.O. Box 200, 12400 Pulaski Highway, Joppa, MD 21085.

MC 151267 (Sub-II–2TA), filed August 19, 1981. Applicant: KETRAN, INC., 624 Main St., Moosic, PA 18507. Representative: Edward F. V. Pietrowiski, 430 Scranton Life Bldg., Scranton, PA 18505. *Coal, coal ash, coal cinders, coal fines and coal silt,* between the facilitis of Keon Coal Co., Inc., in Carbon, Lackawanna, Luzerne, Schuylkill, Susquehanna, Wayne and Wyoming Counties, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY and PA. An underlying ETA seeks authority for 120 days. Supporting shipper(s): Keon Coal Co., Inc., P.O. Box 808, Pittston, PA 18640.

MC 157786 (Sub-II–1TA), filed: August 19, 1981. Applicant: MULLINS LEASING SERVICE, INC., Box 387, Lyburn, WV 25632. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Contract, irregular: *Wood Chips, Sawdust, Lumber, and Wood Mine Posts,* Between Edwight & Man, WV, on the one hand, and, on the other, points in OH, VA, KY, TN, NC, SC, GA, PA, and WV, under contract with Hamer Lumber Co, Div Celotex Corp., for 270 days. Supporting shipper(s): Hamer Lumber Co., Div. Celotex Corp., 901 12th St., Kenova, WV 25530.

MC 107012 (Sub-II–186TA), filed August 18, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Fireplaces,* from Detroit Lakes, MN to points in the United States for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Standex Energy Systems, Woodside Fireplace Div., 1011 11th St. SE., Detroit Lakes, MN 56501.

Note.—Common control may be involved.

MC 107012 (Sub-II–187TA), filed August 19, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as appliant). *Alcoholic beverages* from points in the counties of Fresno, Monterey, Napa, San Joaquin, Santa Clara, Stanislaus, CA and Duval County, FL, to points in IN for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Fort Wayne Liquor Co., Inc., 2500 W. Jefferson St., Fort Wayne, IN 46802. General Liquors Inc., 1880 N. Kenmore, P.O. Box 3569, South Bend, IN 46619. Conrad Corp., 2100 N. New York Ave., P.O. Box 658, Evansville, IN 47704.

Note.—Common control may be involved.

MC 152649 (Sub-II–8TA), filed August 18, 1981. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Such merchandise as is distributed by retail stores and department stores* between Norcross, GA, and points its commercial zone, on the one hand, and, on the other, points, in the U.S., under continuing contract(s) with J. Riggins—Outrigger. Support shipper(s): J. Riggins—Outrigger, 5850 Peachtree Industrial Norcross, GA 30071.

MC 52861 (Sub-II–7TA), filed August 18, 1981. Applicant: WILLS TRUCKING, INC., 3185 Columbia Road, Richfield, OH 44286. Representative: James A. Moore (same as applicant). *Dry Chemicals* between Mason and Midland Counties, MI, on the one hand, and, on the one hand, points in WI, IA, MO, IL, KY, IN, OH, WV, VA, MD, PA and NJ for 270 days. Supporting shipper: Dow Chemical Company, Midland, MI 48640.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

Applicant: BOAZ PRODUCE COMPANY, P.O. Box 220, Boaz, AL 35957. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, D.C. 20006. *Liquors, Wines and Alcoholic Beverages* from points in MD, NJ, NY and Boston, MA; Norfolk, VA; Philadelphia, and Schenley, PA to Birmingham, Huntsville, Montgomery, Sycalauga, and Dothan, AL; Atlanta, Augusta, Columbus, Albany, Savanna, and Macon, GA. Supporting shipper: Alaplex Incorporated, P.O. Box 7491, Birmingham, AL 35223.

MC 146451 (Sub-3–32TA), filed August 18, 1981. Applicant: WHATLEY, WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: William K. Martin, Capell, Howard, Knabe & Cobbs, P.A., P.O. Box 2069, Montgomery, AL 36197. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment),* between the facilities utilized by American Cyanamid Company, its subsidiaries and affiliates, on the one hand, and, on the other hand, all points in the U.S. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 144225 (Sub-3–7TA), filed August 18, 1981. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract carrier: irregular:* (1) *furniture,* from Holland, Grand Rapids and Sturgis, MI; Indianapolis and Ft. Wayne, IN; Buffalo, Jamestown, NY and Rochester, NY; Los Angeles, CA; Green Bay, WI; Houston and Dallas, TX; High Point and Lenore, NC; and Sumpter, SC, and points in their respective commercial zones, to Miami and Palm Beach, FL under continuing contract(s) with Southeast Office Interiors, Inc., of Miami, FL. Supporting shipper: Southeast Office Interiors, Inc., 8021 N.W. 14th Street, Miami, FL 33126.

MC 146447 (Sub-3–9TA), filed August 18, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d. St., Miami, FL 33166. (305) 592–0036. *Contract carrier,* irregular route: *General commodities (except Classes A & B explosives)* between points in the U.S. under continuing contract(s) with Dow Chemical Co.—U.S.A., Gales Ferry, CT. Supporting shipper: Dow Chemical Co.—U.S.A., Gales Ferry, CT, 06335.

MC 151522 (Sub-3–2TA), filed August 21, 1981. Applicant: DIRECT MOTOR EXPRESS, INC., 2098 Kellogg Ave., Memphis, TN 38114. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. *Contract carrier:* Irregular Routes: *Wooden products and electrical appliances and materials, supplies and equipment used in the manufacture, sale and distribution of same,* between Forrest City, AR, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Sanyo Manufacturing Corp. Supporting shipper(s): Sanyo Manufacturing Corp., 3333 Sanyo Rd., Forrest City, AR 72335.

MC 136123 (Sub-3–2TA), filed August 21, 1981. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same as above). *Contract* carrier irregular: *Foodstuff and related products,* between the facilities of Ocean Spray Cranberries, Inc., at points in FL and points in and east of ND, SD, NB, KS, OK, TX. Supporting shipper: Ocean Spray Cranberries, Inc., Water St., Plymouth, MA 02360.

MC 154540 (Sub-3–4TA), filed August 21, 1981. Applicant: FREEDOM FREIGHT SYSTEMS, INC., 1797 Florida St., Memphis, TN 38109. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133. *Electrical Lighting, Communication and Electronic units, systems and parts,* between points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY. Restricted to traffic originating at or destined to the facilities of General Telephone and Electronics Corp. Supporting shipper: General Telephone and Electronics Corporation, One Stamford Forum, Stamford, CT 06904.

MC 155337 (Sub-3–9TA), filed August 21, 1981. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Drive, Woodstock, GA 30188. Representative: C. W. Patrick (same address as applicant). *Tires and Related Products.* Between the facilities of Delta Tire Corp., Chattanooga, TN and points in the U.S. (execpt AK and HI). Supporting shipper: Delta Tire Corp., 2222 Polymer Dr., Chattanooga, TN 37421.

MC 124951 (Sub-3–3TA), filed August 21, 1981. Applicant: WATHEN TRANSPORT, INC., Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Malt beverages and malt beverage containers,* between Evansville, IN, on the one hand, and, on the other, Detroit MI. Supporting shipper: Working Beverage, Inc., 709 Oak Hill Road, Evansville, IN 47711.

MC 148671 (Sub-3–1TA), filed August 21, 1981. Applicant: HARLAND QUACKENBUSH, d.b.a. H & D TRUCKING, 500 Dew Drop Cove, Casselberry, FL 32707. Representative: Elbert Brown, Jr., Post Office Box 1378, Altamonte Springs, FL, 32701–1378. Contract carrier: irregular: *Sealing Tape Paper, paper and paper articles, equipment, materials and supplies used in the manufacture and distribution of paper tape,* between the facilities of Rexford Division of Inland Container at or near Milwaukee, WI and points in the U.S. (except AK and HI). Supporting shipper: Rexford Division, Inland Container Corporation, 151 N. Delaware Street, Indianapolis, IN 46206.

Republication—Originally Published in Federal Register of 07–27–81, Page 38427, Volume 46, No. 143

MC 155725 (Sub-3–1TA), filed July 14, 1981. Applicant: JOHNNY SIMS, 309 Nixon St., Albertville, AL 35950. Representative: Johnny Sims (same as above). *(1) Refrigeration and air conditioning parts and heat transfer equipment, (2) Electronic heating and air conditioning induction units, and fiberglass containers* from (1) Scottsboro AL to all points in U.S. (except AK and HI), (2) Boaz AL to Cleveland OH and Detroit MI. Supporting shippers: Halstead Mitchell Co., P.O. Box 1110, Scottsboro AL and Tocco-Alabama Inc., Sand Mountain Industrial Park, Boaz AL.

MC 157802 (Sub-3–1TA), filed August 20, 1981. Applicant: CONTRACT TRANSPORT, INC., 1311 Ludie Street, Dalton, GA 30720. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338. *Contract* Carrier: irregular: *Such commodities as used, sold or dealt in by wholesale, retail and variety stores* between all points in the U.S. under continuing contracts with Kelly-Martin,, Inc. Supporting shipper: Kelly-Martin, Inc., P.O. Box 1062, Dalton, GA 30720.

MC 157405 (Sub-3–1TA), filed August 20, 1981. Applicant: L. L. LEASING COMPANY, 1881 Rio Vista Drive, Paris, KY. 40361. Representative: Michael Preston, 1881 Rio Vista Drive, Paris, KY. 40361. *Contract carrier,* irregular routes; *General commodities, usual exceptions,* between Paris, KY., on the one hand, and on the other, Dallas, TX., Los Angeles, CA., and Hartford, CT. Supporting shipper: Ramset Fastening

Systems, 275 Winchester Ave., New Haven CT. 06511.

MC 152664 (Sub-3–5TA), filed August 20, 1981. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38310. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *(1) Recyclable scrap plastics; (2) plastic granules and pellets;* and *(3) plastics in compressed bales,* between points in the U.S. There are eight (8) supporting shipper statements which may be reviewed at the ICC Regional office in Atlanta, GA.

MC 151916 (Sub-3–6TA), filed August 18, 1981. Applicant: BARON TRANSPORT, INC., One Perimeter Way, Suite 455, Atlanta, GA 30339. Representative: Eugene D. Anderson, 910 17th Street, N.W., Suite 428, Washington, DC 20006. *Tubular Steel Products and Tables* from Birmingham, AL to Garden Grove, CA; Paris, IL; Randolph, MA; Bridgeport, NJ; Reno, NV; and Vancouver, WA. Supporting shipper: UNR-Rohn, Inc., P.O. Box 6537, Birmingham, AL 35217.

MC 149123 (Sub-3–3TA), filed August 18, 1981. Applicant: BOAZ PRODUCE COMPANY, P.O. Box 220, Boaz, AL 35957. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, DC 20006. *Liquors, Wines and Alcoholic Beverages* from points in MD, NJ, NY, and Boston, MA, Norfolk, VA, Philadelphia, and Schenley, PA, to Birmingham, Huntsville, Montgomery, Sycalauga, and Dothan, AL, Atlanta, Augusta, Columbus, Albany, Savannah, and Macon, GA. Supporting shipper: Alaplex Incorporated, P.O. Box 7491, Birmingham, AL 35223.

MC 129537 (Sub-3–13TA), filed August 19, 1981. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 North Morgan St., Tampa, FL 33602. *Carpeting, floor covering, carpet padding, materials, supplies and equipment used in the installation and manufacture thereof,* Between points in CA and the U.S. except GA, VA, SC, and NC. Supporting shipper: Carpet City, 2829 Main St., Jacksonville, FL 32206; Great American Rug, 7142 E. Slawson, Los Angeles, CA 90040; Dixie Contract Carpet, 7523 Phillips Hwy, Jacksonville, FL 32216; WWG Industries, P.O. Box 162, Rome, GA 30161.

MC 129537 (Sub-3–12TA), filed August 19, 1981. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *(1) Rubber and miscellaneous plastic products and (2) materials, supplies and equipment used in the manufacture and distribution of the commodities in (1) above (except in bulk)* Between points in the U.S. (except AK and HI). Supporting shipper: Alliance Rubber Company, P.O. Box 730, Hot Springs, AR 71901.

MC 151916 (Sub-3–7TA), filed August 21, 1981. Applicant: BARON TRANSPORT, INC., One Perimeter Way, Suite 455, Altanta, GA 30339. Representative: Eugene D. Anderson, 910 17th Street NW., Suite 428, Washington, DC 20006. *Meat and Packinghouse Products* from Atlanta, Camilla, Gainesville, Lovejoy, Macon, Pine Mountain Valley, Cedartown, GA; and Collinsville, AL to points in NY, NJ, PA, MA, DE, MD, TX, IL, and FL. Supporting shipper: Cagle's Inc., 1155 Hammond Drive, N.E., Suite 3000, Atlanta, GA 30328.

MC 156998 (Sub-3–1TA), filed August 20, 1981. Applicant: DEWITTE SPARKS, d.b.a. SPARKS TRUCKING, 811 Creekway Drive, Lenoir, NC 28645. Representative: Dewitte Sparks (same address as applicant). *Hazardous Waste,* between Lenoir and Spruce Pine, NC and points in SC, GA, TN, VA, FL. Supporting shippers: Caldwell Systems, Inc., P.O. Box 1682 (Mount Hermon Road, Lenoir) Lenoir, NC and Mitchell Systems, Inc., P.O. Box 1924 (Altapass Road, Spruce Pine, NC) Lenoir, NC 28645.

MC 154159 (Sub-3–2TA), filed August 24, 1981. Applicant: RONALD R. ELLIS, d.b.a. ELLIS WRECKER SERVICE, 8300 First Avenue, North, Birmingham, AL 35206. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Disabled motor vehicles and replacement vehicles for disabled motor vehicles, by use of wrecker equipment only,* between points in the U.S. Supporting shippers: Saunders Leasing System, Inc., 6400 First Ave., South, Birmingham, AL 35212; Thomas Welding and Repair, 3829 Eastlake Boulevard, Post Office Box 6346, Birmingham, AL 35217.

MC 136479 (Sub-3–1TA), filed August 24, 1981. Applicant: WALBERT TRUCKING, INC., P.O. Box 403, Glasgow, KY 42141. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract* carrier: Irregular: *Printed matter,* from Glasgow, KY to points in PA, NY, NJ, CT, MA, VA, and MD, under contract with R. R. Donnelley & Sons Co., of Glasgow, KY. Supporting shipper: R. R. Donnelley & Sons Co., 1929 Donnelley Drive, Glasgow, KY 42141.

MC 157845 (Sub-3–1TA), filed August 24, 1981. Applicant: A. D. POOLE TRANSPORTATION CO., INC., Robertson Road, Lauderdale County Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Contract,* Irregular, *General Commodities, (except Classes A & B Explosives)* between points in the U.S., under continuing contract(s) with Ajax Industries, Inc., Supporting shipper: Ajax Industries, Inc., P.O. Box 156, Florence, AL 35630.

MC 157305 (Sub-3–3TA), filed August 24, 1981. Applicant: FREEDOM EXPRESS, INC., Battleship Parkway, P.O. Box 851, Spanish Fort, AL 36527. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Sound deadening or sealing compounds and commodities dealt in by manufacturers of sound deadening or sealing compounds,* between Kankakee, IL on the one hand, and, on the other, points in the U.S. Restricted to traffic moving under continuing contracts with Mortell Company. Supporting shipper: Mortell Company, Hobbie Ave. & Big Four R.R., Kankakee, IL 60901.

MC 157305 (Sub-3–4TA), filed August 24, 1981. Applicant: FREEDOM EXPRESS, INC., Battleship Parkway, P.O. Box 851, Spanish Fort, AL 36527. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Instant cocoa, hot cocoa mix and syrup,* between Momence, IL on the one hand, and, on the other, points in the U.S. Restricted to traffic moving under continuing contracts with Ko-Pak, Inc. Supporting shipper: Ko-Pak, Inc., 305 E. Washington St., Momence, IL 60954.

MC 157849 (Sub-3–1TA), filed August 24, 1981. Applicant: STEPHEN M. WILSON, P.O. Box 217, Auburn, KY 42206. Representative: Louis J. Amato, P.O. Box E, Bowing Green, KY 42101. *Leather products and raw hides,* between Auburn, KY on the one hand, and, on the other, Green Bay and Milwaukee, WI and St. Paul, MN. Supporting shipper: Caldwell Lace Leather, Caldwell Street, Auburn, KY 42206.

MC 157851 (Sub-3–1TA), filed August 24, 1981. Applicant: STAR TRUCKING, INC., 6887 NW 25th St., Miami, FL 33122. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *Malt beverages* and *related advertsing material* between points in Dade and Monroe Counties, FL, restricted to movements having an immediately prior or subsequent movement in interstate or foreign commerce. Supporting shipper: S & P

Enterprises, Inc., Mile Marker 9½, Rockland Key, U.S. 1, Key West, FL 33040.

MC 85578 (Sub-3–2TA), filed August 17, 1981. Applicant: W. M. BURNETT TRUCK LINE, INC., P.O. Box 206, Haleyville, AL 35565. Representative: Donald B. Sweeney, Jr., Esq., 512 Massey Building, Birmingham, Alabama 35203. *Common carrier,* regular routes: *General commodities (except Classes A and B explosives)* (1) between Belmont, MS and Birmingham, AL: (a) from Belmont over MS Hwy 366 to the junction of AL Hwy 19, then over AL Hwy 19 to junction of AL Hwy 172, then over AL Hwy 172 to the junction of AL Hwy 5, then over AL Hwy 5 to the intersection of US 78, then over US 78 to Birmingham and return; (b) from Belmont, MS over MS Hwy 366 to the junction of AL Hwy 24, then over AL Hwy 24 to the junction of US Hwy 43, then over US Hwy 43 to the junction of AL Hwy 5, then over AL Hwy 5 to the junction of US Hwy 278 and AL Hwy 13, then over AL Hwy 13 to the junction of US 78, then over US 78 to Birmingham and return; (2) between the junction of AL Hwy 5 and 237, then over AL Hwy 237 to the junction of AL Hwy 5, then over AL Hwy 5 to Haleyville and return; (3) between Belmont, MS and Florence, AL: (a) from Belmont over MS Hwy 366 to the junction of AL Hwy 24, then over AL Hwy 24 to the junction of US Hwy 43, then over US Hwy 43 to Florence and return; (b) from Belmont over MS Hwy 366 to the junction of AL Hwy 24, then over AL Hwy 24 to the junction of AL Hwy 247, then over AL Hwy 247 to the junction of US 72, then over US Hwy 72 to the junction of US Hwy 43, then over US Hwy 72 and 43 to Florence and return; (3) serving all intermediate points in connection with routes (1) through (3), and serving points in Lauderdale and Colbert Counties, AL as off-route points in connection with routes (1) through (3). (4) Applicant intends to tack and interline this authority with existing authority at Belmont, MS; Florence, Muscle Shoals, Sheffield, Tuscumbia, and Birmingham, AL. There are 8 supporting shippers attached to this application which can be examined at the Regional Office of the Interstate Commerce Commission, Atlanta, GA.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 101458 (Sub-4–1TA), filed August 12, 1381. Applicant: NATIONAL CARTAGE CO., P.O. Box 1121, Melrose Park, IL 60160. Representative: Marc J. Blumenthal, 39 LaSalle St., Chicago, IL 60603. *General commodities* (except classes A and B explosives) between Chicago, IL and its Commercial Zone and Elkhart, IN on the one hand, and, on the other, points in Ottawa, Ionia, Barry, Eaton, Allegan, Kalamazoo, Calhoun, Kent, Van Buren, Berrien, Cass, St. Joseph and Branch Counties, MI having a prior or subsequent movement by rail. Supporting shippers: Trailer Train, Inc., 3356 S. Ashland Ave., Chicago, IL 60608 and Lear-Siegler, Inc., Borroughs Division, 3002 N. Burdick, Kalamazoo, MI 49007.

MC 126555 (Sub-4–28), filed August 14, 1981. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette (same address as applicant). *Metal products* between points in AL, CA, FL, GA, MS and TX. Supporting shippers: International Steel Fabricators, P.O. Box 40446, Houston, TX 77040.

MC 126555 (Sub-4–29) filed August 14, 1981. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette (same as applicant). *Nonexempt farm products* from points in IA and NE to points in CO. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 134477 (Sub-4–44TA), filed August 14, 1981. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Alcohol processing equipment, parts and materials,* between the facilities of Conklin Company, Inc. at or near Springfield, MO on the one hand, and, on the other, points in the U.S. Supporting shipper: Conklin Company, Inc., Valley Park Dr. and Hwy. 101, Shakopee, MN 55379.

MC 135410 (Sub-4–35TA), filed August 13, 1981. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th St., Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200–A, 205 W. Touhy Ave., Park Ridge, IL 60068. *Electronic machinery, electronic components and parts and equipment, materials and supplies used in the manufacture and distribution of electronic machinery, electronic components and parts,* (1) from the facilities of Zenith Radio Corporation at or near Chicago, IL and Springfield, MO to KY, NC, SC, TN, VA and WV, (2) from KY, NC, SC, TN, VA, and WV to the facilities of Zenith Radio Corporation at or near Evansville, IN, (3) from the facilities of Zenith Radio Corporation at or near Evansville, IN, to the facilities of Zenith Radio Corporation at or near Chicago, IL and Springfield, MO and (4) from Pittston, PA and the facilities of Zenith Radio Corporation at or near Watsontown, PA to Chicago, IL and points in its commercial zone. Supporting shipper: Zenith Radio Corp., 1900 N. Austin, Chicago, IL 60639.

MC 141889 (Sub-4–7TA), filed August 14, 1981. Applicant: RONALD DEBOER, d.b.a. RON DEBOER TRUCKING, Route 1, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Paper and paper products and printed material* from Newbury Park CA to points in IL, IN, IA, MN and WI. Underlying ETA seeks 120 days authority. Supporting shipper: Response Graphics, a division of Moore Business Forms, Inc., 2517 Azurite Circle, Newbury Park, CA 93120.

MC 146985 (Sub-4–8TA), filed August 13, 1981. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main Street, P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Esq., Attorneys at Law, Suite 200, Metro Building, Fort Wayne, IN 46802. *General commodities* (except Classes A and B explosives) between the ports of New York, NY; Baltimore, MD; Norfolk, VA; Port Elizabeth, NY; and Kalamazoo County, MI. Restricted to service to be performded under continuing Contracts with Clark Equipment Co. of Buchanan, MI. Supporting shipper: Clark Equipment Company, Buchanan, MI.

MC 147571 (Sub-4–2TA), filed August 14, 1981. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, 500 Armory Dr., South Holland, IL 60473. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. *Food and food products,* from Carrollton, Macon, Marshall, Milan and Kansas City, MO, to points in IL, IN, MI and WI. Supporting shipper: Banquet Foods Corporation, 100 North Broadway, St. Louis, MO 63102.

MC 148485 (Sub-4–3TA), filed August 14, 1981. Applicant: SMITH CARTAGE, INC., 104 South Vine Avenue, Marshfield, WI 54449. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *Upholstered furniture and wood products* between Marshfield and Rib Lake, WI, on the one hand, and, on the other hand, points in IA, IL, IN, KS, MI, MN, MO, MT, ND, NE, OH, SD and WY. Restriction: restricted to transportation to be preformed under a continuing contract(s) with Graham Manufacturing, Inc., Modern of Marshfield, Inc., and Northern Kitchens, Inc. An underlying

ETA seeks 120 days authority. Supporting shippers: Graham Manufacturing, Inc., 1920 E. 26th St., Marshfield, WI 54449; Modern of Marshfield, Inc., 137 W. Ninth Street, Marshfield, WI 54449; and Northern Kitchens, Inc., Box 207, Rib Lake, WI 54470.

MC 153973 (Sub-4–3TA), filed August 18, 1981. Appplicant: SPARTAN SERVICE TRANSPORTATION, INC., 1501 W. Pershing Road, Chicago, Illinois 60608. Representative: Frederick W. Smart, Suite 202, 1301 W. 22nd St., Oak Brook, IL 60521. *Contract* irregular: *Liquors, Beverage; Liquor, malt or non-intoxicating Cereal Beverage, Empty Beverage Containers (returned) and related advertising matter* between IL and points in MN. Restricted to traffic moving under continuing contract(s) with Vierk Corp. Supporting Shipper: Vierk Corp., 16745 S. Lathrope, Harvey, IL.

MC 154099 (Sub-4–1TA), filed August 17, 1981. Appplicant: ALEX PRODUCTIONS, INC., d.b.a. BGT TRUCKING, P.O. Box 268, Alexandria, IN 46001. Representative: Andrew K. Light, Scopelitis & Garvan, 1301 Merchants Plaza, Indianapolis, IN 46204. *Sound, light and audio equipment, and parts and accessories;* restricted to the transportation of commodities for use in public performances, Between points in the U.S. (except AK & HI), restricted to services for the Bill Gaither Trio, Inc., the Oak Ridge Boys, Inc., and Video TechniLites, Inc. Supporting shippers: Bill Gaither Trio, Inc., P.O. Box 300, Alexandria, IN 46011; Oak Ridge Boys, Inc., 329 Rockland Road, Hendersonville, TN 37075; Video TechniLites, Inc., P.O. Drawer 635, Union, MO 63084. An underlying ETA seeks 120 day authority.

MC 157519 (Sub-4–1TA), filed August 14, 1981. Appplicant: KENNETH A. SMITH, 3223 47th Avenue, Kenosha, WI 53142. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract:* Irregular; (1) *Rubber cattle mats, and* (2) *materials and supplies* used in the production of the commodity in (1), between Kenosha, WI, on the one hand, and, on the other, points in IL, IN, IA, MI, and MN, under continuing contract(s) with J.J.J., Inc. An underlying ETA seeks 120 days authority. Supporting shipper: J.J.J., Inc., 6313–13th Ave., Kenosha, WI 53142.

MC 157687 (Sub-4–1TA), filed August 12, 1981. Appplicant: COUNTRY WIDE TRUCKING, INC., 18520 Kishwaukee Valley Road, Woodstock, IL 60098. Representative: G. J. Balek (same as applicant). *Clay, Concrete, Glass, or Stone Products; Primary Metal Products, Including galvanized, except coating or other allied processing; Fabricated Metal Products, (except commodities in bulk, Classes A and B explosives, and Household Goods),* between points in CA, IL, IN, MO, NY, PA, WI, on the one hand, and, on the other, points in the United States (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers: Erect-A-Tube, Inc., P.O. Box 409, Harvard, IL 60033; Premium Slip Co., 18601 Kishwaukee Valley Rd., Marengo, IL 60152; Techalloy Illinois, Inc., P.O. Box 423, Union, IL 60180.

MC 157688 (Sub-4–1), filed August 17, 1981. Appplicant: TRANS COASTAL TRANSPORTATION, INC., 619 Old Meadow Road, Mateson, IL 60443. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Food and related products* between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in the U.S. in and west of MN, IA, MO, AR, and LA. There are seven (7) supporting shippers.

MC 157703 (Sub-4–1), filed August 14, 1981. Applicant: PACIFIC MIDWEST, INC., 5041 Woodcrest Rd., White Bear Lake, MN 55110. Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Paper products,* between Hudson, WI and Longview, WA and Springfield, OR. An underlying ETA seeks 120 days. Supporting shipper: Duro Paper Bag Manufacturing Co., Box 247, Hudson, WI 54016.

MC 119704 (Sub-4–9), filed August 17, 1981. Applicant: R. A. HARRIS & SONS, INC., P.O. Box 237, 3501 22nd Street, Menominee, MI 49858–0237. Representative: Dennis R. Harris (same as applicant). *Contract irregular: Meat and meat by-products* from All points in the U.S. (except AK & HI) on the one hand and one the other to All points in the U.S. (except AK & HI), restricted to the transportation of Frankenthal International, Ltd, with a continuing contract. Supporting shipper: Frankenthal International, Ltd, 222 Cherry St., Suite B., Green Bay, WI. Carrier intends to tack authority with existing authority.

MC 147645 (Sub-4–2), filed August 17, 1981. Applicant: DOTY TRUCKING, INC., 5655 E. Base Line Road, Columbus, IN 47201. Representative: Stephen R. Heimann, 415 Washington Street, P.O. Box 668, Columbus, IN 47201. *Contract* irregular: *Air conditioners, furnaces, heating equipment, stoves, paint, ink, aircraft equipment and parts and materials used in the manufacture of these items* in all states in the contiguous U.S. except NE, SD, ND, ID, OR, WA, WY, UT, and CO. Supporting shipper: Carrier Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 151616 (Sub-4–3TA), filed August 11, 1981. Applicant: TRUCKERS INCORPORATED, 625 Dilger Avenue, Waukegan, IL 60085. Representative: James O'Grady, 9735 Sumac Drive, DesPlaines, IL 60016. *Freight, All Kinds; in containers or trailers having a prior or subsequent movement by air, rail, or water, excepting classes A & B explosives, household goods as defined by the commission, and commodities defined or classed as bulk,* between the rail ramps, and yards, and piers and docks of the port of Chicago, and within the area defined as the commercial zone of Chicago, IL, on the one hand, and the states of IL, IN, OH, MI, WI, IA, MO, MN, and TN, on the other. Supporting shipper(s): 1. Nettles & Company, 9801 W. Higgins Rd., Rosemont, IL 60018.

MC 156003 (Sub-4–3TA), filed August 18, 1981. Applicant: BARRY FREIGHTWAYS, INC., Box 14786, Minneapolis, MN 55414. Representative: Ronald B. Sieloff, Ninth Floor Commerce Bldg., St. Paul, MN 55101. *(1) New school, office and store fixtures and furniture, and (2) Materials, supplies and equipment (except commodities in bulk) used in the manufacture and sale of commodities named in (1) above and (3) Grain elevator equipment and parts of grain elevator equipment,* (1) From Princeton, MN to points in the U.S. (except AK and HI); and (2) From points in the U.S. (except AK and HI) to Princeton, MN. An underlying ETA seeks 120 day authority. Supporting shippers: Verti-Flo Corp., County Rd. 18, Princeton, MN 55371; Smith System MFG., 1405 Silver Lake Rd., New Brighton, MN 55112.

MC 157763 (Sub-4–1TA), filed August 1981. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: Gerald M. Hunter, Attorney at Law, 129 Walnut St., Oglesby, IL 61348. *Contract:* Irregular: *Rubber and/or Plastic products* between points in the U.S. under continuing contracts with Kelly Springfield Tire Company. Supporting shipper: Kelly Springfield, Tire Co., U.S. 20, Freeport, IL 61032.

MC 293283 (Sub-43TA), filed August 18, 1981. Applicant: SCHIEK MOTOR EXPRESS, INC., 90 Casseday Avenue, Joliet, IL 60432. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *General commodities (except Classes A & B explosives),* between points in IL, on the one hand, and, on the other, points in IN,

IL, MI, WI, IA, MO, OH, and KY. There are eleven (11) supporting shippers.

MC 118806 (Sub-4–8TA), filed August 17, 1981. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba R2J 3K4. Representative: Bernard J. Kompare, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers of glass and glass products*, between the facilities of Libbey-Owens-Ford Co. located at Lathrop, CA; Ottawa, IL; Toledo, OH; and Laurinburg, NC, on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and Canada. Supporting shipper: Libbey-Owens Ford Company, Toledo, OH 43695.

MC 136899 (Sub-4–17TA), filed August 20, 1981. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502. (1) *Snow removal, log splitter, lawn and garden equipment;* and (2) *parts, attachments and accessories for items in (1) above*, between Lexington, TN on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD and WI. Supporting shipper: Gilson Brothers Company, P.O. Box 152, Plymouth, WI 53073.

MC 138841 (Sub-4–4), filed August 19, 1981. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Swinging beef and edible beef by-products* from Gibbon, NE to points in WI, MN, and IL. Gibbon Packing, Inc., P.O. Box Q, Gibbon, NE 68840.

MC 138841 (Sub-4–5), filed August 19, 1981. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Hides* from Rapid City, SD to points in WI and to Butler, MO. Black Hills Packing Co., P.O. Box 2130, Rapid City, SD 57709.

MC 142517 (Sub-4–1TA), filed August 18, 1981. Applicant: HOWARD DELIVERY SERVICE, INCORPORATED, P.O. Box 542, 1900 W. 16th St., Broadview, IL 60153. Representative: Francis W. McInerney, 1000 16th St., N.W. #502, Washington, DC 20036. *Contract, irregular: motor vehicle materials and supplies* (except classes A and B explosives) between points in MI on the one hand, and, on the other, points in the Ohio counties of Defiance, Fulton, Henry, Huron, Lucas, Ottawa, Sandusky, Senaca, Williams and Wood, under continuing contract(s) with General Motors Corp. (General Motors Warehousing & Distribution Division). An underlying ETA seeks 120 days authority. Supporting shipper: General Motors Corp (General Motors Warehousing & Distribution Division), 3044 W. Grand Blvd., Detroit, MI 48202.

MC 143230 (Sub-4–4TA), filed August 17, 1981. Applicant: LUCK TRUCKING, INC., Rural Route #1, Box 190, Wolcott, IN 47995. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Food and related products*, between Franklin County, OH and Coles County, IL on the one hand, and, on the other, all points in the U.S. Supporting shipper: Kal Kan, Inc., 3386 E. 44th St., Vernon, CA 90058.

MC 147262 (Sub-4–2TA), filed August 18, 1981. Applicant: DETROIT AIR CARGO, INC., 28450 Highland Road, Romulus, MI 48174. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885. *Contract* irregular: *(1) Electronic equipment and parts; and (2) equipment, materials and supplies used in the manufacture, distribution and sale of (1) above*, between Chicago, Il, and its commercial zone, on the one hand, and, on the other hand, points in Oakland County, MI. Restricted to traffic moving under continuing contract(s) with Control Data Corp. Supporting shipper: Control Data Corporation, 8100 34th Ave., South, Minneapolis, MN 55440. An underlying ETA seeks 120 days authority.

MC 150746 (Sub-4–28TA), filed August 19, 1981. Applicant: DFC TRANSPORTATION COMPANY, 12007 Smith Drive, P.O. Box 929, Huntley, IL 60142. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Chemicals and related products*, between Chicago, IL; San Carlos and Los Angeles, CA; Denver, CO; St. Paul, MN; West Haven, CT; Phoenix, AZ; Oklahoma City, OK; Charlotte, NC; Omaha, NE, and points in their respective commercial zones, on the one hand, and, on the other, points in the U.S. authority. Supporting shipper: The Enterprise Companies, 1191 S. Wheeling Rd., Wheeling, IL 60090.

MC 151448 (Sub-4–3TA), filed August 19, 1981. Applicant: BERNS TRANSPORTATION, INC., 4585 South Harding Street, Indianapolis, IN 46217. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities* (except Classes A and B explosives), from the facilities of Eli Lilly & Co. and Elanco Products Co. at Clinton, Indianapolis and Lafayette, IN to AR, MI, MS, NC and SC. Supporting shipper: Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46225.

MC 151482 (Sub-4–8TA), filed August 17, 1981. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 3571 Merchandise Dr., Rockford, IL 61109. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219–2383. *Contract Irregular.* Such commodities as are dealt in by hardware and discount stores, and materials and supplies used in the manufacture thereof, between points in the U.S. (except AK and HI), under continuing contract(s) with Newell Companies, Inc. of Freeport, IL, and/or its subsidiaries. Supporting shipper: Newell Companies, Inc., Freeport, IL.

MC 157541 (Sub-4–1TA), filed August 14, 1981. Applicant: WILLIAM WALKER, d.b.a. WALKER TRUCK LINE, 5807 S. Wabash Ave., Chicago, IL 60637. Representative: Abraham A. Diamond, 29 S. La Salle St., Chicago, IL 60603. *(a) Paper and paper products; packaging materials; chemicals, other than in bulk; machinery; and (b) materials, equipment and supplies, used and useful in the manufacture, sale and distribution of commodities named in (a) above;* between the facilities of Nashua Corp. at or near Chicago, IL; Albany, Troy and Watervliet, NY; Nashua & Merrimack, NH; Baton Rouge, LA; Los Angeles, CA; Dallas, TX; Atlanta, GA; and Omaha, NE, on the one hand, and, on the other, points in the U.S. *Restricted* to traffic moving from or to the facilities of Nashua Corp., its customers, or vendors. Supporting shipper: Nashua Corp., 7800 S. Woodlawn Ave., Chicago, IL 60619. An underlying ETA has been filed.

MC 157760 (Sub-4–1TA), filed August 18, 1981. Applicant: PROFESSIONAL COACH DELIVERIES, INC., P.O. Box 15223, Milwaukee, WI 53515. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703–3279. *Busses*, between Los Angeles County, CA and points in WI, WA, MN, TN and GA. Supporting shipper: Crown Coach Corporation, 2428 E. 12th St., Los Angeles, CA 90021.

MC 157772 (Sub-4–1TA), filed August 19, 1981. Applicant: ELMER GENE TIBBETTS, d.b.a. TIBBETTS TRUCKING, Route #1, Ogema, MN 56569. Representative: Joel R. Thompson, P.O. Box 418, White Earth, MN 56591. *Wood and wood products*, between points in Beltrami County, MN on the one hand and on the other, points in AR, IL, IN, IA, KS, LA, MN, MO, MT, NE, ND, OK, SD, TX, and WI. Supporting shipper: The Mead Corporation, Courthouse Plaza N.E., Dayton, OH 45463.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 135678 (Sub-5–20TA), filed August 19, 1981. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Baby goods; Foodstuffs, frozen and non-frozen; Canners' supplies; Chemicals, Cleaning Compounds and equipment,* and *commodities used in packing, sale and distribution of the above,* between points in OK, AR, TX, NM, CO and CA. Supporting shipper: Gerber Products Company, 4301 Harriet Lane, Fort Smith, AR 72902.

MC 147676 (Sub-5–11TA), filed August 19, 1981. Applicant: KEATON TRUCK LINES, INC., P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington, P.O. Box 1187, Texarkana, TX 75504. Contract: Irregular: *Rough Steel Castings and Related Products* between Shreveport, LA and Keokuk, IA on the one hand and on the other points in CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, NV, NC, OH, OK, PA, SC, TN, TX and WA. Supporting shipper: Kast Metal Corporation, 1461 West 59th Street, Shreveport, LA 71106.

MC 148143 (Sub-5–7TA), filed August 18, 1981. Applicant: MID-AMERICA FARM LINES, INC., M.P.O. Box 71, Springfield, MO 65801. Representative: John M. Ringenberg (same address as applicant). *General commodities, (except classes A and B explosives and household goods)* between points in the U.S. for the account of Grant Enterprises, Inc. Supporting shipper: Grand Enterprises, Inc., P.O. Box 10036, Springfield, MO 65808.

MC 151342 (Sub-5–3TA), filed August 19, 1981. Applicant: CITY-WIDE CARTAGE CONTRACT CARRIERS, INC., 3317 McKinley Ave., Des Moines, IA 50321. Representative: Kenneth Gilliam (same as above). *General Commodities, (except those of unusual value, Classes A and B explosives, Commodities in Bulk, and those requiring special equipment);* Between points in the U.S. Supporting shipper: Leslie Paper Company, 2220 East 17th St., Des Moines, IA. 50316.

MC 15774 (Sub-5–1TA), filed August 19, 1981. Applicant: CHRISTIAN TOURS, INC., 2241 Laneway Circle, Oklahoma City, OK 73159. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Passengers and their baggage, in the same vehicle with passengers, in round-trip, charter and special operations,* beginning and ending at points in OK, and extending to points in TX, KS, CO, NM, AR, TN, MS, MO and LA. Supporting shipper: There are five (5) supporting shippers.

MC 56810 (Sub-5–3TA), filed August 20, 1981. Applicant: TRANSPORTATION ENTERPRISES, INC., 1135 Gunter, Austin, TX 78702. Representative: PAUL D. ANGENED, P.O. Box 2207, Austin, TX 78768. *Passengers and their baggage in charter and special party operations* originating and terminating at points in Williamson, Travis, Hays, Comal and Bexar Counties, TX, extending to all points in the U.S. Supporting shippers: 22.

MC 61396 (Sub-5–15TA), filed August 20, 1981. Applicant: HERMAN BROS., INC., Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Flay ash and lime kiln dust,* from Carbo and Saltville, VA and Luttrell, TN to points in TN, KY, WV, GA, NC, SC, and VA. Supporting shipper: Ash Management Corporation, 6600 Powers Ferry Road, Suite 200, Atlanta, GA 30339.

MC 110567 (Sub-5–6TA), filed August 20, 1981. Applicant: SONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, 50309. Representative: E. Check, Attorneys, P.O Box 855, Des Moines, 50304. *Bakery goods and materials and supplies used in the manufacture and distribution thereof,* between North Sioux City, SD, on the one hand, and on the other, points in the U.S. on and east of U.S. Hwy 85. Supporting shipper: Interbake Foods, Inc., One Devilsfood Drive, North Sioux City, SD 57049.

MC 114284 (Sub-5–13TA), filed August 20, 1981. Applicant: FOX–SMYTHE TRANSPORTATION CO. P.O. Box 82307, OKLAHOMA CITY, OD 73148. Representative: M. W. Thompson (same as above). *Meat and Meat products,* From Omaha, NE to Albuquerque, N.M. Supporting shipper: Wilson Foods Corporation, 4545 N. Lincoln Boulevard, Oklahoma City, OK 73105.

MC 121517 (Sub-5–15TA), filed August 21, 1981. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., 2120 N. 161st E. Ave, Tulsa, OK 74112. Representative: Jerry C. Slaughter (same as above). *Coal* from points in OK on and East of U.S. Highway 75 to Dallas, TX. Supporting Shippers: General Portland, Inc., P.O. Box 324, Dallas, TX.

MC 121517 (Sub-5–16TA), filed Ausgust 21, 1981. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., 2120 N. 161st East Avenue, Tulsa, OK 74112 Representative: Jerry C. Slaughter (same as above). *Cement* from Allen, Neosho and Montgomery Counties, KS to Tulsa, OK. Supporting shipper: Arrow Concrete, Inc., P.O. Box 129, Broken Arrow, OK 74012.

MC 123876 (Sub-5–4TA), filed August 20, 1981. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Fly ash and lime kiln dust,* from Carbo and Saltville, VA and Luttrell, TN to points in TN, KY, WV, GA, NC, SC and VA. Supporting shipper: Ash Management Corporation, 6600 Powers Ferry Road, Suite 200, Atlanta, GA 30339.

MC 125535 (Sub-5–15TA), filed August 21, 1981. Applicant: NATIONAL SERVICE LINES INC. of NEW JERSEY 2275 Schuetz Rd., St. Louis MO 63141. Representative: Donald S. Helm (same as applicant). Contract: Irregular. (1) *Air coolers and or heating units, and equipment and parts used in the manufacture and distribution in (1) above (except commodities in bulk in tank vehicles),* between Forest City AR, on the one hand, and, on the other, all points in the US (except AK and HI). Supporting shipper: Airtherm Manufacturing Co., 9339 Dielman Industrial Dr., St.Louis MO 63132.

MC 146078 (Sub-5–30TA), filed August 21, 1981. Applicant: CAL–ARK, INC., 854 Moline, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, Prairie Grove, AR 72753–0011. *Foodstuffs* between Bexar County, TX, on the one hand, and, on the other, points in CA, and all points in and east of NM, CO, NE, IA, WI, and MI. Supporting shipper: Guenther & Sons Corporation, P.O. Box 118, East Guenther St., San Antonio, TX 78291.

MC 147047 (Sub-5–2TA), filed August 21, 1981. Applicant: CAPITAL WIRE & CABLE CORPORATION d.b.a. CWC TRUCKING COMPANY, P.O. Box 7, Plano, TX. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Floor Coverings and/or Materials and Supplies used in the installation of Floor Coverings* between Irving, TX on the one hand, and, on the other, points in AZ, CA, GA, NJ, NY, PA, TN. Restricted to shipments originating at or destined to facilities of L D Brinkman Co. of Irving, TX. Supporting shipper: L D Brinkman Company, 520 No. Wildwood, Irving, TX 75061.

MC 150812 (Sub-5–8TA), filed August 20, 1981. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: JOSEPH A. KEATING, JR., 121 S. Main St., Taylor, PA 18517.

Contract, Irregular; *General Commodities (except Classes A & B Explosives, hazardous waste and household goods),* between points in the US (except HI) under a continuing contract(s) with Whittaker Corporation and its Divisions and Subsidiaries, Los Angeles, CA.

MC 157607 (Sub-5–1TA), filed August 14, 1981. Applicant: MILES K. BROWN d.b.a. BROWN'S LODGING AND LIMOUSINE SERVICE, 525 Armour Blvd., Kansas City, MO 64141. Representative: Arthur J. Cerra, 2100 Charterbank Center, Kansas City, MO 64141. Contract, Irregular; *railroad train and engine crews and their baggage, in limousines of not more than ten passengers, not including the driver* between points in KS, MO, OK and TX. Supporting shipper: Missouri-Kansas-Texas Railroad, Parsons, KS 67357.

MC 157819 (Sub-5–1TA), filed August 21, 1981. Applicant: TRUK-TRAK TRANSPORTATION, INC., P.O. Box 28655, Dallas, TX 75288. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives),* between Dallas, TX on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to the facilities of Dallas C.F.S. Terminal, Inc. Supporting shipper: Dallas C.F.S. Terminal, Inc., P.O. Box 3001, Garland, TX 75041.

MC 157822 (Sub-5–1TA), filed August 21, 1981. Applicant: TERRY N. LATTA, d.b.a. TERRY N. LATTA TRUCKING, Route #3, Lot 28, Flag Acres, Woodward, OK 73801. Representative: C. L. Phillips, Room 248 Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Machinery, equipment, materials and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products,* between points in CO, KS, LA, NM, OK, TX and WY. Supporting shippers: 7.

MC 157825 (Sub-55–1TA), filed August 21, 1981. Applicant: BOB CANNON d.b.a. CANNON'S HOT SHOT SERVICE, P.O. Box 123, Odessa, TX 79760. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Oil field equipment and supplies* between points in Ector County, TX on the one hand, and, on the other, points in TX, OK, NM, and LA. Supporting shippers: 5.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 157727 (Sub-6–1TA), filed August 14, 1981. Applicant: AIR FREIGHT EXPEDITERS, INC., 19030—28th Avenue So., Seattle, WA 98188. Representative: Robert G. Gleason, 1127—10th East, Seattle, WA 98102. *General Commodities,* with the usual exceptions of explosives, household goods and liquids in bulk, between points in WA, having had prior or subsequent movement in interstate commerce, for 270 days. Supporting shippers: Loomis Air Services, 7931C Alderbridge Way, Richmond, B.C. V6X 2A4: Coast Carloading Co., 3200 Occidental Ave. So., Seattle, WA 98134 and Acme Fast Freight, Inc., P.O. Box 3803, Seattle, WA 98124.

MC 157431 (Sub-6–1TA), filed August 13, 1981. Applicant: ARTHUR EARL BROWN, d.b.a. ART'S MOBILE HOME SERVICE, 104 East 46th Street, Boise, ID 83704. Representative: Arthur Earl Brown (same address as applicant). *Buildings in sections, Sectionalized Buildings, Volumetric Modulars when transported on wheeled undercarriages, Trailers, Mobile Homes, Camp Coaches, Truck Campers, Mobile Home Frames and Undercarriages and Appliances, Furniture and Personal Effects used and located in House Trailers in primary and secondary movements,* between points in WA, OR, CA, NV, WY, MT, ID and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Design Space International, Inc., 3208 E. Amity Rd., Boise, ID 83705.

MC 157747 (Sub-6–1TA), filed August 17, 1981. Applicant: CASTAN TRUCKING, INC., 4524 S. 280th, Auburn, WA 98002. Representative: Kenneth R. Mitchell, 2317 Milwaukee Way, Tacoma, WA 98421. *General Commodities (except Classes A & B explosives),* between points in CA, ID, MT, NV, OR and WA, for the accounts of Coastal Alaska Lines, Inc.; Paper Products Marketing; Joseph Simon & Sons, Inc. and PNH International, Inc. and Youngstrom Log Homes, Inc.; for 270 days. Supporting shippers: There are five shippers. Their statements may be examined at the Regional Office listed.

MC 144810 (Sub-6–3TA), filed August 13, 1981. Applicant: FLOYD M. CROSS, 62911 Lopez St., Espanola, NM 87532. Representative: Roger V. Eaton, 2501 Yale Boulevard, SE, Suite 301, Albuquerque, NM 87106. *Contract carrier,* irregular routes: *Beverages and beverage containers and materials useful in the marketing and manufacture thereof,* from Denver, CO to Roswell, NM and from Muskogee, OK to Roswell, NM, for the account of Consolidated Bottling Company, Roswell, NM for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Consolidated Bottling Company, Post Office Box 1455, Roswell, NM 87201.

MC 157725 (Sub-6–1TA), filed August 14, 1981. Applicant: DENNIS HOGAN d.b.a. FAIRWAY AUTO TRANSPORT, East 2027 Sprague, Spokane, WA 99202. Representative: Dennis Hogan (same as applicant). *Used automobiles and used trucks* between points in WA, OR, ID and MT, for 270 days. Supporting shippers: There are seven (7) shippers. Their statements may be examined at the Regional office listed.

MC 139906 (Sub-6–85TA), filed August 13, 1981. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Paper, fabric, cleaning and scouring products* between the facilities of Johnson & Johnson at or near Skillman, NJ on the one hand, and, on the other, points in the U.S. for 270 days. Supporting shipper: Chicopee, a division of Johnson & Johnson, P.O. Box 1151, New Brunswick, NJ 08903.

MC 113059 (Sub-6–4TA), filed August 13, 1981. Applicant: KELLER TRANSPORT, INC., Route 9, Katy Lane, Billings, MT 59101. Representative: F. E. Keller (same as applicant). *Petroleum and Petroleum Products* between points in MT and WY for 270 days. Supporting shippers: AMOCO OIL COMPANY, P.O. Box 2501, Billings, MT. 59103; NORTHWEST CRUDE, INC., 2103 Broadwater Avenue, Billings, MT 59104; PARCO OF MONTANA, Suite 203, 2525 West Main, Rapid City, SD 57701.

MC 156673 (Sub-6–1TA), filed August 12, 1981. Applicant: DEPLOY MEPPEN, Rural Route No. 9, B. 152, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract Carrier,* irregular routes: *Chemicals and related products,* from: Kennewick, and Trentwood, WA; Moab, Wendover and Tooele, UT to points in Power, Bannock, Bingham, Bonneville, Fremont, Teton, Jefferson, and Madison Counties, ID, for the account of The Pillsbury Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Co., P.O. Box 447, Ucon, ID 83454.

MC 156897 (Sub-6–2TA), filed August 13, 1981. Applicant: DARRYL L. BARKER AND ROBERT M. BARKER, d.b.a. MILE-HI LEASING, P.O.B. 2000, Sheridan, WY 82801. Representative: Charles M. Williams, 1600 Sherman St.,

No. 665, Denver, CO 80203. (1) *Malt beverages and related advertising materials* from Jefferson County, CO to points in TX, TN, MT, LA, and MS, and (2) (A) *empty used beverage containers and* (B) *materials and supplies used or dealt in by breweries,* from points in TX, TN, MT, LA, and MS to points in Jefferson County, CO; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 127115 (Sub-6–5TA), filed August 12, 1981. Applicant: MILLERS TRANSPORT, INC., 510 W. 4th N., Hyrum, UT 84319. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract Carrier,* Irregular routes: *Aluminum products,* between Los Angeles County, CA on the one hand and on the other points in Salt Lake and Davis Counties, UT for the account of Easton Aluminum, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Easton Aluminum, 5040 W. Harold Gatty Dr., Salt Lake City, UT 84116.

MC 152393 (Sub-6–2TA), filed August 13, 1981. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract Carrier,* Irregular routes: (1) *Automobile parts and accessories used in the manufacture, sale and distribution of trucks,* from Hayward and Los Angeles, CA to Allentown, PA, for the account of Mack Trucks, Inc., and (2) *Copper and brass tubing, in cartons, coils and bundles* from Reading, PA to San Leandro, CA and Los Angeles, CA, for the account of Reading Tube Division, Reading Industries, Inc., for 270 days. Supporting shippers: (1) Mack Trucks, Inc., 2100 Mack Boulevard, Allentown, PA 18103. (2) Reading Tube Division, Reading Industries, Inc., 1925 Republic Avenue, San Leandro, CA 94577.

MC 152393 (Sub-6–2TA), filed August 13, 1981. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract Carrier,* Irregular routes: (1) *Automobile parts and accessories used in the manufacture, sale and distribution of trucks,* from Hayward and Los Angeles, CA to Allentown, PA, for the account of Mack Trucks, Inc., and (2) *Copper and brass tubing, in cartons, coils and bundles* from Reading, PA to San Leandro, CA and Los Angeles, CA, for the account of Reading Tube Division, Reading Industries, Inc., for 270 days. Supporting shippers: (1) Mack Trucks, Inc., 2100 Mack Boulevard, Allentown, PA 18103. (2) Reading Tube Division, Reading Industries, Inc., 1925 Republic Avenue, San Leandro, CA 94577.

MC 153559 (Sub-6–2TA), filed August 14, 1981. Applicant: PLAZA EXPRESS, INC., 6467 Van Nuys Blvd., Suite 460, Van Nuys, CA 91401. Representative: William J. Monheim, P.O.B. 1756, Whittier, CA 90609. *Furniture and fixtures,* from Rancho Cucamonga, CA, to Allentown, PA, Atlanta, GA, Berkley, MI, Bridgeton, MO, Dallas, TX, Denver, CO, Elk Grove Village, IL, Hingham, MA, Lacona, NY, Leavenworth, KS, Minneapolis, MN, Mogadore, OH, Morgantown, WV, Oakland Park, FL, and Portland, OR, for 270 days. Supporting shipper: General Marble Corporation, Division of TFI Companies, 9146 East 9th Street, Rancho Cucamonga, CA 91730.

MC 157728 (Sub-6–1TA), filed August 13, 1981. Applicant: RICHARD D. VANZUIDEN, d.b.a. R. & D. TRUCKING, 11256 Billings Ave., Lafayette, CO 80026. Representative: Richard D. Vanzuiden (Same as applicant). *Contract Carrier,* irregular route; *Ferrous & nonferrous metals—fabricated and raw; class A & B explosives and blasting agents, and manufacturing equipment & supplies* between points in the United States for account of Explosive Fabricators, Inc. for 270 days. Supporting Shipper: Explosive Fabricators, Inc., 1301 Courtesy Road, Louisville, CO 80027.

MC 157746 (Sub-6–1TA), filed August 17, 1981. Applicant: ROCKY MOUNTAIN TRUCK AND EQUIPMENT, INC., 6450 Hwy 2, Commerce City, CO 80022. Representative: Lawrence V. Bialek, 1600 Carr St. #2, Lakewood, CO 80215. *Contract Carrier,* Irregular routes: *Machinery, equipment, materials and supplies* between all points within the U.S. excepting HI for the account of Santa Fe Equipment Co. for 270 days. Supporting Shipper: Santa Fe Equipment Co., 1570 East 66th Ave, Denver, CO 80229.

MC 153899 (Sub-6–2TA), filed August 11, 1981. Applicant: ST FREIGHT SYSTEMS, Suite 1400, One California St., San Francisco, CA 94111. Representative: Charles A. Webb, Suite 1111 1828 L St., N.W., Washington, DC 20036. *General commodities, (Except used household goods, vehicles, Classes A & B explosives, commodities requiring specialized equipment, commodities in bulk, cement, logs, and commodities of unusual or extraordinary value)* between points in the counties of Alameda, Butte, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kings, Lake, Madera, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tulare, Yolo and Yuba, CA, for 270 days, restricted to the transportation of shippments having a prior or subsequent movement by rail or water. Supporting Shipper(s): Clipper Exxpress, 3401 West Pershing Rd, Chicago, IL 60632; Mittelstaedt, Galaviz & Mylin, 214 Front St., San Francisco, CA 94111; Cost-Plus, Inc., 2598 Talyor St., San Francisco, CA 94133.

MC 157432 (Sub-6–1TA), filed August 12, 1981. Applicant: EDWARD A. BLANKENSHIP and GEORGE T. MARQUEZ, d.b.a. STAR TRANSPORTATION, 2860 South East Ave., Fresno, CA 93725. Representative: Charles Webb, 1828 "L" St., N.W., Washington, DC 20036. *General Commodities* (except Household Goods, Class A & B Explosives and Hazardous Wastes) between points in CA; Restricted to the transporation of shipments having a prior or subsequent movement by rail, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Clipper Exxpress, 3401 Pershing Rd., Chicago, IL 60632.

MC 105154 (Sub-6–1TA), filed August 14, 1981. Applicant: TETON STAGE LINES, INC., Rt. 5, B. 402, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Passengers, baggage and their equipment in special or charter operations* between points in Bannock County, ID, on the one hand, and, on the other, points and places in the U.S. for 180 days. Supporting Shipper(s): Southeast Idaho Council of Government, P.O.B. 4169, Pocatello, ID 83201; Senior Citizens Center, 1426 E. Lander, Pocatello, ID 83201; Idaho State University Associated Students, P.O.B. 8912, Pocatello, ID 83210.

MC 96750 (Sub-6–1TA), filed August 13, 1981. Applicant: TRUCKING UNLIMITED, 9215 Sorensen Ave., Santa Fe Springs, CA 90670. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Contract Carrier,* irregular routes, *gypsum, gypsum products, building materials* and *materials, equipment and supplies used in the installation, distribution and manufacture thereof,* from the facilities of U.S. Gypsum Company in Plaster City, Torrance and Santa Fe Springs, CA to points in Clark County, NV for 270 days. Supporting shipper: U.S. Gypsum Company, 632 North Brand Blvd., Glendale, CA 91203.

MC 149142 (Sub-6–1TA), filed August.. 11, 1981. Applicant: WESLEY J.

REYNOLDS d.b.a. W. R. TRUCKING, 3022 MacArthur Blvd., Oakland, CA 94602. Representative: John H. King, 50015 S.E. Coalman Rd., Sandy, OR 97055. *Contract Carrier,* Irregular routes: *Pulp, Paper and Related Products,* and materials, equipment and supplies used in the manufacture and distribution of Pulp and paper from Oregon City and Newberg, OR, to Fresno, CA under continuing contract(s) with Publishers Paper Company, Portland, OR, for 270 days. Supporting shipper: Publishers Paper Company, 6637 S. E. 100th Avenue, Portland, OR 97266.

MC 151611 (Sub-6–8TA), filed August 11, 1981. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Way, Port Hueneme, CA 93041. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract Carrier,* Irregular Routes: *Food or kindred products,* between Oxnard, Santa Fe Springs, Fullerton, Burbank, Los Angeles and Brea, CA, on the one hand, and, on the other hand, points in the U.S., under continuing contract with Oxnard Frozen Foods Cooperative, for 270 days. Supporting shipper: Oxnard Frozen Foods Cooperative, P.O. Box 1427, Oxnard, CA 93032.

MC 112989 (Sub-6–19TA), filed August 13, 1981. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans (same as applicant). *Containers, container closures and container accessories,* from points in CA to points in AZ and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Glass Containers Corp., 535 North Gilbert Ave., Fullerton, CA 92634.

MC 147896 (Sub-6–4TA), filed August 14, 1981. Applicant: WESTERN SONTEX, INC., P.O. B. 667, Seal Beach, CA 90740. Representative: David B. Rosenman, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Contract Carrier,* irregular routes: *metal products,* (1) from Los Angeles County CA, to Philadelphia (Conshonhocken) and Pittsburgh, PA, Dallas, TX, Memphis, TN, St. Louis, MO, Minneapolis, MN, Milwaukee, WI, Minot, ND, Denver, CO, Salt Lake City, UT, and (2) from Chicago, IL, Cleveland, OH, Philadelphia, PA, and points in NJ, TN and TX, to Los Angeles County CA, under a continuing contract(s) with Stoody Company, City of Industry CA, for 270 days. Supporting shipper: Stoody Company, 16425 Gale, City of Industry, CA, 91745.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25317 Filed 8-28-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Spectra-Physics, Inc., et al.; Competitive Impact Statements and Proposed Consent Judgments; Comments and Responses

The Antitrust Division has received the following comments on the Proposed Judgment in *United States v. Spectra-Physics, Inc., et al.,* Civil No. 78–1879 TEH. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) and (d), the Comments are published herewith together with the Division's Responses thereto. Filing of the Comments and Responses with the Court will complete compliance with the Act.

Joseph H. Widmar,

Director of Operations.

The George Washington University

School of Government and Business Administration
Washington, D.C. 20052

June 15, 1981.

Anthony E. Desmond,
Chief, San Francisco Field Office, Antitrust Div., Dept. of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, CA 94102

Re: *Spectra-Physics* et al.

Dear Mr. Desmond: This is in response to the press release of June 2nd regarding the above-captioned matter and the request for comments from members of the public regarding the Division's proposed relief terminating the complaint filed August 8, 1978.

The proposed relief requires the defendants to provide, on request, certain non-exclusive, royalty-free licenses for all patents and written technical information owned by them as of January 1, 1980.

If it is the Division's expectation that such a provision in the consent judgment will restore competition in the market foreclosed by the acquisition of Laserplane, that expectation may be doomed to disappointment.

As "prosecuting" attorney for the Federal Trade Commission in the matter of Koppers Company, Inc., FTC Docket No. 8755, a similar provision was incorporated into the consent order in that case in the expectation that the relief would encourage potential competitors to enter the market and vitiate Koppers' monopoly. Despite what appeared to us to be a potent encouragement to the market through a series of affirmative relief provisions including patent "dedication" and the sale of technological know-how, no new competitors appeared.

If the Division is relying on royalty-free licenses and the required availability of technological information to encourage "competition" with defendants, it may not prove to be a satisfactory alternative to an order of divestiture.

Please feel free to communicate with me about this matter at any time.

Very truly yours,

Daniel R. Kane,

Assistant Professor of Business Administration.

U.S. Department of Justice

Antitrust Division

San Francisco Office

Federal Building, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102

August 19, 1981.

Mr. Daniel R. Kane,
Assistant Professor of Business Administration, The George Washington University, Washington, D.C. 20052

Re: United States v. Spectra-Physics, Inc. and *Laserplane Corporation, Civ. No. 78–1879 TEH*

Dear Mr. Kane: We have received your letter of June 15, 1981 concerning the proposed Final Judgment in the above case.

The machine control laser market has been continuously changing since the filing of the complaint and the defendants' share of the market has been continuously declining, in part because of new entry by other firms. The Government believes that the decree's royalty-free licensing will make it possible for such deconcentration to continue both by attracting new entry and strengthening existing competitors. While there is of course no guarantee that additional new entry will take place, the proposed decree removes one of the major impediments to such entry.

For your information, a copy of the Stipulation with proposed Final Judgment and the competitive Impact Statement are enclosed. Thank you for writing.

Sincerely yours,

Anthony E. Desmond,

Chief, San Francisco Office, Antitrust Division.

Mrs. Mary Kashevaroff,
Box 183, Redwood City, California 94064

June 17, 1981.

U.S. Department of Justice, *450 Golden Gate Avenue,*
Antitrust Division, Box 36046, San Francisco, California 94102

Attn: Anthony E. Desmond, Chief, San Francisco Field Office

Dear Mr. Desmond: Can you tell me whether The Judgment proposed for the case of: "United States v. Spectra Physics, Inc. and Laserplane Corp. Civil No. C–78–1879 TEH" is a move to eliminate protection to individuals with patents rights on inventions dealing with the energy of The Heavens—"Light", as represented by Lasers?

Yours truly,
Mary Kashevaroff.

U.S. Department of Justice
Antitrust Division
San Francisco Office
Federal Building, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102

August 19, 1981.

Mrs. Mary Kashevaroff,
Box 183, Redwood City, CA 94064
Re: United States v. Spectra-Physics, Inc. and *Laserplane Corporation, Civ. No. 78-1879 TEH*

Dear Mrs. Kashevaroff: Thank you for your letter of June 17, 1981 inquiring about the proposed Final Judgment in the above case.

In response to your question, said Final Judgment is applicable only to patents and written technical information owned by Spectra-Physics. This relief has been proposed only in response to the specific facts of this case.

Sincerely yours,
Anthony E. Desmond,
Chief, San Francisco Office, Antitrust Division.

[FR Doc. 81-25280 Filed 8-28-81; 8:45 am]
BILLING CODE 4410-01-M

Attorney General

Notice of Proposed Consent Decree and Action to Obtain Civil Penalties for Violations of Air Emission Standards and an Injunction Requiring Compliance With the Standards by the Chattanooga Coke and Chemicals Co., Inc.

In accordance with Department policy, 28 CFR 50.7 38 FR 19029, Notice is hereby given that on August 5, 1981, a proposed consent decree in *United States of America* v. *Chattanooga Coke and Chemicals Co., Inc.*, Civil Action No. 1-181-323, was lodged with the United States District Court for the Eastern District of Tennessee, Southern Division.

The proposed consent decree requires Chattanooga Coke and Chemicals Co., Inc. to achieve compliance with the applicable regulations and to install certain control equipment. In some cases, the required control equipment will result in the achievement of compliance with emission limitations more stringent than those contained in the Tennessee State Implementation Plan. Additionally, the decree provides for testing procedures and reporting requirements. Stipulated penalties are set for failing to meet the applicable final compliance dates.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Tennessee, Chattanooga, Tennessee, at the Region IV office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, N.E., Atlanta, Georgia 30308; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of 30 days from the date of this notice (until September 31, 1981). Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *Chattanooga Coke and Chemicals Co., Inc.*, (E.D. Tenn., Civil Action No. 1-81-323; D.J. No. 90-5-2-1-137).

Anthony C. Liotta,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-25281 Filed 8-28-81; 8:45 am]
BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237, 50-249, 50-254 and 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Issuance of Amendments to Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Provisional Operating License No. DPR-19, and Amendment No. 55 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit Nos. 2 and 3, located in Grundy County, Illinois. the Commission has also issued Amendment Nos. 74 and 67 to Facility Operating License Nos. DPR-29 and DPR-30, issued to Commonwealth Edison and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The changes to the Technical Specifications involve incorporation of certain of the TMI-2 Lessons Learned Category "A" requirements. These changes impose the requirement that a Shift Technical Advisor with specialized training in reactor technology be present during reactor power operation.

The application for the amendments complies with the standards requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connetion with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 18, 1980, (2) Amendment No. 64 to License No. DPR-19, Amendment No. 55 to License No. DPR-25, Amendment No. 74 to License No. DPR-29 and Amendment No. 67 to License No. DPR-30, 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 Morris Public Library, 604 Liberty Street, Morris, Illinois, for Dresden 2 and 3 at the Moline Public Library, 504-17th Street, Moline Illinois, for Quad Cities 1 and 2. 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 21st day of August 1981.

For the Nuclear Regulatory Commission.
Thomas A. Ippolito,
Chief, Operating Reactor Branch No. 2, Division of Licensing.

[FR Doc. 81-25349 Filed 8-28-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. STN 50-498 OL, STN 50-499 OL]

Houston Lighting & Power Co., et al. (South Texas Project Units 1 and 2), Change in Hearing Schedule

August 26, 1981.

Confirming telephone conversations with representatives of each of the parties, the hearing currently scheduled to commence at 7:00 p.m. on September

14, 1981 has been rescheduled to commence at 2:30 p.m. The session will extend from 2:30 to 5:30 p.m. and from 7:00 to 9:00 p.m. It will be held at the Joe M. Green, Jr. Auditorium, South Texas College of Law, 1303 San Jacinto Street, Houston, Texas 77002.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 81-25350 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309-OLA; Amendment to Facility Operating License No. DPR-36]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station—Spent Fuel Compaction); Hearing on Amendment to Facility Operating License

August 24, 1981.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act) and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider the request of Maine Yankee Atomic Power Company (the Licensee) for an amendment to Facility Operating License No. DPR-36 which currently authorizes the Licensee to possess, use and operate the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The proposed amendment would authorize replacement of the existing racks in the spent fuel storage pool of the facility and would permit: (1) the increase of the long-term spent fuel storage capacity of the spent fuel pool from 953 storage locations to 1500 storage locations which can accommodate 1500 spent fuel assemblies in their as discharged form or 2430 spent fuel assemblies consolidated for spent fuel pin storage, and (2) the utilization of a spent fuel rack to occupy the facility's spent fuel cask laydown area for short-term storage, when necessary. Thereafter, the Licensee would be permitted to operate the facility with this larger spent fuel capacity.

The hearing which will be scheduled to begin in the vicinity of the site of the Maine Yankee facility will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Administrative Judges Peter A. Morris and Cadet H. Hand, Jr., Members, and Robert M. Lazo, Chairman.

On October 24, 1979, the U.S. Nuclear Regulatory Commission (Commission) published in the **Federal Register** (44 FR 61273-74) notice of the proposed issuance of an amendment to the facility operating license to increase the Maine Yankee Atomic Power Station's spent fuel storage capacity. Pursuant to this notice, Sensible Maine Power (SMP) submitted a timely petition for leave to intervene. Subsequently, the State of Maine (Maine) by its Attorney General, notified the Commission of its intention to participate in the proceeding as an interested State pursuant to the provisions of 10 CFR 2.715(c).

Prior to the Board's convening a special prehearing conference pursuant to 10 CFR 2.751(a) for the purpose of, *inter alia*, considering the admissibility of contentions and making determinations as to the parties to the proceeding, the Licensee proposed a modification to its earlier amendment proposal. Pursuant to this Board's Order of January 6, 1981, the Commission then published a "Supplemental Notice of Proposed Issuance of Amendment to Facility Operating License" (46 FR 9315-16, January 28, 1981). The supplemental notice provided that any person whose interest "may be affected by the additional proposed modifications (the utilization of the new spent fuel storage racks to increase spent fuel storage capacity and the utilization of the fuel cask laydown area for additional temporary storage)" may petition for leave to intervene in accordance with 10 CFR 2.714 by February 27, 1981. Pursuant to this supplemental notice SMP submitted on February 27, 1981, a document entitled "Intervenor's Statement of Intent to File Additional Specific Contentions" and Maine, acting through its Attorney General, filed a timely petition for leave to intervene as a full party pursuant to 10 CFR 2.714.

Pursuant to a Notice and Order Scheduling Prehearing Conference, dated June 22, 1981, the first prehearing conference was held in Wiscasset, Maine on August 11, 1981, to consider petitions for leave to intervene in opposition to the proposed issuance of an amendment to Licensee's facility operating license.

Participants in the conference were the Licensee, the NRC Staff and Petitioners SMP and Maine, all represented by counsel.

The Staff and the Licensee did not oppose intervention of SMP and Maine on the basis of standing. Both, however, opposed intervention by Maine on the basis that Maine had not asserted at least one admissible contention.

The participants agreed to the admissibility of one contention of SMP, as amended on the record. The Board admitted this contention and granted the SMP petition for leave to intervene. Accordingly, there will be an evidentiary hearing in this proceeding and SMP will be a full party to the proceeding pursuant to the provisions of 10 CFR 2.714. The Board provided an opportunity until September 28, 1981 for SMP and Maine to file revised contentions.

A prehearing conference or conferences will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the **Federal Register**. The specific issues to be considered at the hearing will be determined by the Board.

For further details with respect to the matters under consideration, see (1) the application for amendment dated September 18, 1979, and (2) the supplemental application dated September 29,1980, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local Public Document Room at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than September 30, 1981. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that

[1] See Prehearing Conference Order of the Atomic Safety and Licensing Board dated this day.

the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless they have been granted the right to intervene as a party or the right of limited appearance.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's Rules of Practice, an original and two (2) conformed copies of each such paper with the Commission.

Issued at Bethesda, Maryland, this 24th day of August 1981.

It is so ordered.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 81-25351 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment revises the program for periodic inspection of the Control Building connection bolts.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 29, 1981, (2) Amendment No. 65 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. 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 20th day of August, 1981.

For the Nuclear Regulatory Commission.

Charles M. Trammell III,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25352 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment consists of administrative changes related to off-site and on-site functional organizational charts, minimum shift crew composition, correction of a typographical error, revisions to the membership of the off-site review committee, and clarifying revisions to the responsibilities of the on-site review committee.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1981, (2) Amendment No. 66 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. 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 20th day of August, 1981.

For the Nuclear Regulatory Commission.

Charles M. Trammell III,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25353 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised Technical Specifications (TSs) for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment revises the Limiting Conditions for Operation and the Surveillance Standards sections of the TSs in order to incorporate requirements for the newly installed fire protection

systems. In addition, the Administrative Controls section of the TSs has been revised to incorporate the fire brigade requirements of Section 10 CFR 50.48 and Appendix R to 10 CFR 50. This change deletes the present specification that defines a fire brigade of 3 members and institutes the requirements of Appendix R (5 member brigade with specified training and physical capabilities).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated June 19, 1980, as supplemented November 17, 1980, (2) Amendment No. 35 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of August 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-25354 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 AND 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-24, and Amendment No. 58 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments contain miscellaneous minor administrative changes which correct or clarify certain portions of the Technical Specifications and approve a revised organizational structure for the Point Beach facilities.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement of negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 4, 1981 and April 6, 1981 as modified by letter dated June 22, 1981, (2) Amendment Nos. 52 and 58 to License Nos. DPR-24 and DPR-27, 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. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. 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 20th day of August 1981.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25355 Filed 8-28-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

August 26, 1981.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A 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 documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Economics and Statistics Service
December 1981 Current Population Survey—Hired Farm Workers Supplement
CPS–1
Biennially
Individuals or households
Interviewed households in December 1981 CPS sample
Agricultural research and services: 58,000 responses; 1,450 hours; $200,000 Federal cost; 1 form; not applicable under 3504(h)
Off. of Federal Statistical Policy and Standard, 202–673–7974

Data will be used by the Economic Research Service of the USDA to analyze policy issues relating to hired farm workers. Of particular interest is the number of people who perform this type of work as their major vocation and the number of children who were hired farm workers in the reference year.

Extensions (Burden Change)

• Economics and Statistics Service
Onion Stocks and Disposition Survey
Other—see SF83
Farms/businesses or other institutions
Onion growers and handlers
SIC: 016 072
Small businesses or organizations
Agricultural research and services: 1,230 responses; 308 hours; $13,000 Federal cost; 2 forms; not applicable under 3504(h)
Off. of Federal Statistical Policy and Standard, 202–673–7974

One phase provides data to estimate January 1 onion stocks held by growers and dealers. This information shows potential volume to be marketed after January 1. Second phase provides end-of-season disposition which combined with recorded movement is used to revise total production. Estimates used by onion industry in marketing decisions.

• Economics and Statistics Service
Potato Processing Inquiry
Monthly, annually
Businesses or other institutions
Potato Processors
SIC: 209 203
Agricultural research and services: 786 responses; 131 hours; $7,000 Federal cost; 2 forms; not applicable under 3504(h)
Off. of Federal Statistical Policy and Standard, 202–673–7974

Provides data on the quantity of potatoes products (chips, shoestrings, canned and dehydrated). This data also serves as a check on total production level. Estimates are used by potato industry in production and marketing decisions.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Extensions (Burden Change)

• International Trade Administration
WITS U.S. Supplier Application—WITS U.S. Export
Products/Service application
ITA–4076P and 4077P
On occasion
Businesses or other institutions
U.S. firms exporting or wishing to export
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 60,000 responses; 27,000 hours; $400,000 Federal cost; 2 forms; not applicable under 3504(h)
William T. Adams, 202–395–4814

Forms are used to register U.S. exporters and their products in the worldwide information and trade system (WITS). Company and product information are made available primarily to foreign buyers in order to increase U.S. exports. Other uses include USDOC program planning and assistance to exporters. FIDES of U.S. firms with whom they may wish to do business. The U.S. export product/services form will be used to collect an.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

New

• Office of Educational Research and Improvement
The Transition From Home to School for Children and Their Families
ED (NIE) 244
Nonrecurring
Individuals or households
All, mother and fathers of children in study
Elementary, secondary, and vocational education: 1,200 responses; 1,512 hours; $450,000 Federal cost; 3 forms; $450,000 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Results will link children's developing competencies to parent-child relations as they are affected by parents' relations with other community members and institutions. The benefits of new family strengths-oriented parent-child specialists and neighborhood resource worker roles will also be tested as means of coordinating the home and school to improve children's learning and for enhancing children's development generally.

Revisions

• Office of Educational Research and Improvement
Fall Enrollment and Compliance Report of Institutions of Higher Education, 1982
ED (NCES) 2300 2.3A and 2.3B
Biennially
Businesses or other institutions
Resp. are uni., colleges, & community colleges
SIC: 822

Research and general education aids: 8,200 responses, 330,000 hours; $359,000 Federal cost, 2 forms; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

College enrollment data are needed by the Department of Education, States, educational researchers, planning and budget offices and individual colleges for use in economic and financial planning and policy formation, deforming funding allocation standards, and assess the manpower flow through college training and development. Used in compliance enforcement by office for civil nights.

• Office of Educational Research and Improvement
Fast Response Survey System
NCES 2379
On occasion other—see SF83
Businesses or other institutions
State, local education agencies, public/private noncoll. sch
SIC: 821 822
Research and general education aids: 2,175 responses, 1,088 hours; $360,000 Federal cost, 1 form; $13,056 public cost; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

FRSS is a data collection system that obtain small amounts of urgently needed education data within a short time and with minimum burden on respondents. Data are provided for education policy formulation and planning.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Health Care Financing Administration
Preclearance: Medigap HCFA–81–ORDS–32/AMG
Nonrecurring
Individuals or households/businesses or other institutions
Medicare bene. to assess the effect of varying St. Regs.
SIC: Multiple
Small businesses or organizations
Health: 0 responses, 0 hours; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Data will be collected from medicare beneficiaries in eight States concerning the number and quality of health insurance policies and from the insurance companies concerning market distribution of policies sold to medicare beneficiaries to assess the effect of varying State regulations.

• Health Care Financing Administration
Medicare Urban Clinics Demonstration Preclearance ORDS
81–4–095
nonrecurring
Businesses or other institutions
Section 3 of the Rural Health Clinics Act of 1977
SIC: multiple
Small businesses or organizations
Health: 0 responses, 0 hours; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Section 3 of the Rural Health Clinics Act of 1977 (P.L. 95–210) mandates a demonstration project to permit evaluation of the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics in medically underserved areas employing a physician assistant of nurse practioner.

• Health Resources Administration
Application Guidelines for Designation and Grant Award and Reporting System for SHPDAS
PHS 5161, HRS–281–1, HRA–281–2
Annually
State or local governments
SHPDAS
SIC: 943
Health: 57 responses, 7,125 hours; $14,450 Federal cost; 3 forms; $71,250 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

P.L. 96–79—Health Planning and Resource Development Amendment of 1979—provides grants for State health planning and development agencies. Application and reporting system will obtain information needed to designate and make grant award to applicant based on State Admn. Program which is a description of applicant's orgn./staff how it will perform statutory mandated functs. info. used to fulfill sec. 1536(b) requirem ensuring comp. in terms of structure and operation.

• Social Security Administration
Financial Status Report
OS–11–81
Quarterly
State or local governments
Refugee resettlement program agencies
SIC: 944
Public assistance and other income supplements; 208 responses, 1,040 hours; $4,160 Federal cost, 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Departmental regulations on administration of grants require that a grantee submit financial status reports (see 45 CFR 74.73). This information will be used by ORR to report to Congress on State activities and expenditures as well as to make necessary adjustments to the State grant for the succeeding quarter.

• Social Security Administration
State Estimate Form
Annually
State or local governments
Refugee Resettlement program agencies
SIC: 944
Public assistance and other income supplements: 52 responses; 208 hours; $10,400 Federal cost; 1 form; not applicable under 3504(h) 202–395–6880

Robert Neal;

The State must submit these estimates in order for ORR to determine the grant amount needed by the States to provide refugee assistance and services. The data will provide the data necessary for Federal accounting as set forth under title IV of the Immigration and Nationality Act.

• Human Development Services
Longitudinal Evaluation of Nutrition Services for the Elderly
Other—see SF83
Individuals or households State or local governments
Elderly prog. partic. and compar. eld. nonpart., etc.
SIC: 835
Education, training, employment, and social services: 9,583 responses; 3,832 hours; $1,000,000 Federal cost; 10 forms; $38,320 public cost; not applicable under 3504(h) 202–395–6880

Gwendolyn Pla;

The data be collected will document current program operations and impact upon program participants. No comparable data are available on a nationwide basis. This information will be used by DHHS/AOA to improve the effectiveness and efficiency of nutrition services for the elderly.

• Human Development Services
Head Start Grants Administration Regulations, Personnel Policies
Nonrecurring
Businesses of other institutions
Local head start agencies
SIC: 835 Education, training, employment and social services; 75 responses; 20,700 hours; $8,808 Federal cost; 0 form; $66,750 public cost; not applicable under 3504(h) 202–395–6880

Gwendolyn Pla,

Section 517 of the Head Start-Follow Through Act, P.L. 95–568, requires each head start agency to adopt administrative requirements and standards including personnel policies. The Head Start Grants Administration requires each head start agency to adopt personnel policies and procedures.

• Health Care Financing Administration

Survey for the National Hospital Rate-Setting Study
HCFA-322
Nonrecurring
Businesses or other institutions
Short-Term Acute Care Hospitals
SIC: 806
Small businesses or organizations
Health: 2,238 responses; 2,238 hours; $82,706 Federal cost; 1 form; $22,380 public cost; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The survey gathers information from hospital administrators and financial officers to ascertain organizational/financial effects of State hospital prospective reimbursement programs.

• Health Care Financing Administration
Demonstration
HCFA–294 A–B–C
Nonrecurring
State or local governments/businesses or other institutions
Hosp., data clearing houses, PSRO's third party payors, etc.
SIC: 919, 806
Small businesses or organizations
Health: 569 responses; 3,243 hours; $2,415,000 Federal cost; 3 forms; $32,430 public cost; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The integrated data demonstration tests alternative methods of collecting, processing, and linking (integrating) . . . billing and discharge data by hospitals and/or through data clearing houses. The results will measure the cost-effectiveness of the alternative approaches as a basis for HCPA decision making.

• Health Care Financing Administration
Medicaid Fraud and Abuse Care File Retention
HCFA–293
On occasion
State or local governments
State agencies
SIC: 919
Health: 53 responses; 40 hours; $765 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880.

The retention of fraud and abuse case files is necessary for reference and background information when commencing an investigation. This information may be used to determine the direction of the investigation of potential fraud or abuse situations.

• National Institutes of Health
Evaluation of the NIA Animal Models Development Program and the NIA genetic and cellular resources program nonrecurring
Businesses or other insitutions
NIH grantees using one of the NIA research resource programs
SEC: 892
Health: 450 responses; 189 hours; $444,189 Federal cost; 2 forms; $1,890 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Recognizing the importance of animal and genetic/cellular resources for the support of research on aging, NIA identified these programs as candidates for an evaluation. Data collection will enable recommendations to the Director, NIA regarding current and projected research resource needs and/or alternative means of meeting those needs.

• Social Security Administration
Annual Statistical Report on Requests for Hearings
SSA–4105
Annually
State or local governments
State agencies administering AFDC programs
SIC: 944
Other income security: 54 responses; 108 hours; $1,100 Federal cost; 1 form; not applicable under 3504 (h)
Robert Neal, 202–395–6880

This form is used to collect information on the number of individuals filing hearing requests, the number of hearing requests disposed of and the number of hearing requests still pending at the end of the reporting period. The information collected is necessary for program planning purposes and for monitoring adherence to State plan provisions.

• National Institutes of Health
NIA Community Studies of the Elderly III: Iowa
Annually
Individuals or households
Resi. of Iowa and Wash. Ctys., Iowa, who are 65 yrs. of age
Health: 5,100 responses; 7,650 hours; $203,874 Federal cost; 1 form; $76,500 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This project will conduct epidemiologic investigations in rural Iowa and Washington Counties, Iowa, in order to develop new knowledge concerning the medical and social diseases of the elderly.

Revisions

• Health Care Financing Administration
Home Health Agency Report and Billing
HCFA–1487
On occasion
Businesses or other institutions
Home health agencies, VNAS, participating medical program
SIC: 809
Small businesses or organizations
Health: 3,124,800 responses; 520,800 hours; $6,554,400 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

This is the basic admission and billing form for covered home health agency services rendered to medicare beneficiaries, and also is used to update beneficiaries utilization records.

Reinstatements

• Health Care Financing Administration
Medicaid/Medicare Abuse Report—Medicare and Medicaid Agreements With Providers of Services (HSQ–55)
HCFA–51
On occasion
Businesses or other institutions
State medicaid agencies
SIC: 919
Health: 6,519 responses; 1,630 hours; $15,546 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

This data is necessary as a recordkeeping device for both individual case control and also overall workload control and analysis. In addition, section 308(c) of P.L. 96–272 requires that each State agency must notify the Secretary whenever a provider or any other person is terminated, suspended, or prohibited from participating under the State plan. In order to implement this P.L., States will be required to report their provider sanction on a flow basis.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

New

• Housing Programs
Report on Relocation Activities for Certain Housing Projects [1] not covered by the Uniform Act
Annually
Businesses or other institutions
Owners/spon. partic. in certain HUD-assist. hsg. programs
SIC: 651
Small businesses or organizations
Community Development: 500 responses; 500 hours; $3,000 Federal

[1] This request for clearance has already been approved for use by OMB. The form is necessary for the early implementation of a new program for the issuance of Government National Mortgage Association (GNMC) guaranteed securities. Public comments will still be considered, and any changes will be made in the revision of the form, as warranted.

cost; 1 form; $6,500 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Administrative regulations at 24 CFR 880.209 (44 FR 59408), 881.209 (45 FR 7082), 882.407 (44 FR 26660) and 841.207 (45 FR 60836). This form is to be completed by private owners/sponsors carrying out HUD-assisted housing programs to provide data needed for general budgetary and legislative determinations.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

New

• Geological Survey
Projected Maximum Attainable Rate (MAR) of OCS oil and gas production for significant OCS fields
Biennially
Businesses or other institutions
Oil co. that operate significant fields on the Federal OCS
SIC: 131, 132, 138
Other natural resources: 75 responses; 600 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The form is needed to conduct the investigation required by section 606 of the OCS Lands Act. The information collected will be used by the U.S. Geological Survey in preparing the biennial report to the Congress, which is also required by section 606 of the OCS Lands Act.

• Geological Survey
Plans of Exploration, Development and Production and Environmental Reports
Nonrecurring
Businesses or other institutions
Oil and gas leases on OCS
SIC: 131, 132, 138
Other natural resources: 1,233 responses; 546,219 hours; $31,500 Federal cost; 1 form; NPRM under 3504(h)
Robert Shelton, 202–395–7340

This information will be used by the Director, Geological Survey, to determine if activities proposed in plans of exploration, development and production and environmental reports, are carried out in a safe and environmentally accepted manner.

• Geological Survey
Geothermal Resources Operations on Public, Acquired and Withdrawn Lands
On occasion
Businesses or other institutions
Leasees of Federal geothermal resources
SIC: 131, 132, 138
Other natural resources: 3,000 responses; 60,000 hours; $2,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information to be collected under 30 CFR 270.34 is needed and will be used to evaluate environmental impacts of geothermal operations. The change to 30 CFR 270.77 reduces the frequency of required reporting, but does not change the substance of the reports, when submitted.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

Extensions (No Change)

• Employment Standards Administration
Application for Certificate To Employ Learners at Subminimum Wages
WH–209
On occasion
Businesses or other institutions
Manufacturers in certain industries
SIC: 212, 225, 232, 233, 234, 236, 238
Small businesses or organizations
Other labor services: 40 responses, 20 hours; $1,734 Federal cost, 1 form; $114 public cost, not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Section 14(a) of the Fair Labor Standards Act provides for the issuance of certificates authorizing the employment of learners at wage rates less than the minimum wage. The form is used by employers to provide information necessary to obtain such authority in accordance with the statute.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Coast Guard
Coast Guard Intelligence Agency Check Request
CG 2765
On occasion
Individuals or households
Alien U.S. Merchant Mariners
Water transportation: 750 responses, 375 hours; $75,000 Federal cost, 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

46 U.S.C. 643 (a), (b), (e) and (1), 46 U.S.C. 672A.(B) information needed in order to verify nationality of alien applicants through national agency check. Verification of nationality required for placement on merchant mariner's document so masters can comply with various citizenship and manning statutes.

• Coast Guard
Record of Endorsement, Exchange or Replacement of Merchant Mariner's Document
CG 4362
On occasion
Individuals or households
Employees or those seeking employ. aboard U.S. merchant ves.
Water Transportation: 2,000 responses, 200 hours; $15,000 Federal cost, 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

46 U.S.C. 643 (c) and (f)—application is required to replace mutilated documents or those issued erroneously. Also required to convert continuous discharge books to merchant mariner documents as well as to add additional ratings not requiring further service. Required to obtain identification and establish record with Coast Guard.

• Coast Guard
Continuous Discharge Book
CG 719–A
On occasion
Individuals or households
Personnel employed aboard U.S. merchant vessels
Water transportation: 300 responses, 75 hours; $4,000 Federal Cost, 1 form; not applicable under 3504 (h)
Wayne Leiss, 202–395–7340

Information needed for issuance of a continuous discharge book required for empolyment aboard U.S. merchant vessels in lieu of merchant mariner's doucment. Required to establish record with Coast Guard and record of vessel employment. 46 U.S.C. 643 (a), (c), (d) and (f).

• Coast Guard
Application for Duplicate Seaman's Papers or Continuous discharge book
CG 4363
On occasion
Individuals or households
Persons empolyed aboard U.S. merchant vessels
Water transportation: 3,000 responses, 750 hours; $60,000 Federal cost, 1 form; not applicable under 3504 (h)
Wayne Leiss, 202–395–7340

Required in order to obtain Duplicate Seaman's Papers including licenses and certificates of registry as well as certificates of discharge which have been lost. Information needed for identification purposes and used to supplement seaman's file. Used also to file for renewal of continuous discharge book. 46 U.S.C. 643, 232, 242 & 239(b)

• Federal Railroad Administration
Motive Power and Equipment Violation Form

FRA–F 6180–68, 68A & 6180–69
On occasion
State or local Governments
State railroad inspectors
SIC: 401
Ground transportation: 551 responses, 551 hours; $15,000 Federal cost, 3 forms; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

These violation forms are designed to furnish FRA's Office of Chief Counsel with the information needed to process freight car safety standard violations through the railroad safety claims collection procedures.

• Urban Mass Transportation Administration
Unified Planning Work Program (UPWP)
Nonrecurring
State or local governments
State Department of Trans., urban areas & metro. plan. org.
SIC: 411
Ground transportation: 330 responses; 178,000 hours; $243,000 Federal cost; 1 form; not applicable under 3504(h)
Donale Arbuckle, 202–395–7340

The unified work program (UPWP) describes all transportation and transportation related planning activities that will be anticipated in an urbanized area and State for a 1 or 2 year period. It documents all work to be performed using UMTA section 8 funds and provides a task budget. This information is utilized by UMTA regional offices for grant approval purposes.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer–Ms. Joy Tucker—202–634–5394

New

• Internal Revenue Service
Tentative Carryback Adjustment Disapproved—Explanation
Letter 216C
Nonrecurring
Individuals or households/farms/ businesses or other institutions
Taxpayers who file tentative carryback claims
SIC: All
Small businesses or organizations
Central fiscal operations: 28,408 responses; 14,204 hours; $188,440 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

26 U.S.C. 6411 authorizes the IRS to make adjustments to a taxpayer's account when there is a tentative carryback credit available. Letter 216C is used to request additional information that is necessary to process the taxpayer's request, or to advise the taxpayer that their request has been denied.

• Internal Revenue Service
Application for certificate Discharging Property Subject to Estate Tax Lien
4422
On occasion
Individuals or households/farms/ businesses or other institutions
Personal representatives and beneficiaries of estates
SIC: All
Small businesses or organizations
Central fiscal operations: 104,000 responses; 52,000 hours; $243,876 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

At death, a decendent's property is automatically attached for Federal estate tax. To release this lien the beneficiary or personal representative must complete and file with the IRS a form 4422, application for certificate discharging property subject to estate tax lien.

• Internal Revenue Service
Advising Agency of erroneous FICA Tax Payment
Letter 136 C, SC, & SP
Other–SEE SF83
State or local governments/businesses or other institutions
Taxpayers req. to file taxpayer I.D. no. and/or bus. return
SIC: 131, 201, 211, 231, 283, 431, 511, 631, 763, 801
Small businesses or organizations
Central fiscal operations; 1,318 responses; 659 hours; $4,611 Federal cost; 3 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

The information is needed to maintain accurate data on all business accounts. It includes issuing employer identification numbers. The information creates an accountability for all taxpayers required to file returns with the IRS. Letter 136 asks certain 941 filers to certify whether they are an agency of a State or local government.

• Internal Revenue Service
Request for Additional Informationon Highway Use Tax Schedule of Highway Motor Vehicles
SWR AUD–2012
On occasion
Individuals or households/farms/ businesses or other institutions
Truck owners
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 21,700 responses; 10,850 hours; $21,700 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Used by examiners to verify forms 2290 for correct special fuel and highway use tax liability in lieu of IRS form L–104 in applicable cases. L–104 requests taxpayers to furnish weight slips, and some States in this region do not use weight slips.

• Internal Revenue Service
Transmission of W–2 or response from employer Re: Wages Transmitted to Taxpayer
Letter 440C
Nonrecurring
Individuals or households
Employees/payees who receive wages &/or pensions & annuity
Central fiscal operations: 32,649 responses; 1,632 hours; $29,480 Federal cost; 1 form; not applicable under 3504(h).
Kevin Broderick, 202–395–6880.

26 U.S.C. and 6053 requires all employers/payers to furnish a wage/ payment to an employee/payee. When a recipient has contacted the IRS upon non-receipt of this statement and IRS has contacted the employer/payer, letter 440C is sent to recipient transmitting the form W–2/W–2P or information secured from employer/payer, and asking the recipient to send data to resolve discrepancies between the employer/ payer records and those of the recipient.

• Internal Revenue Service
Advice to Payer That Form W–2 or W–2P Not Received
Letters 63C & 63SC
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Employers/payers of wages and/or payment from businesses and organizations
SIC: All
Small businesses or organizations
Central fiscal operations: 110,119 responses; 55,059 hours; $95,019 Federal cost; 2 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880.

26 U.S.C. 6051 and 6053 requires employers/payers to furnish wage (payment) and tax information statement to employee/payee. If the recipient does not receive a W–2/W–2P by January 31 and has contacted the IRS, letter 63C or 63SC is sent to employer/payer requesting this statement so recipient can file their income tax return.

• Internal Revenue Service
Questionnaire To Determine Employee Exemption From Withholding

6450
On occasion
Individuals or households
Individuals required to file form W-4 who claim exemption
Central fiscal operations: 40,000 responses; 20,000 hours; $142,000 Federal cost; 1 form; not applicable under 3504(h)

Kevin Broderick, 202-395-6880.

Form 6450 is used, in conjunction with letter 1407 (SC/DO), for contacting employees claiming exemptions from withholding when there is no record of a prior year tax return being filed or the prior year tax return showed no tax liability.

• Internal Revenue Service
Questionnaire—Medical and Dental Expenses
4742
On occasion
Individuals or households
Individual taxpayer
Central fiscal operations: 125,000 responses; 62,500 hours; $292,762 Federal cost; 1 form; not applicable under 3504(h)

Kevin Broderick, 202-395-6880.

Form 4742 provides taxpayer with a simple format for presenting information needed to support their claim for medical and dental expenses upon examination. This information is used to determine whether the claimed expenses should be allowed.

• Internal Revenue Service
Information Request for Group Exemption Letter
Letter 1170 SC
Other-see SF83
Businesses or other institutions
Relig., charitable, scien., literary and educational organiza.
SIC: 131, 201, 211, 231, 283, 431, 511, 631, 763, 801
Small businesses or organizations
Central fiscal operations: 2,450 responses; 1,225 hours; $6,022 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880.

The information is needed to complete or substantiate items required on an exempt organization return. It is used to administer exempt organization reporting requirements established in the IRC.

• Internal Revenue Service
Taxpayer Unable to Obtain W-2's—List Name, Address, and Telephone Number of Employer
Letters 10C and 10SC
On occasion
Individuals or households
Employees/payees receiving wages (payments) and other compen.
Central fiscal operations: 2,088 responses; 522 hours; $1,800 Federal cost; 2 forms; not applicable under 3504(h)
Kevin Broderick, 202-395-6880.

26 U.S.C. 6051 and 6053 requires all employers/payers to furnish wage (payment) and tax information statements to employees/payees. When an employee/payee contacts IRS upon non-receipt of this form W-2/W-2P by January 31, if sufficient information is not provided initially by the recipient, letter 10C or 10SC is sent requesting this additional information.

• Internal Revenue Service
Requests for Additional Information
Letters 23C, SC, SP, 47C, SP & 131C, and SC
On occasion
Individuals or households/farms/businesses or other institutions
Individual and business taxpayers
SIC: 019, 138, 162, 399, 446, 501, 599, 605, 739, 919
Small businesses or organizations
Central fiscal operations: 38,416 responses; 19,208 hours; $249,108 Federal cost; 7 forms; not applicable under 3504(h)
Kevin Broderick, 202-395-6880.

These letters are used to obtain additional information which is necessary to reslove taxpayer correspondence and inquiries.

• Internal Revenue Service
Notification Resulting From Previous Tentative Allowance Cases
Letter 449C
On occasion
Individuals or households/farms/businesses or other institutions
All taxpayers who file tentative carryback claims
SIC: All
Small businesses or organizations
Central fiscal operations: 1,596 responses; 532 hours; $10,572 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

26 U.S.C. 6411 requires IRS to process tentative carryback claims filed by taxpayers. In order to process these claims, previous year returns are needed. If we cannot locate one of these returns, this letter is used to request additional information from the taxpayer to help in locating the return.

• Internal Revenue Service
Transmittals for Copies Form 940 and 940B to State Agency
Letter 171C
On occasion
State or local governments
State unemployment agencies
SIC: 931
Central fiscal operations: 3,975 responses; 1,988 hours; $14,440 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

This letter is used to ask the State unemployment agency to certify the accuracy of the unemployment information as reported to IRS by the employer.

• Internal Revenue Service
U.S. Mutual Insurance Company Income Tax Return
1120M
Annually
Businesses or other institutions
Mutual insurance companies
SIC: 632, 633, 635, 637, 639
Small businesses or organizations
Central fiscal operations: 1,200 responses; 13,200 hours; $31,629 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

A mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company), uses this form to report its income and figure and pay tax. The data is used to verify that the income is properly reported and the correct tax is paid.

• Internal Revenue Service
Request for Relief From Payment of Income Tax Withholding
4670
On occasion
State or local governments/farms/businesses or other institutions
Any taxpayer who is an employer
SIC: All
Small businesses or organizations
Central fiscal operations: 9,000 responses; 2,250 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form 4670 is used to transmit form 4669 being sent to IRS by employers to obtain relief from payment of income tax that has been assessed as a result of an employment tax examination. Data is used to determine whether relief should be granted.

• Internal Revenue Service
Penalty—Partnership Return
6273
Nonrecurring
Farms/businesses or other institutions
Partnerships
SIC: All
Small businesses or organizations

Central fiscal operations: 100,000 responses; 50,000 hours; $32,071 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Partnerships are required by 26 U.S.C. 6031 and 6698 to file a complete and timely U.S. partnership return of income (form 1065) with IRS. If a partnership does not file a timely or complete return, a penalty is assessed against the partnership. Form 6273 is sent informing the partner of the penalty and amount and, if the partnership believes it has reasonable cause for not filing a complete and timely return, asking that the notice be returned with an expl. to that effect.

• Internal Revenue Service
Requesting information to process form 4976
Letter 599C
On occasion
Businesses or other institutions
Taxpayers (businesses) who request to file a 1120 disc.
SIC: All
Small businesses or organizations
Central fiscal operations: 1,000 responses; 500 hours; $866 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

26 U.S.C. 992 and 993 require corporations that wish to be treated as a domestic international sales corporation to file an election on form 4876. If form 4876 is incomplete or if the taxpayer is ineligible to be treated as a disc, we issue a 559C requesting information from the taxpayer. Information submitted by taxpayer is used to process form 4876.

• Internal Revenue Service
Advising Taxpayers How To Claim Excess Social Security Tax Withheld by One Employer
Letter 404(C)
On occasion
Individuals or households
Individuals who have had excess FICA withheld
Central fiscal operations: 458 responses; 183 hours; $408 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Letter 404(C) is used to advise the taxpayer how to obtain a refund of social security taxes withheld by one employer per 26 U.S.C. 6413.

• Internal Revenue Service
Magnetic Tape Reporting Instructions for Form W–4, Employee's Withholding Allowance Certificate
Notice 564
On occasion
State or local governments/farms/businesses or other institutions
Employers of various business & organizations paying wages
SIC: All
Small businesses or organizations
Central fiscal operations: 150 responses; 50 hours; $231 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

26 U.S.C. 3402 requires all employers to withhold tax on wages paid. Every employee is required to complete a form W–4, employer's withholding allowance certificate. 26 CFR 37.3402–1 requires employers to submit certain W–4 information to IRS. Notice 564 are instructions for those employers who requested to submit this data on magnetic tape.

• Internal Revenue Service
Request for information to locate employment tax return 5070
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
All employers
SIC: All
Small businesses or organizations
Central fiscal operations: 15,000 responses; 7,500 hours; $99,396 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

When we can find no record of an employment tax return, we ask that the employer provide information needed to locate the document or to determine whether the return was filed.

• Internal Revenue Service
Remit Received With Return Greater Than Tax Due Clarification Request
Letters 113C & 113SC
On occasion
Individuals or Households farms businesses or other institutions
Taxpayers sending larger payment than indicated on tax ret.
SIC: All
Small businesses or organizations
Central fiscal operation: 470 responses; 235 hours; $3,307 Federal cost; 2 forms; not applicable under 3504(h) 202–395–6880

Kevin Broderick,

26 U.S.C. 6311 authorizes the IRS to receive payment of taxes either by check or money order. 26 U.S.C. 6401 defines "overpayment" and 26 U.S.C. 6402 authorizes the IRS to make refunds. When a taxpayer sends a larger payment than the amount of tax shown, letter 113C/SC is used to request clarification from the taxpayer.

• Internal Revenue Service
Payer Summary of Form W–2P, Magnetic Media Pension Information
6561
Annually
State or local governments/farms/businesses or other Institutions Payers of Pension Payments
SIC: all
Small businesses or organizations
Central fiscal operations: 650 responses, 162 hours; $2,208 Federal cost, 1 form: not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Payers of pension payments who elect to file their pension information with social security administration (SSA) on magnetic media are required to submit a form 6561. Form 6561 is used to provide balancing totals to ensure that all records were processed.

• Internal Revenue Service
Tax Practitioner Mailing File (TPMF) Tax Practitioner Order
Fulfillment program
2333, 2333E, R, S, T, X and 3975
On occasion
Businesses of other institutions
Accountants (tax practitioners)
SIC: 893
Small businesses or organizations
Central fiscal operations: 657,661 responses, 99,332 hours; $2,587,325 Federal cost; 7 forms: not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Maintain mailing list which provides the service with a vehicle to furnish practitioner information necesary for the proper preparation of Federal tax returns and structures the ordering, fee collection and shipping of bulk supplies of tax forms.

• Internal Revenue Service
Unidentified remittance—information request
3731(C)
On occasion
Individuals or households/State or local Governments/farms
Businesses of other institutions
All Tax paying entities
SIC: all
Small businesses or organizations
Central fiscal operations: 77,010 responses, 23,103 hours; $392,214 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

To tell taxpayers we received their payment, we need additional information for service center personnel to credit the account as the taxpayer intended. Taxpayers are required to furnish this information by U.S.C. 6011.

• Internal Revenue Service

Understanding Taxes Teacher Evaluation
5617
Annually
Individuals or households/State or local Governments/businesses of other Ins IOR/Senior schls. jr. colleges
SIC: 821 822 823 824 866
Central fiscal operations: 5,000 responses, 1,250 hours; $7,600 Federal cost; 1 form: not applicable under 3504(h) 202–426–5030

Federal Education Data Acquisition Council,

The teacher evaluation form is voluntarily filled out by teachers after teaching the understanding taxes course and is used by the IRS to assess the effectiveness of the program and to make necessary program changes based on teacher response.

• Internal Revenue Service
Notification of Recent legislation to Finance Benefits for Certain Disabled Victims of Black Lung Disease
Letter 1188SC
Nonrecurring
Businesses or other institutions
Sole proprietors, partnerships and corporations
SIC: 111 121
Small businesses or organizations
Central fiscal operations: 600 responses; 300 hours; $1,865 Federal cost; 1 form: not applicable under 3504(h)
Kevin Broderick, 202–395–6880

This letter explains the new tax on coal regarding black lung disease. It asks for information as to whether the addressee is currently filing a form 720 for something else. Used to set up filing requirements.

• Internal Revenue Service
ADP Record Evaluation Worksheet
SWR E–566
On occasion
Individuals or households/farms/businesses or other institutions
Taxpayers using automatic data processing acc't systems
SIC: multiple
Small businesses or organizations
Central fiscal operations: 25,000 responses; 12,500 hours; $25,000 Federal cost; 1 form: not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Examiners need information about taxpayers' procedures and computer equipment used in order to be able to make a computerized audit. The data is used to evaluate the taxpayers' ADP accounting system and to determine procedures and methods to be used to make the examination.

• Internal Revenue Service
Form 1065 Label Usage Questionnaire
SE SC 260
Nonrecurring
Businesses or other institutions
Partnerships
SIC: multiple
Small businesses or organizations
Central fiscal operations: 300 responses; 150 hours; $488 Federal cost; 1 form: not appicable under 3504(h)
Kevin Broderick, 202–395–6880

Current estimates indicate approximately 40% of form 1065 (partnership return) filers do not use the preprinted label. The attached questionnaire will be mailed to a sample of taxpayers to determine the cause and develop appropriate remedial actions. Maximizing label usage maximizers return processing efficiency (see supporting statement).

• Internal Revenue Service
Assessment Information Disclosure Authorization
ROWR 2860
On occasion
Businesses or other institutions
Estate executors, admns, repres. of the estate.
SIC: 661 655
Small businesses or organizations
Central fiscal operations: 1,000 responses; 500 hours; $50 Federal cost; 1 form: not applicable under 3504(h)
Kevin Broderick, 202–395–6880

To examine estate tax returns, the IRS may need to contact assessors regarding information they used to arrive at the assessed value of property. ROWR form 2860 is used by qualified representative of estates to authorize the assessors to release the information by IRS.

• Internal Revenue Service
Statement of Income, and Profit and Loss Accounts
Form 1090
Annually
Businesses or other institutions
Railroads
SIC: 401
Central fiscal operations: 500 responses; 500 hours; $7,411 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

This form may be used by railroads in lieu of page 1 of form 1120 to report the annual income and profit and loss accounts. The tax is the assessed base on the information supplied on the form. The data is used to verify the correctness of the tax liability.

• Internal Revenue Service
Self-Employment Income Questionnaire
MSC C–3 (4–79)
On occasion
Individuals or households
Individual taxpayers w/possible self-employment income
Central fiscal operations: 5,000 responses; 1,250 hours; $4,224 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

When the Memphis Service Center is examining an individual taxpayer's return and possible self-employment tax liability is an issue (among others), MSC form C–3 is sent with the initial contact letter. The information is used to determine if the taxpayer is subject to self employment tax.

• Internal Revenue Service
Declaration Executor's Commissions and Attorney's Fees
4421
On occasion
Individuals or households/businesses or other institutions
Executors and administrators of estates
SIC: 601 602 603 604 605 811
Central fiscal operations: 25,000 responses; 12,500 hours; $15,804 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 4421 is used to implement regulation 20.2053–3(b)(1) and (c)(1) wherein the estate is allowed a deduction for attorney's fees and executor's commissions prior to the time these fees are fixed by probate court order. This is required as the probate court will not ordinarily order these fees prior to completion of the examination or acceptance of the form 706, Federal estate tax return, on which are deducted, by the IRS.

• Internal Revenue Service
Refund Reduction Explained
Letter 610c
On occasion
Individuals or households
Taxpayers who have refund reduced to pay est. tax penalty
Central fiscal operations: 7,012 responses; 2,922 hours; $49,509 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

26 U.S.C. 6402(A) allows IRS to credit the amount of any overpayment against any liability incurred by the taxpayer. If the amount of refund is reduced to offset a penalty, the taxpayer may not agree with IRS and send us an explanation allowing us to reduce or eliminate the penalty.

• Internal Revenue Service
Questionnaire—Uniforms, Clothing, Equipment or Tools
4747

On occasion
Individuals or households
Taxpayers claiming deductions for uniforms and equipment
Central fiscal operations: 90,000 responses; 45,000 hours; $210,270 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form 4747 provides the taxpayer with a simple format for presenting information to support their deduction for expenses claimed in connection with their employment. The information is used during the examination of the taxpayers return to determine whether the claimed expenses should be allowed.

• Internal Revenue Service
Worksheet To Determine Withholding Allowances
6355
On occasion
Individuals or households
Taxpayers who file nonexempt forms W-4
Central fiscal operations: 80,000 responses; 80,000 hours; $189,476 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form 6355 is used in conjunction with letter 1380(SC/DO) to contact employees who filed non-exempt forms W-4. The IRS uses this information to determine the number of withholding allowances the employee is entitled to claim.

• Internal Revenue Service
Employee Wage Statement
4669
On occasion
Individuals or households
Any employer may request employees to complete form 4669
Central fiscal operations: 7,000 responses; 18,000 hours; $800 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form 4669 is completed by an employee certifying that he/she has reported certain wages received from an employer. This form is sent by the employer to the IRS in order to abate any income tax withholding assessed against the employer. The data is used to verify that the income tax on the wages was paid in full.

• Internal Revenue Service
Individual Retirement Trust Account Individual Retirement Custodial Account
5305 and 5305a
Nonrecurring
Individuals or households/businesses or other institutions
Individuals establishing individuals retirement accounts
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 1,689,000 responses; 844,500 hours; $19,721 Federal cost; 2 forms; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Section 408 allows individuals to set up individual retirement accounts. Forms 5305 and 5305a are used to establish these individual retirement accounts. When an individual's form 1040 is audited, this form may be used to verify the existence of the individual retirement account to which deductible contributions are made.

• Internal Revenue Service
Information To Correct Invalid Social Security Number
4149
Nonrecurring
Individuals or households
Individual taxpayers filing form 1040 or 1040a
Central fiscal operations: 8,000 responses; 2,000 hours; $11,522 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

26 U.S.C. 6109 requires taxpayer identifying numbers on all returns filed. Form 4149 is given to a taxpayer to complete when the information on the tax return does not agree with the social security number on the IRS files.

• Internal Revenue Service
Transmittal of Information Returns Reported on Magnetic Media
4804, 4804PR and 4804SS
Annually
State or local governments/farms/businesses or other institutions, filers of IRS required income information returns
SIC: All
Small businesses or organizations
Central fiscal operations: 4,000 responses; 1,600 hours; $8,421 Federal cost; 3 forms; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Forms 4804, 4804PR and 4804SS are used to provide a signature and provide balancing totals for filers of information returns required by 26 U.S.C. 6041-6043, 6047, 6049 and 6109 who elect to submit their returns via magnetic media.

• Internal Revenue Service
Property Valuation Questionnaire
SWR E-2127
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Real estate property owners
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 9,300 responses; 2,325 hours; $9,300 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Estate tax attorneys have to establish the fair market value of real property. This letter is sent to people who have sold property in the same area. The DAT is used as a partial basis for determining the market value or property.

• Internal Revenue Service
Record Evaluation Worksheet for Data Processing Center
SWR AUD-566A
On occasion
Individuals or households/farms/businesses or other institutions
Taxpayers using a data processing center being examined
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 25,000 responses; 12,500 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Examiners use this form to describe the ADP equipment and procedures used in the data processing center used by the taxpayer, in order to determine the appropriate procedures to be used in making the examination.

• Internal Revenue Service
Taxpayer advised of proposed adjustment to his/her Account Based on State Certification
Letter 101C & 101SC/SP
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
All employers
SIC: All
Small businesses or organizations
Central fiscal operations: 9,710 responses; 4,855 hours; $35,014 Federal cost; 2 forms; not applicable under 3504(h)
Kevin Broderick, 202-395-6880.

This letter is used to ask the employer to explain the difference between information reported to a State unemployment agency and information submitted to IRS.

• Internal Revenue Service
Questionnaire-Tax Treaty Benefits
IO-639
On occasion
Individuals or households
Nonresident alien individuals

Central fiscal operations: 1,000 responses; 500 hours; $50 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Nonresident alien individuals with a permanent establishment in the United States may be entitled to tax treaty benefits. The information is used to determine whether the taxpayer can claim the benefits of a tax treaty.

• Internal Revenue Service
Questionnaire-Physical Presence in Foreign Country
IO–635
On occasion
Individuals or households
U.S. citizens residing in a foreign country.
Central fiscal operations: 5,000 responses; 1,250 hours; $200 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

This form is to be completed by the taxpayer to support his claim of being physically present in a foreign country or countries. The service uses the information to determine tax exempt income under IRC section 911.

• Internal Revenue Service
Information Needed to Identify Account or Locate Return
5063
On occasion
Individuals or households/farms
Taxpayer, individuals bus. exempt org. emplys. plan filers
SIC: 019, 138, 162, 399, 446, 501, 599, 605, 739, 919
Small businesses or organizations
Central fiscal operations: 48,000 responses; 24,000 hours; $231,959 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880
This form is used to request information needed to identify an account or locate a return.

• Internal Revenue Service
Notice to Applicants Regarding Certificates of Proficiency
MSC RM–34 (10/80)
On occasion
Individuals or households
Applicants for employment as data transcribers
Central fiscal operations: 500 responses; 8 hours; $666 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880
Applicants for employment as data transcribers may submit a return.

• Internal Revenue Service
Circularization Letters
MSC RM–37, RM–39, RM–38
On occasion
Individuals or households
Applicant for employment with the Memphis Service Center
Central fiscal operations: 1,500 responses; 120 hours; $1,373 Federal cost; 3 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Eligibles on the inventory of applicants may be contacted, through a general circularization of the inventory, to determine their employment interest. The information is used to assist recruitment planning, including the scheduling of interviews.

• Internal Revenue Service
Unable to Process 1220S Small Business Corporation Return
429C
Nonrecurring
Businesses or other institutions
Small corporations
SIC: All
Small businesses or organizations
Central fiscal operations: 11,770 responses; 5,885 hours; $10,367 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

26 U.S.C. 1371 and 1372 require corporations to file an election if they wish to be treated as a small business corporation. If IRS receives form 1120S, but does not have a valid election on file for the corporation letter 429C is issued. The letter requires a copy of the election as filed or advises the corporation that it is not eligible to be treated as a small business corporation.

Revisions

• Internal Revenue Service
Election/Revocation of Election by an Eligible Section 501C3 Organization to Make Expenditures to Influence Legislation
5768
On occasion
Businesses or other institutions
Tax exempt charitable, educational, scient. and med. organiz.
SIC: 861, 863, 864, 866, 869, 805, 806
Central fiscal operations: 200 responses; 63 hours; $9,976 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 5768 allows tax exempt section 501(C)(3) organizations to elect liberalized treatment of their expenditures to influence legislation, if they agree to pay an excise tax on larger than permitted amounts. If no election is made, the organization's tax exemption is revoked if it uses this information to determine what rules the organization's expenditure are treated under.

• Internal Revenue Service
Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax
5578
Annually
Businesses or other institutions
Private schools exempt from Federal income tax
SIC: 821, 822, 824, 829
Small businesses or organizations
Central fiscal operations: 1,000 responses; 736 hours; $8,389 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Form 5578 is used by private schools that do not file form 990, schedule A, to certify that they have a racially nondiscriminatory policy toward students, as outlined in revenue procedure 75–50. The Service uses the information to help ensure that the school is maintaining a nondiscriminatory policy in keeping with its exempt status.

• Internal Revenue Service
Credit for Work Incentive (WIN) Program Expenses
4874
Annually
Individuals or households/farms/ businesses or other institutions
Employers who take the work incentive credit
SIC: all
Small businesses or organizations
Central fiscal operations: 8,000 responses; 6,539 hours; $56,544 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

IRC sections 40, 50A, and 50B allow employers to claim a credit for a portion of the wages paid to certain eligible employees (generally individuals who are WIN employes or are eligible for AFDC payments). Form 4874 is used to compute and claim this WIN credit. The information obtained is used to determine the validity of the credit.

• Internal Revenue Service
Request for Change in Plan/Trust Year
5308
Nonrecurring
Businesses or other institutions/ individuals or households
All corporate employer and sale proprietors with pension plans
SIC: all
Small business or organizations
Central fiscal operations: 2,000 responses; 2,000 hours; $14,510 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 5308 is used to request permission to change the plan year or trust pension plan. The information submitted is used in determining whether IRS should grant permission for the change.

• Internal Revenue Service
Election To Be Treated as a Possessions Corporation Under Section 936
5712
Nonrecurring
Businesses or other institutions
Domestic corporations that want possessions corp. status
SIC: all
Central fiscal operations: 50 responses; 24 hours; $5,880 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Section 936(a)(1) allows a domestic corporation to elect the status of a possessions corporation. This status allows the corporation to claim the section 936 credit (see form 5735 for computation of this credit). Form 5712 is used to elect this status. The information requested is necessary to determine if the election should be granted.

• Internal Revenue Service
Statement for Recipients of Original Issue Discount
1099–OID
Annually
Individuals or households/businesses or other insitutions
Corps., issuers of certs. of deposit, fin. inst., indivls.
SIC: all
Small businesses or organizations
Central fiscal operations: 1,429,000 responses; 306,000 hours; $94,754 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 1099–OID is used to report income earned on discounted obligations (IRC sections 6049 and 1231). Form 1087–OID is used to report actual ownership. It tells IRS who is responsible for reporting the income. Both forms are used to verify income-reporting compliance on the part of the recipient.

Extensions (Burden Change)

• Internal Revenue Service
Information and Initial Excise Tax Return for Black Benefit Trusts and Certain Related Persons (Under Section 501(c)(21) of the Internal Revenue Code)
Schedule A form 990–BL, form 990–BL and 6069
On occasion, annually
Businesses or other insitutions
Tax exempt black lung benefit trusts and other contributors
SIC: 121, 637, 673, 832
Small businesses or organizations
Central fiscal operations: 27 responses; 91 hours; $17,670 Federal cost; 3 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Form 990–BL is used by IRS to monitor the activities of black lung benefit trusts, and in scme cases to collect excise taxes imposed on these trusts and certain related persons for engaging in prescribed activites. The tax is figured on schedule A (form 990–BL) and it is attached to form 990–BL to report an pay the tax. Form 6069 is mostly used by coal mine operators to figure their maximum allowable deduction to black lung trusts.

• Bureau of Alcohol, Tobacco and Firearms
Wine Tax Return
ATF F 2050 (5120.27)
Other—See SF83
Businesses or other institutions
Permittees who remove wine from bonded premises
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 22,080 responses; 19,900 hours; $1,420 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Used by wineries to pay the excise taxes attached to wine. The schedules on the return provide for the various tax classes of wines and adjustments to the tax due. It is filed bi-monthly and covers the wine removed from the winery during a 2-week period. It is a deferred payment return.

• Bureau of Alcohol, Tobacco and Firearms
Importer's Report of Red Strip Stamps
ATF F 96 (5100.6)
Quarterly
Businesses or other institutions
Importers of distilled spirits
SIC: 518
Small businesses or organizations
Federal law enforcement activities: 14,316 responses; 1,700 hours; $5,700 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

This report is filed quarterly by every importer who requisitions and uses red strip stamps. The filing of this report makes it possible to account for strip stamp usage.

• Bureau of Alcohol, Tobacco and Firearms
Brewers Report of Meter Test
ATF F 138 (5130.8)
On occasion
Businesses or other institutions, breweries
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 200 responses; 180 hours; $800 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

This form is used by brewers to report the tests results of checks run on beer metering devices used within the brewery. The reporting of meter test results assures us that the meters are operating within established tolerances.

• Internal Revenue Service
Statement for Recipients of Unemployment Compensation Payments
1099–UC
Annually
State or local governments
Administrators of State Unemployment Insurance Programs
SIC: 944
Central fiscal operations: 10,819,000 responses; 316,000 hours; $73,126 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Used to report payments of $10 or more in unemployment compensation benefits (IRC section 6050b). Under P.L. 95–600 a portion of these payments may be taxable to the recipients, and the form helps IRS verify reporting compliance on the part of the recipient.

• Internal Revenue Service
Proof of Worthlessness of Mineral Rights or Geothermal Deposits
927
On occasion
Farms/individuals or households/businesses or other institutions
Taxpayers operating mineral rights &/or geothermal dep. bus.
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 500 responses; 500 hours; $5,423 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

IRC section 611 allows a deduction for worthlessness of mineral rights and/or geothermal deposits. Form 927 is used to claim this deduction. The information obtained is necessary to prove worthlessness and to determine the validity of the claimed deduction.

• Bureau of Alcohol, Tobacco and Firearms
Monthly Report of Wine Cellar Operations
ATF F 5120.17 (702)
Monthly
Businesses or other institutions
Wineries

SIC: 208
Small businesses or organizations
Federal law enforcement activities: 8,100 responses; 16,200 hours; $34,500 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form necessary to show the operations if a bonded wine cellar. Describes the operations of producing, blending, and disposition of wine and wine spirits, quantities of wine and wine spirits involved, and the materials used to make wine and other statistical information. Used by ATF to compile statistics and audit wine cellar operations.

• Bureau of Alcohol, Tobacco and Firearms
Manufacture of Tobacco Products Monthly Report
ATF F 3068 (5210.5)
Monthly
Businesses or other institutions
Manufacturers of cigars and cigaretts
SIC: 211 212
Small businesses or organizations
Federal law enforcement activities: 1,800 responses, 1,800 hours; $23,900 Federal cost, 1 form; not applicable under 3504 (h)
Kevin Broderick, 202-395-6880

Form is necessary to show the tobacco products manufacturer's accounting of cigars and cigarettes. Describes the tobacco products manufacturer, the articles produced, received, and disposed, and statistical classes of large cigars. Form is used as an accounting basis to determine manufacturer's compliance with law and regulations and may disclose liability for tax not paid.

• Bureau of Alcohol, Tobacco and Firearms
Monthly Report of Processing (Denaturing) Operations
ATF F 5110.43
Monthly
Businesses or other institutions
Distilled spirits plants that conduct denaturing operations
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 720 responses, 720 hours; $22,800 Federal cost, 1 form; not applicable under 3504 (h)

Kevin Broderick, 202-395-6880

Form is necessary for distilled spirits plants and denature distilled spirits. Describes the operations of denaturing spirits and disposition of denatured spirits and the type and quantity of denature distilled spirits and the type and quantity of denatured spirits involved in their operations.

• Bureau of Alcohol, Tobacco and Firearms
Manufacturer of Tobacco Products—Tax Return
ATF F 3071 (5210.7)
Other—see SF83
Businesses or other institutions
Permittees who remove tobacco products from bonded premises
SIC: 211 212
Small businesses or organizations
Federal law enforcement activities: 3,360 responses, 3,600 hours; $240 Federal cost, 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form is necessary to record the payment and liability of a tobacco manufacturer's tax on a deferred basis (other than prepayment). Describes the taxpayer, amount and type of payment, and the articles being taxed. From this form, billions of dollars of taxes are collected in revenue.

• Internal Revenue Service
US Additional Estate Tax Return
706-A
Nonrecurring
Individuals or households
Individuals only
Central fiscal operations: 2,000 responses, 4,204 hours; $8,000 Federal cost, 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Form 706-A is used to compute and pay the additional estate tax due under code section 2032a(c). The IRS uses the information to determine that the tax has been properly computed.

Extensions (No Change)

• Bureau of Alcohol, Tobacco and Firearms
Report of Use or Disposition of Red Strip Stamps
ATF F 1627 (5110.15)
On occasion
Businesses or other institutions
Importers of distilled spirits
SIC: 518
Small businesses or organizations
Federal law enforcement activities: 57,168 responses, 2,000 hours; $3,200 Federal cost, 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

When spirits are bottled outside the U.S. and are to be imported into the U.S., they need strip stamps attached to the bottles. ATF will send the importer stamps for attachment to the bottles but the importer must account for stamps received and used. That is the purpose of this form

• Bureau of Alcohol, Tobacco and Firearms
Applicaton and Permit for Importation of Firearms, Ammunition and Implements of War
ATF F 6 (7570.3A) PART 1
On occasion
Businesses or other institutions
Licensed importers, manufacturers & dealers
SIC: 348
Small businesses or organizations
Federal law enforcement activities: 7,000 responses, 3,500 hours; $141,620 Federal cost, 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

Application required by 18 U.S.C. 925(d) and 22 U.S.C. 2778 and regulations issued pursuant thereto. Information collected is used to determine eligibility to import firearms, ammunition, and implements of war.

• Internal Revenue Service
Computation of Possessions Corporation Tax Credit Allowed Under Section 936
5735
On occasion
Businesses or other institutions
Possessions corporations claiming special income tax credit
SIC: all
Small businesses or organizations
Central fiscal operations: 500 responses; 500 hours; $98,499 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202-395-6880

IRC section 936 allows a tax credit for corporations that have elected the possessions corporation status on form 5712. Form 5735 is used to compute the possessions corporation tax credit. The data is used to help verify that the corporation qualifies for the credit and that the credit is correctly computed.

ACTION

Agency Clearance Officer—Mr. Don Romine—202-254-8523

New

• Hotline Questionnaire
Nonrecurring
Individuals or households
Former volunteers from Vista, Peace Corps, overseas, domes.
Social services: 8,000 responses; 27 hours; $58 Federal cost; 1 form; not applicable under 3504(h)
Diane Wimberly, 202-395-6880

Survey will determine usefulness and cost effectiveness of hotline which provides leads in career and educational opportunities and is mailed weekly to former vista and Peace Corps volunteers. Data received will help determine how many recipients have actually found a job or obtained an educational benefit through hotline.

CONSUMER PRODUCT SAFETY COMMISSION

Agency Clearance Officer—Charles Casper—301–634–7770

New

• Omnidirectional Citizen Band Base Station Antennas
Proposed consumer product safety standard
Nonrecurring
Businesses or other institutions
Manuf., importers, and prvt. labelers of omnidir. CB antennas
SIC: 366
Small businesses or organizations
Consumer and occupational health and safety: 21 responses; 84 hours; $844,000 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The Commission is proposing a mandatory safety standard and certification rule omnidirectional CB base station antennas. Recordkeeping required by the proposed certification rule would be used to ascertain compliance with the provisions of the standard. Records would be made available to the Commission as necessary (e.g., for field inspections)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202–634–6983

Extensions (Burden Change)

• Law School Information Form
EEOC–434
Nonrecurring
State or local governments/businesses or other institutions
Law schools
SIC: 822, 829
Federal law enforcement activities: 217 responses; 109 hours; $2,485 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

To collect information regarding policies for student volunteer services.

Extensions (No Change)

• Paralegal Program Information Form
EEOC–435
On occasion
State or local governments/businesses or other institutions
Colleges with paralegal programs
SIC: 822, 829
Federal law enforcement activities: 296 responses; 148 hours; $3,341 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

To collect information regarding policies for student volunteer services.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Revisions

• Fair Housing and Nondiscrimination in Lending
1192–O, 1192–P, 1192–Q, 1193, 1193–R
Semiannually
Businesses or other institutions
Savings and loan assoc., service corps., mortgage companies
SIC: 612, 616
Mortage credit and thrift insurance: 14,600 responses, 233,600 hours; 4 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Recordkeeping required by Civil Rights Act of 1968 and 12 CFR 202.12 and 528.6. Data reports are to determine extent of compliance with these laws and regulations. Otherwise, data would be assembled manually by examiners and analyzed during examination, increasing substantially the examination cost to the institution.

Extension (Burden Change)

• Community Reinvestment Act
Annually
Businesses or other institutions
Federally chartered and Federally insured savings and loan associations.
SIC: 612
Mortage credit and thrift insurance: 12,000 responses, 40 hours; $1,600,000 public cost, 3 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Information not collected by agency. It is made available to the public to inform credit applicants as to where institution is willing to make loans. Agency ensures that institution maintains data through examination.

FEDERAL MARITIME COMMISSION

Agency Clearance Officer—Ronald D. Murphy—202–523–5326

New

• 46 CFR 536—publishing and filing of tariffs by common carriers by water in the foreign commerce of the United States—per container rates
General order 13
On occasion
Businesses or other institutions
Waterborne common carriers in United States foreign commerce
SIC: 441
Water Transportation: 426 responses, 426 hours; $8,200 federal cost, 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

General order 13 is amended to incorporate requirements for specification of per container rules and mixed commodity shipments.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

Removal from listing and registration of securities—rule 12D2–2 (17 CFR 240.12 D2–2) and form 25 (A7 CFR 249.25)
On occasion
Businesses or other institutions
National Securities Exchanges and institutions with securities listed thereon
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 530 responses, 530 hours; $5,050 federal cost, 1 form; $15,900 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 12D2–2 and form 25 were adopted in 1935 and 1952, respectively. They are designed to provide the commission with information necessary to carry out its statutorily mandated duties of assuring that delistings comply with the rules of the exchange and are subject to such terms as are necessary for the protection of investors.

• Suspension of trading—rule 12D2–1 (17 CFR 240.12D2–1)
Rule No.
On occasion
Businesses or other institutions
National Securities Exchanges
SIC: 623
Small businesses or organziations
Other advancement and regulation of commerce: 120 responses, 60 hours; $675 federal cost, 1 form; $1,800 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 12D2–1 which was adopted in 1935 requires that national securities exchanges send written notices to the commission of all trading suspensions. The notices provide the commission with necessary information to enable it to assure that the suspension has been carried out in accordance with the rules of the exchange and that the trading suspension was proper.

• Form 11—K, annual report of employee stock purchase, savings and similar plans pursuant to section 15(d) of the 1934 act
SEC: 617
Annually
Businesses or other institutions
ISS. Of employ. stock purchase, savings & sim. plans, etc.
SIC: Multiple

Small businesses or organizations
Other advancement and regulation of commerce: 645 responses, 21,285 hours; $13,014 federal cost, 1 form; $1,128,750 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form 11–K is necessary to provide current public information for employee investors to enable them to make informed investment decisions concerning their investments in various employee plans.

- Application for registration of bank municipal securities
- Dealer 17 CFR 240.15BA2–1 Form MSD 17 CFR 249.1100

RN 17 CFR 240.15BA2–1: Rule 15BA2–1 & MSD: 1534
On occasion
Businesses or other institutions
Banks engaged in the business of selling muncipal securities
SIC: 601
Small businesses or organizations
Other advancement and regulation of commerce: 30 responses; 36 hours; $3,600 Federal cost, 1 form; $2,400 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15BA2–1, originally adopted October 15, 1975, provides that an application for registration with the commission by a bank municipal securities dealer must be filed on form MSD. The information required to be disclosed on form MSD is necessary for the commission to determine whether or no registration as a municipal securties dealer should be granted.

- Registration of Transfer Agents with the Commission (249B.100)

On occasion
Businesses or other institutions
Transfer agents registered with the commission
SIC: 628
Small businesses or organizations
Other advancement and regulation of commerce: 350 responses; 275 hours; $16,000 Federal cost, 1 form; $2,250 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17AC2–1(A) and (C) and form TA–1 adopted on October 22, 1975, implements a statutory registration requirement for transfer agents. The rule provides that an application for registration with the commission as a transfer agent must be filed on form TA–1 and that such information be amended if it becomes incomplete, inaccurate or misleading. The information on form TA–1 is used to determine if registration should be granted and to furnish information to public.

- Supplemental Current Financial and Operational Reports to certain Exchange Members brokers and Dealers:

Rule 17A–11(17 CFR 240.17A–11)
17 CFR 240.17A–11: Rule 17A–11
On occasion
Businesses or other institutions
Registered broker-dealers
SIC: 621
Small businesses or organizations
Other advancement and regulation of commerce: 405 responses; 6,600 hours; $7,000 Federal cost, 1 form; $132,000 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17A–11 was adopted in 1971. The rule was designed to serve as an "early warning" mechanism by which the commission and the self-regulators would be made aware of firms that were starting to experience financial or operational difficulties. The information requested by the rule would allow the appropriate action to be take to rectify the situation and prevent further problems.

- Adoption of Application Filed by Predecessor Rule 15BA2–6 (17 CFR 240.15BA2–6)

17 CFR 15BA2–6: Rule 15BA2–6
Nonrecurring
Businesses or other institutions
Sec. dealers and banks engaged in purc. and sel. munic. sec.
SIC: 601, 621
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 5 hours; $50 Federal cost, 1 form; $50 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15BA2–6, adopted on July 4, 1976, permits an application for registration as a municipal securities dealer (either a securities firm or a bank) to be filed on behalf of such entity by a predecessor and permits the successor to adopt that application as its own, thereby facilitating registration and reducing the paperwork associated with registration of certain numicipal securities dealers.

- Withdrawal From Registration of Municipal Securities Dealer (15 CFR 240.15BC3–1) Form MSDW (17 CFR 249.1110)

RN 17 CFR 240.15BC3–1: 15BC3–1, MSDW: 1588
Nonrecurring
Businesses or other institutions
Banks engaged in the bus. of selling munic. sec., sec. deal.
SIC: 601, 621
Other advancement and regulation of commerce: 20 responses; 10 hours; $440 Federal cost, 1 form; $500 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15BC–1, provides that a notice of withdrawal from registration as a bank municipal securities dealer is to be filed on form MSDW. Form MSDW, first adopted by the commission on June 14, 1976, is needed by the commission to determine whether it is in the public interest to permit a bank municipal securities dealer to withdraw its application and to give certain information to the public.

- Registration of Fiduciaries Rule 15BA2–5 (17 CFR 15BA2–5)

17 CFR 240.15BA2–5
Nonrecurring
Businesses or other institutions
Sec. dealers, banks, and court-appointed fiduciaries
SIC: 601, 621
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 4 hours; $68 Federal cost, 1 form; $200 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15BA2–5, adopted on July 14, 1975, permits a court-appointed or other fiduciary who succeeds to the business of a municipal securities dealer to assume immediate responsibility for the operation of the municipal securities dealer's buiness if the fiduciary files as statement with the commission within 30 days of the date the fiduciary assumes its duties. Without the rule, the fiduciary could not assume responsibility until it registered with the commission.

- Registration of Successor to Registered Municipal Securities Dealer. 17 CFR 240.15BA2–4

17 CFR 240.15BA2–4: Rule 15BA2–4
Nonrecurring
Businesses or other institutions
Sec. dealers (incl. banks) engaged in the business, etc.
SIC: 621, 601
Small businesses or organizations
Other advancement and regulation of commerce: 5 responses; 20 hours; $350 Federal cost, 1 form; $1,000 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15BA2–4, originally adopted July 14, 1976, permits an unregistered municipal securities dealer, which succeeds to the business of an existing municipal securities dealer, to continue the business of its predecessor for 75 days if an application for registration is filed within 30 days of the date succession. Without the rule, the successor could not continue the

business of its predecessor unitl the successors registration had been approved by the commission.

- Application for Registration of Non-Bank Muncipal
Securities Dealer Whose Business is Exclusively Intrastate
(17 CFR 240.15BA2-2)
17 CFR 240.15BA2-2: 15BA2-2
On occasion
Businesses or other institutions
Intrastate non-bank municipal securities dealers
SIC: 621
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 5 hours; $200 Federal cost, 1 form; $500 public cost; not applicable under 3504(h)
Robert Veeder, 202-395-4814

Rule 15BA2-2, as adopted on October 24, 1975, provides that an application for registration with the commission by a non-bank municipal securities dealer whose business is exclusively intrastate must be filed on form BD. The information required to be disclosed on form BD is necessary for the commission to determine whether registration as a broker or dealer should be granted and to furnish information to public investors.

Arnold Strasser,

Acting Assistant Administrator for Reports Management.

[FR Doc. 81-25307 Filed 8-28-81; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Cayman, Islands Reinsurance Corporation Ltd.; Order of Suspension of Trading

August 26, 1981.

It appearing to the Securities and Exchange Commission that Cayman Islands Reinsurance Corporation Ltd. is unable to file timely reports required under the Exchange Act, and because of the lack of currently accurate and adequate information concerning the financial condition and the status of its operations

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in Cayman Island Reinsurance Corporation Ltd. on a national securities exchange or otherwise is suspended, for the period from 9:00 a.m. on August 26, 1981, through midnight on September 4, 1981.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25304 Filed 8-28-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22177; 70-5920]

General Public Utilities Corp.; Proposed Issuance and Sale of Notes; Pledge of Common Stock

August 25, 1981.

General Public Utilities ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a post-effective amendment to its application-declaration previously filed and amended pursuant to Sections 6, 7, 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 thereunder.

By order dated December 1, 1976 (HCAR No. 19778), GPU was authorized to borrow up to $50,000,000 from five banks ("Banks") pursuant to a Loan Agreement involving the issuance of GPU's unsecured serial notes. The borrowings were repayable in semi-annual installments of $2,750,000, commencing June 30, 1977 and a final installment of $14,250,000 payable on December 31, 1983. The borrowings bore interest rates ranging from 115% to 120% of the lending Banks' prime rates and required no compensating balances.

By order dated March 21, 1979 (HCAR No. 20965), GPU was authorized to amend the Loan Agreement and the related promissory notes to permit an increase in the semi-annual principal installments from $2,750,000 to $3,900,000 and a reduction of the interest rate to 106% of the prime rate.

By order dated June 19, 1979 (HCAR No. 21107), GPU was authorized to amend the Loan Agreement to provide for the cancellation of the then outstanding $39,000,000 principal amount of promissory notes and the issuance of new promissory notes to the Banks in a like principal amount which would mature October 1, 1981 and bear interest, payable monthly, at a fluctuating rate per annum equal to 108% of the higher of (i) the base rate of Citibank, N.A. or (ii) ½ of 1% above the latest three week moving average of offering rates for three month certificates of deposit of major banks ("Alternate Base Rate"). The borrowings required no compensating balances. GPU was authorized to secure the promissory notes under the terms of a stock pledge agreement under which GPU pledged as collateral all of the common stock of its subsidiaries, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and GPU Service Corporation ("Subsidiaries").

GPU now proposes to further amend the Loan Agreement on or before October 1, 1981 to issue to the Banks $39,000,000 in aggregate principal amount of new promissory notes ("new Notes") to replace the promissory notes presently outstanding and maturing on October 1, 1981. The New Notes would (a) mature on December 31, 1982, (b) bear interest at a fluctuating rate per annum equal to 107% of the Alternate Bank Rate and (c) provide for amortization of the prinicipal designed to repay all outstanding indebtedness by December 31, 1982. The New Notes would be secured by a pledge of the common stock of the Subsidiaries under an amended stock pledge agreement.

The amended application-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 September 18, 1981, to the Secretary, Securities and Exchange Commission, Wasington, D.C. 20549, and serve a copy on the applicant-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 amended application-declaration, as filed or as it may be further amended, may by 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. 81-25305 Filed 8-28-81; 8:45 am]

BILLING CODE 8010-01-M

Advisory Committee on Shareholder Communications; Meeting

This is to give public notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Securities and Exchange Commission Advisory Committee on Shareholder Communications will conduct a meeting on September 18, 1981, at the National Association of Securities Dealers, 1735 K Street, N.W.,

Washington, D.C., in the Conference Room, 3rd Floor, beginning 10:00 a.m. This meeting will be open to the public.

The purpose of the meeting is to: finalize plans for issuance of a release soliciting comments from the public on certain issues under consideration by the Committee.

Further information on this matter may be obtained by contacting: Gregory H. Mathews, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2589.

Dated: August 26, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25375 Filed 8-28-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 81-069]

Chemical Transportation Advisory Committee, Subcommittee on Chemical Vessels; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee to be held on Wednesday, October 7, 1981 beginning at 9.00 a.m. in room 3201, Coast Guard Headquarters 2100 Second Street, S.W., Washington, DC 20593.

This meeting will discuss the draft final rulemaking that will revise and update the Safety Standards for Self-Propelled Vessels carrying hazardous liquids, 46 CFR Part 153 (CG 78-128).

Attendance is open to the interested public, with advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time. Additional information may be obtained from Captain K. B. Schumacher, Executive Director, Chemical Transportation Advisory Committee, U.S. Coast Guard, (G-MHM), Washington, DC. 20593 or by calling (202) 426-1217.

Issued in Washington, DC, on August 25, 1981.

Clyde T. Lusk, Jr.,

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

[FR Doc. 81-25365 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

[CGD 81-070]

Chemical Transportation Advisory Committee; Annual Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee to be held on Thursday, October 8, 1981 beginning at 9 a.m. in room 3201, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

The following items are listed on the agenda for review:

Current Regulatory Programs,
Waterfront Facilities,
Bulk Liquid Shipments,
Bulk Solid Shipments,
Personnel Protection.

Attendance is open to the interested public, with advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time. Additional information may be obtained from Captain K. B. Schumacher, Executive Director, Chemical Transportation Advisory Committee, U.S. Coast Guard (G-MHM), Washington, D.C. 20593 or by calling (202) 426-2306.

Issued in Washington, D.C., on August 25, 1981.

Clyde T. Lusk, Jr.,

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

[FR Doc. 81-25368 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

FAA Aviation Forecasting and Planning Review Conference

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

The Department of Transportation announces the FAA Aviation Forecasting and Planning Review Conference which will be held on October 13-14, 1981, at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The purpose of this conference is to provide a forum for users of the aviation system and providers of aviation services to discuss major issues facing aviation during this upcoming decade. Aviation industry officials and the public are invited to participate in discussions of FAA's forecasts of aviation activity and FAA's plans to accommodate changing aviation demands.

The preliminary conference agenda follows:

Tuesday, October 13

8:00-9:00—Registration
9:00-9:15—Welcome and Introductory Remarks
9:15-9:50—Overview and Implications of FAA Forecasts
9:50-10:20—Coffee Break
10:20-12:00—Outlook for the 1980's
Report on the TRB/FAA Aviation Demand Forecast Workshop
Presentation of Major Issues:
- Aviation Financing
- International Fuel Policies

12:00-1:30—Luncheon—Guest Speaker
1:30-2:30—Changing Aviation Industry
- Low-Cost, Low-Fare Airlines
- Old Markets—New Aircraft

2:30-3:00—Coffee Break
3:00-4:30—Deregulation Impact—The Untold Story
- Air Taxi, Helicopter and Fixed Base Operators
- Charter Operators and Cargo
- Business Flying and Airports

4:30—Summary Comments
5:00—Reception/Cash Bar

Wednesday, October 14

8:30-10:00—FAA Objectives and Programs
- Overview of FAA Goals and Objectives
- Presentation of FAA Programs

10:00-10:30—Coffee Break
10:30-12:00—Objectives and Programs—Panel Discussion, Representatives from Aviation Industry, FAA and User Community Lead Question and Answer Session
12:00-1:30—Luncheon—Guest Speaker
1:30-3:00—International Aviation Policy
- Status of Bilateral Transport Agreements
- Competition and Fare Flexibility
- Implications for U.S. Economy

3:00-3:15—Wrap-Up Session

All sessions will include a question and answer period, and audience participation is encouraged.

Although this conference is open to the public, the hotel levies a per day rate which covers the cost of the use of its conference facilities, lunch, and coffee breaks. This rate is covered by a registration fee of $25.00 for one day, or $50.00 for both days of the conference.

Further information concerning this conference may be obtained from Ms. Marva Booker or Ms. Diane Wood at the Federal Aviation Administration, Office

of Aviation Policy and Plans, APO-320, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8444.

Issued in Washington, D.C., August 24, 1981.

Harvey B. Safeer,

Director, Office of Aviation Policy and Plans.

[FR Doc. 81-25131 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-09-M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on September 18, 1981 in RTCA Conference Room 267, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting held on July 17, 1981; (2) Chairman's Report on RTCA Administration and Management; (3) Special Committee Activities Report for July-August, 1981; (4) Consideration of Establishing New Special Committees; (5) Review Terms of Reference for Special Committee 147 on Threat Alert & Collision Avoidance System/Active Beacon Collision Avoidance System (TCAS/BCAS); (6) Consideration of RTCA Activities with Respect to Threat Alert & Collision Avoidance System, Type I, (TCAS I); (7) Consideration of RTCA Activities with Respect to Federal Communications Commission Order 81-343 Implementing the Regulatory Flexibility Act of 1980; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 19, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-25132 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-09-M

Gates Learjet 20 and 30 Series; Type Certification Decision Document and Availability of Special Certification Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Documentation.

SUMMARY: On April 30, 1981, the Director of the FAA, Central Region, approved issuance of the first phase report of the Type Certification Decision Document of the Gates Learjet 20 Series Special Certification Review. With the issuance of Airworthiness Directives 81-13-07, regarding minimum fuel requirements, and 81-16-08, regarding modifications to the pitch axis system of the Model 25 series airplane and to the FC-110 autopilot, an update of the ongoing review is appropriate. The Director has reviewed and discussed with his staff a Document entitled "Learjet Special Certification Review, Supplement #1," and has approved its issuance. A copy of this first supplement is on file in the FAA Rules Docket and is available for examination and copying at the Rules Docket. A copy may be obtained from the Office of the Regional Counsel, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Issued in Kansas City, Missouri, on August 21, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-25277 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Alameda and Contra Costa Counties, California.

FOR FURTHER INFORMATION CONTACT: James Lamb, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, telephone: (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) and the Alameda and Contra Costa County Highway Departments, will prepare an environmental impact statement (EIS) on a proposal to upgrade Interstate Highway 80 in Alameda and Contra Costa Counties, California. The proposal involves the study of transportation system management (TSM) alternatives: non-continuous high occupancy vehicle (HOV) lanes past major bottlenecks; auxiliary lanes past bottlenecks; ramp metering. The section of the I-80 corridor under study runs from the area of the San Francisco-Oakland Bay Bridge Toll Plaza to the southern end of the Carquinez Bridge, a distance of approximately 20 miles. Improvements to the corridor are under consideration because existing and projected traffic demands make such studies necessary.

Alternatives under consideration include:

(1) Construction of a "full" HOV lane system for the entire corridor;

(2) Construction of a non-continuous HOV lane system at key points in the corridor, as well as other improvements; and

(3) Taking no action—the "no-build" approach.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A Scoping meeting is scheduled for September 17, 1981, at a time and place to be announced by public notice. When completed, the draft EIS will be available for public and agency review and comment.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

Issued on: August 21, 1981

A. J. Gallardo,

District Engineer.

[FR Doc. 81-25135 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP81-1; Notice 2]

American Mopeds Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by American Mopeds Inc. of Norwalk, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle

Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on February 5, 1981, and an opportunity afforded for comment (46 FR 11086).

Paragraph S5.3 of Standard No. 120 requires, as of September 1, 1977, certain information to be permanently attached to motorcycles, either on the certification label or on a separate tire information label. This information includes the size designation for rims appropriate for the vehicle's tires (S5.3.2). In the course of a compliance investigation (CIR 2371) NHTSA discovered this item lacking from a motor driven cycle (moped), manufactured by Califfo of Italy, and imported by American Mopeds.

In reply to NHTSA's inquiry, American Mopeds surmised that there were no more than 2502 Califfo Deluxe mopeds without the proper information. None of the vehicles were manufactured or imported before February 1979. American Mopeds argued that the noncompliance is inconsequential because the information on the moped carries the tire size (2.25 x 16), and it is "standard practice in the industry to refer to tires as a 16" wheel". The only rim available for a 2.25 x 16 tire is a 16 inch rim and only one tire rim combination is offered on the vehicle. Therefore, no consumer confusion will result in the event of replacement.

No comments were received on the petition.

The NHTSA concurs with petitioner's arguments that, because there is only one rim available for use on the vehicle, and only one tire-rim combination offered, the failure of the vehicle to include a size designation is inconsequential as it relates to motor vehicle saftey. Accordingly, the petition by American Mopeds, Inc., is hereby granted.

(Secs. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on August 24, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81–25191 Filed 8–28–81; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP81–6; Notice 2]

Cooper Tire & Rubber Co.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by the Cooper Tire & Rubber Co. of Findlay, Ohio to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 19, 1981 and an opportunity afforded for comment (46 FR 17709).

Paragraph S4.3(b) requires that the sidewalls of each passenger car tire be labeled with the maximum permissible inflation pressure. Because of an erroneous mold, Cooper produced L78–15 Falls Avenger polyester/fiberglass belted, tubeless white sidewall tires between the 39th and 50th weeks of 1980 labeled with a maximum inflation pressure of 35 psi. The correst value is 32 psi. Cooper was able to recover and rebrand some of the tires but about 1800 remain uncorrected.

In the belief that tire strength would be the only factor possibly adversely affected by inflation to 35 psi, Cooper tested two of the mislabeled tires "finding * * * plunger energy of 3310 inch pounds (average of the two tires) which is well in excess of the required 2600 inch pounds under FMVSS 109 * * *." For this reason, the company argues that its noncompliance is inconsequential as it relates to motor vehicle safety, noting that the tires otherwise comply with Standard No. 109.

No comments were received on the petition.

During normal operation of the tires concerned, pressures may rise to 40 psi because of high ambient temperatures or heavy loading. The tires are designed with a margin of safety as demonstrated by Cooper's tests. The 3 pounds error then, does not create a safety hazard. Petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is granted.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and CFR 501.8)

Issued on August 24, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81–25192 Filed 8–28–81; 8:45 am]

BILLING CODE 4910–59–M

International Harmonization Regarding Lighting and Light Signalling; Public Meeting

August 25, 1981.

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting with the public representatives on Tuesday, September 8, 1981. The purpose of the meeting will be to discuss lighting and light signalling as it relates to the 9th Session of the Group of Rapporteurs on Lighting and Light Signalling (GRE) of the Economic Commission for Europe to be held on September 15–18, 1981, in Leipzig, Germany.

The meeting will begin at 1:00 p.m., run until 3:00 p.m. It will be held in the Thomas Suite of the Hyatt Regency, Dearborn, Michigan.

At this meeting, the U.S. delegate to the GRE will answer questions, receive information, test data, etc. from the public relating to lighting and light signalling. The information may relate to anticipated regulatory issues on the agenda such as (1) center, high mounted stoplamp; (2) parking lamps; (3) motorcycle/moped headlighting; (4) headlight photometrics, and (5) headlamps incorporating lenses of plastic materials.

Information for the September 8 meeting may be oral or in writing and may be submitted on or before the meeting date. Every effort will be made to answer questions and/or consider appropriate test data relating to the anticipated regulatory issues on the GRE agenda.

A summary of the meeting minutes will be available for public review in the Agency's Technical Reference Section, Docket 79–18; International Harmonization.

FOR FURTHER INFORMATION CONTACT: W. Marx Elliott, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–426–1714).

Issued in Washington, DC on: August 25, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81–25176 Filed 8–28–81; 8:45 am]

BILLING CODE 4910–59–M

Maritime Administration

[Docket No. S-699]

Waterman Steamship Corp.; Application for Privilege of Calling at Montreal, Canada, in Connection With Operations on Trade Route No. 21

Notice is hereby given that Waterman Steamship Corporation (Waterman) has requested by letter of August 20, 1981 that its Operating-Differential Subsidy Agreement (ODSA), Contract No. MA/MSB-450 be amended to include the privilege of calling at the port of Montreal, Canada, through December 31, 1981, the termination date of the U.S.-U.S.S.R. Maritime Agreement.

Under ODSA, Contract No. MA/MSB-450, Waterman provides subsidized service on Trade Route No. 21 between United States Gulf ports and ports in the United Kingdom, Republic of Ireland and Continental Europe from the northern border of Portugal to but not including the southern border of Finland with privilege calls at ports in Scandinavia (Norway, Sweden, Denmark and Finland) and U.S.S.R. ports east of Finland in the Barents Sea.

Waterman advises that it has developed a substantial trade with the U.S.S.R. and is presently the only U.S.-flag carrier providing service directly to a U.S.S.R. port carrying bilateral cargoes. These bilateral cargoes represent a substantial portion of the cargoes being carried by Waterman in this trade and are necessary to the economic viability of the service.

The U.S.S.R. is routing a preponderance of the U.S./U.S.S.R. bilateral cargoes through the port of Montreal, Canada, where they maintain a service with their own vessels and have established an organization for the control of these cargoes. Therefore, in order to be able to participate in the carriage of cargoes moving via Montreal, Waterman has requested modification of its ODSA to permit privilege calls at Montreal through December 31, 1981.

Any person, firm or corporation having any interest in such application and desiring to submit comments concerning the request must file written comments in triplicate with the Secretary, Maritime Administration, by close of business on September 8, 1981.

(Catalog of Federla Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

Dated: August 26, 1981.

By Order of the Acting Maritime Administrator.

Georgia Pournaras Stamas,

Assistant Secretary.

[FR Doc. 81-25306 Filed 8-28-81; 8:45 am]

BILLING CODE 3510-15-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 168
Monday, August 31, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 2, 1981.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Briefing on Power Lawn Mowers*
The staff will brief the Commmission on implementing the provisions of the Omnibus Budget Reconcilation Act of 1981 which direct the Commission to modify the safety standard for walk-behind power lawn mowers (16 CFR Part 1205). (Decision scheduled for September 9.)
2. *Operating Plan, FY–82*
The Commission will consider CPSC's Operating Plan for Fiscal Year 1982.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, DC 20207; Telephone (202) 634–7700.

[S–1309–81 Filed 8–27–81; 2:45 pm]

BILLING CODE 6355–01–M

2

NATIONAL TRANSPORTATION SAFETY BOARD.

[NM–81–32]

TIME AND DATE: 9 a.m., Wednesday, September 9, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Study:* Cabin Safety in Large Transport Aircraft and *Recommendations* to the Federal Aviation Administration.
2. *Special Investigation Report:* Evacuation of a United Airlines DC–8–61, Sky Harbor International Airport, Phoenix, Arizona, December 29, 1980, and *Recommendations* to the Federal Aviation Administration.
3. *Special Study:* Pipeline Excess Flow Valves and *Recommendations* to the Gas Research Institute, the American Society of Mechanical Engineers Gas Piping Standards Committee, and the Research and Special Programs Administration.
4. *Special Study:* Major Marine Collisions and Effects of Preventive Recommendations, and *Recommendations* to the U.S. Coast Guard.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–382–6525.

August 27, 1981.

[S–1310–81 Filed 8–27–81; 3:45 pm]

BILLING CODE 4910–58–M

federal register

Monday
August 31, 1981

Part II

Department of Transportation

Federal Aviation Administration

Transport Category Airplanes; Pitot Heat Indication Systems

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. 18904; Amendment Nos. 91-176, 121-175, 125-3, and 135-17]

Transport Category Airplanes—Pitot Heat Indication Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments relieve general aviation operators of transport category airplanes that are operated under Part 91 from the requirement to install pitot heat indication systems to indicate to the flightcrew when the pitot heating system is not operating. The amendments are based on a study which indicates that there have not been any general aviation transport category airplane accidents that could be attributed to a pitot heating system failure. The rule change is also in response to a petition for rulemaking dated January 26, 1979, from the National Business Aircraft Association (NBAA).

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sirkis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

These amendments are based on Notice of Proposed Rulemaking No. 80-27 (46 FR 76; January 2, 1981). All interested persons were given an opportunity to participate in the making of these amendments, and due consideration was given to all matters presented. These amendments and the reasons for their adoption are the same as those stated in Notice 80-27.

Background of This Rulemaking Proceeding

Amendment 91-148

Section 91.50(a), as adopted by Amendment 91-148 (43 FR 10339; March 13, 1978), provided that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326. Section 25.1326 requires that the indication provided must incorporate an amber light that is in clear view of a flight crewmember and must be designed to alert the flightcrew if either the pitot heating system is switched "off" or the pitot heating system is switched "on" and any pitot tube heating element is inoperative. All flight operations conducted with transport category airplanes must meet this requirement regardless of the type of operation being conducted.

Petition for Rulemaking by National Business Aircraft Association (NBAA)

On January 26, 1979, the NBAA petitioned the FAA to amend the Federal Aviation Regulations (FAR) to require that only transport category airplanes operated under Part 121, 123, or 135 meet the requirement to have an operable pitot heat indication system.

A summary of the NBAA's petition was published in the **Federal Register** on October 18, 1979 (44 FR 60107), and no comments were received. The FAA included the petition verbatim in Notice 80-27 to provide the public with all statements submitted by the petitioner in support of its petition.

To allow time to consider fully the NBAA petition, in Amendment 91-172 (46 FR 19; January 2, 1981) the FAA suspended the April 12, 1981, compliance date contained in Amendment 91-148 for operators of transport category airplanes used in general aviation operations under Part 91.

Description of Notice 80-27

Notice 80-27 proposed to exclude general aviation operators of transport category airplanes operating under Part 91 from the operating requirement to install pitot heat indication systems to indicate to the flightcrew when the pitot heating system is not operating. The requirement was to be retained for commercial, air carrier, travel club, and air taxi operators of transport category airplanes. The proposal was in response to a petition from the NBAA which stated, in essence, that the cost of a pitot heat indication system is not justified for general aviation operators.

Notice 80-27 proposed a new section, § 125.122, for the pitot heat indication system requirement in Part 125. This has been changed to § 125.206, which appropriately places the requirement in Subpart F—Instrument and Equipment Requirements.

Discussion of Comments

The FAA received 21 public comments in response to Notice 80-27. A majority of commenters, all of whom operate aircraft under Part 91 only, support the proposal. They agree the proposal would provide financial relief from an unnecessary requirement for general aviation, inasmuch as the cost associated with installing a pitot heat indication system cannot be justified by a proven need for such a warning system. One such commenter states, for example, that in almost 19 years of service experience, his company has never experienced a failure of the pitot heating system on any of the company's aircraft. Similarly, the NBAA contends that existing training in the handling of emergency situations such as instrument failure and recognition of that failure, use of checklists, and cross-checking of instruments provide an equivalent level of safety to that provided by the proposal and that the corporate executive fleet safety record bears this out. The NBAA states that, to the best of its knowledge, there has never been a business aircraft accident attributable to pitot heating system failure.

The FAA, in its study of reports of airplane accidents which have occurred over a period from January 1, 1976, through May 28, 1981, finds no evidence that refutes the NBAA's statement that there is no record of any business or corporate (general aviation) transport category aircraft accident that is attributable to pitot heating system failure. The FAA does not suggest here that general aviation operations are less susceptible than operations conducted under Part 121, 123, 125, or 135 to the problems at which Amendment 91-148 is directed. However, where these operations are concerned, the FAA imposes stricter safety standards than are imposed for general aviation operations under Part 91. Since the operation experience of general aviation operators does not support the need to install a pitot heat indication system, the FAA concludes that the general aviation operator should be relieved of the cost burden associated with installing such a system.

Several commenters oppose the proposal. Some state that the requirement for installing a pitot heat indication system should be retained for Part 91 operations as well as for Part 121, 123, 125, and 135 operations; others state that the requirement should be rescinded for Part 121, 123, 125, and 135 operations as well as for Part 91 operations. Several such commenters state that the requirement for installing a pitot heat indication system should apply to all operations they conduct. They believe that safety standards should be the same for operations conducted under Part 91 as for those conducted under Part 121, 123, 125, or

135, and that the cost of installing a pitot heat indication system would not be prohibitive. An airline pilot's union, in its comment, supports the need for a pitot heat indication system in Part 91 operations because it believes that general aviation transport category airplanes are high-performance aircraft subject to precisely the same hazards as commercial transport category aircraft. This same commenter also implies that the installation costs for such a warning system would not be prohibitive. Another commenter questions the need for installing a pitot heat indication system in Part 135 operations, stating that such a warning system cannot substitute for professionalism in the flightcrew, while another commenter states that in aircraft operated under Part 125 (which may be operated for compensation or hire), the warning system should be an optional item.

The safety standards should not be the same for Part 91 operations as for operations conducted under Part 121, 123, 125, or 135. As stated earlier, where these operations are concerned, the FAA imposes stricter safety standards. In the absence of a record of any general aviation transport category airplane accident attributable to a pitot heating system failure, the cost of compliance with the pitot heat indication system requirement is not justified for general aviation operations conducted under Part 91. However, since air carriers conduct their operations with the highest level of safety and since Part 125 operators may receive compensation for their operations, the FAA imposes stricter standards on such operators. Therefore, the requirement for installing a pitot heat indication system for operations conducted under Part 121, 123, 125, or 135 is warranted. As stated in Amendment 91–148, the addition of a pitot heat indication system, while not guaranteeing against human error, will provide additional assurance that pilots will become aware as early as possible of a potentially dangerous situation.

One commenter suggests that the proposal be revised to allow the use of alternate indicating systems. This was not proposed in Notice 80–27 and cannot be considered as part of this rulemaking proceeding. Similarly, the commenter's point concerning the need for static port heaters is not part of this rulemaking proceeding.

A general aviation manufacturer's association, in its comment, recommends a rule change that would limit the application of § 25.1326, which requires installation of a pitot heat indication system in transport category airplanes, to airplanes used in commercial, air taxi, air travel club, and air carrier operations. This amendment of § 25.1326 was also proposed by the NBAA in its petition. Such a change was not proposed by the FAA in Notice 80–27. Additionally, no justification was offered by the NBAA for deleting the Part 25 requirement which applies to airplanes whose application for type certificate is made after April 11, 1978. Production of these airplanes will not occur until well in the future. Similarly, the manufacturer's association did not address this aspect in suggesting deletion of this Part 25 requirement.

These amendments do not relieve the operators of those transport category airplanes whose basis for certification includes § 25.1326 from the requirement to install a pitot heat indication system. Section 25.1326 applies to airplanes whose application for type certificate is made after April 11, 1978; however, a number of applications for type certificates were made before that date, and the applicants elected or were required under § 21.17 to include the provisions of § 25.1326 in their basis for certification. Some examples of airplanes required to have a pitot heat indication system as part of their basic design approval include the Boeing 757, the Boeing 767, and the Learjet models 54, 55, and 56.

Regulatory Evaluation

The FAA conducted a regulatory evaluation which is included in the regulatory docket for this action. The FAA determined that there is not cost impact on Part 91, 121, 123, 125, or 135 operators of transport category airplanes and only a minimal to negligible cost impact on the Federal Government. Specifically, this rule provides relief to Part 91 operators of certain transport category airplanes manufactured under a type certificate for which application was made before April 12, 1978, by eliminating the requirement to install pitot heat indication systems and imposes no new requirements on such operators. This rule imposes no new requirements on Part 121, 123, 125, or 135 operators. The requirement imposed by § 91.50 to airplanes operated under Parts 121, 123, 125, and 135 remains unchanged although the requirement for installing a pitot heat indication system is now listed separately in Parts 121, 125, and 135. The Federal Government will incur minimal to negligible costs in this revision of Part 91, which is considered to be part of the FAA's ongoing program to revise regulations.

Benefits

Implementing this rule provides benefits in terms of cost savings to Part 91 operators of transport category airplanes. It relieves such operators from the requirement to install pitot heat indication systems in their airplanes. During 1982, which is assumed to be the first effective year of the regulation, FAA estimates equipment, maintenance, installation, and downtime cost savings of a least $7.6 million to $10.9 million for operators of approximately 4,700 Part 91 airplanes. Further, cost savings to Part 91 operators of transport category airplanes of $1.0 million to $1.2 million each year during 1983–1985 are expected. Cost savings will be less during 1983 through 1985 than in 1982 because of the projected limited number of new production Part 91-operated transport category airplanes and because installation of the equipment could be performed during airplane assembly, thereby significantly reducing the costs. The FAA notes again that § 25.1326 requires a pitot heat indication system on those airplanes for which a type certificate application was made after April 11, 1978.

Accordingly, the benefits of this regulation outweigh the costs.

Adoption of the Amendment

Accordingly, Parts 91, 121, 125, and 135 of the Federal Aviation Regulations (14 CFR Parts 91, 121, 125, and 135) are amended as follows effective September 30, 1981:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. By removing and reserving § 91.50 as follows:

§ 91.50 [Reserved]

2. By adding a new § 121.342 to read as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

§ 121.342 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) A certificate holder may obtain an extension of the April 12, 1981, compliance date specified in paragraph

(a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the certificate holder—

(1) Shows that due to circumstances beyond its control it cannot comply by the specified compliance date; and

(2) Submits by the specified compliance date a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

3. By adding a new § 125.206 to read as follows:

§ 125.206 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) A certificate holder may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the certificate holder—

(1) Shows that due to circumstances beyond its control it cannot comply by the specified compliance date; and

(2) Submits by the specified compliance date a schedule for compliance acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

4. By adding a new § 135.158 to read as follows:

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

§ 135.158 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) A certificate holder may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the certificate holder—

(1) Shows that due to circumstances beyond its control it cannot comply by the specified compliance date; and

(2) Submits by the specified compliance date a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

(Secs. 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1422, 1424, and 1427); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Note.—This document relieves a substantial segment of the aviation community of a cost burden and does not impose any additional burden on any person. Therefore, the Federal Aviation Administration has determined that this document involves a regulation which is not a major rule under Executive Order 12291 or a significant regulation under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT." It has been determined further that the amendment will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it is relieving in nature.

Issued in Washington, D.C., on August 7, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-25143 Filed 8-28-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
August 31, 1981

Part III

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment and Instruction of Inmates

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 540, 544, and 545

Control, Custody, Care, Treatment and Instruction of Inmates; Final Rules

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: This document contains final rules relating to the control, custody, care, treatment, and instruction of inmates. Included are final rules on (1) Annual Survey of Inmate Education, Recreation, and Library Programs, and (2) Incentive Awards Program, UNICOR Inmates. This document also finalizes two amendments to the rule on Inmate Correspondence. The rule on Annual Survey of Inmate Education, Recreation, and Library Programs requires that the Warden ensure that an annual survey is administered to a representative sample of the local inmate population to determine inmate perception of needs, attitudes, opinions, and recommendations concerning the structure and content of the education, recreation, and library programs which operate within the institution. The rule on Incentive Awards Program, UNICOR Inmates provides incentives to inmate workers for special achievements by them, as well as for their suggestions or inventions which improve operations or safety, or conserve energy or materials of Federal Prison Industries, Inc. The amended rule on correspondence finalizes an interim rule published in the **Federal Register** June 30, 1980, and a proposed rule published in the **Federal Register** July 1, 1981. Both rules concern payment of postage by inmates. This document is intended to provide the public with notice of the rules in each of these areas, not just changes from prior policy.

EFFECTIVE DATE: October 1, 1981.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone (202) 724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rules on (1) Annual Survey on Inmate Education, Recreation, and Library Programs and (2) Incentive Awards Program, UNICOR Inmates. These documents were published in the **Federal Register** as proposed rules June 12, 1981 (at 46 FR 31212–13). The Bureau is also finalizing in this document two amendments to its rule on Correspondence. The first amendment was published in the **Federal Register** as an interim rule June 30, 1980 (at 45 FR 44220 et seq.). The amendment authorized the Warden, in order to prevent abuse, to place limitations on the amount of free postage provided an inmate for legal mail or administrative remedy filings. The second amendment was published in the **Federal Register** as a proposed rule July 1, 1981 (at 46 FR 34554–55). This amendment proposed deletion of the provision that provided each inmate, regardless of need, with five free postage stamps, or the equivalent, each month.

Interested persons were invited to submit comments on the proposed and interim rules. On the basis of comments and internal staff review of Bureau policies, some changes have been made. Members of the public may submit further comments concerning these rules by writing the previously cited address. These comments will be considered but will receive no further response in the **Federal Register.**

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rules involve agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), do not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

I. Part 540, Subpart B—Correspondence

Section 540.20(a) is revised to read "Except as provided in paragraphs (d), (e), (f), and (i) * * *". Section 540.20(e) is new. This section allows an inmate with neither funds nor sufficient postage the opportunity to maintain community ties by mailing a reasonable number of letters at government expense. To prevent abuses of this provision, the rule authorizes the Warden to impose restrictions on the free mailings. Inclusion of new § 540.20(e) accommodates the thrust of a public comment. This section also meets both Standards 12.08 of the Department of Justice Federal Standards for Prisons and Jails, and Standard 2–4371 of the Commission on Accreditation for Corrections Standards for Adult Correctional Institutions. We note that the Bureau of Prisons elects not to utilize an indigency standard as this is a legal standard recognized in federal form a pauperis statutes, and is subject to discretionary interpretation.The Bureau uses a more realistic and consistent determination that an inmate is without funds when the inmate's commissary account is under the amount to purchase a domestic, first-class mail stamp (currently 18¢).

Based on new § 540.20(e), proposed § 540.20(e) becomes final § 540.20(f). Proposed § 540.20(i) becomes new final § 540.20(g). Proposed § 540.20(f)–(h) becomes final § 540.20(h)–(j). New § 540.20(g) deletes the phrase "(in emergency cases)" as inmates are to sign whenever their personal postage needs are paid by government expenditure. Section 540.20(j) is revised to better express the intent of former § 540.20(h).

Comments on § 540.20 were varied. One commenter believes elimination of the five free stamps per month provision, regardless of need, to be in the public interest. The commenter continues, however, "that the proposed amendment is only a partial attempt to make the convicted criminal responsible for his own personal expenditures". In this vein, the commenter suggests that the rule require that postage expenditures by the government, as provided in the rule, be reimbursed by inmates at such time as they have the funds available. This commenter also proposes that inmates be expected to pay for their own stationery.

A second commenter offers a contrasting view, seeing the proposed rule as a "backward step in the area of providing prisoners with opportunities to remain in contact with their relatives, friends and their home communities." The commenter re-submitted comments forwarded at the time the Bureau first proposed the five free stamps per month rule (these comments were addressed in the **Federal Register** of June 30, 1980—see 45 FR 44220 et seq.). In the most recent remarks, the commenter states that the increased amount of inmate compensation does not justify the reduction in free payment of postage, noting that the amounts cited are neither adjusted for inflation nor do they reflect the average compensation paid to a federal prisoner. The commenter, while stating that it can appreciate the Bureau's concern over levels of government spending, believes that the money saved is "exceedingly small compared with its value to prisoners and ultimately to society." The commenter suggests that the Bureau find budget items to cut other than the postage provision.

The Bureau believes its present approach to be realistic. By way of background, prior to July 1979, all inmates in federal prisons were

provided virtually unlimited free postage, regardless of need. Based on budgetary cutbacks and the need to reduce expenditures, the Bureau established a policy, effective July 1, 1979, of providing each inmate, again regardless of need, with five free stamps monthly. Additional stamps could be purchased with personal funds by the inmate, and free postage continued to be available for inmates in specified needy situations. During the first year of operation under this new policy, over one million dollars was saved by the government without any discernible impact on inmate welfare or morale.

Because of further budgetary reductions faced by the Bureau of Prisons in Fiscal Year 1982, the Bureau decided to discontinue the provision that provided inmates, regardless of need, with five free stamps per month. While a commenter believes that the savings derived from deletion of the postage provision are "exceedingly small", these savings aggregated with other budgetary reductions reflect a significant effort by the Bureau to reduce government spending and to conserve public monies.

The Bureau does not believe that the proposed revision places an unreasonable responsibility on the inmate. Since implementation of the five free stamps per month provision, both the amount of inmate compensation and the monthly spending limitation have increased. While this increase may not be fully "adjusted for inflation", neither do inmates have to pay their own expenses for housing, food, clothing, medical care, and other basic living costs. Further, the great majority of inmates within the Bureau of Prisons are eligible for paid employment and should be provided the opportunity to budget their funds to meet personal needs, including postage. Most federal inmates have sufficient funds to maintain their postage needs. The rule continues to allow an inmate to purchase stamps through the institution commissary, or, for an inmate without sufficient funds or postage, the rule allows the inmate the opportunity to mail, as specified in the rule, a reasonable number of letters at government expense.

The Bureau does not now consider it practicable or cost-effective to require inmates to pay for their own stationery or to require reimbursement for postage mailed at government expense. The final rule authorizes the Warden to place limitations on the free mailing provisions to prevent an abuse of those provisions. One possible limitation is to require reimbursement at such time as the inmate receives funds. This provision is applicable when an inmate deliberately exhausts his/her funds and then requests free mailing privileges. For an inmate who is not attempting to circumvent established procedures, however, requiring reimbursement is considered neither warranted nor administratively practical.

We do not agree with a comment that the rule will force an inmate to accept stamps from other inmates and therefore be obligated to them, or that it will force inmates to justify their needs to a unit manager or case worker. There should be no reason for inmates to be forced to accept stamps from other inmates, as stamps may be purchased from the institution commissary or, where the inmate is without funds or sufficient postage, may be mailed at government expense. With respect to free mailings, the underlying assumption is that the inmate is without funds or sufficient postage and that the inmate has not deliberately created this situation in order to receive the free postage. When it appears that the inmate is abusing the procedure, the inmate may be required to reimburse the government when funds become available. The merits of the correspondence (for example, of a grievance) are not an issue.

In response to a comment that a federal inmate's distance from home makes correspondence the inmate's only means to communication, our experience has shown that many inmates receive regular visits from family members. In addition, the Bureau has liberal telephone regulations, allowing inmates at all institutions to converse with family members or other acquaintances. These alternatives, along with the rule on correspondence, provide the inmate with the means to maintain contact with family, friends, and others.

In response to another comment, the Bureau cannot allow stamps or stamped envelopes to be received from outside the institution, as this approach lends itself to the introduction of contraband. As an alternative, and pursuant to institution rules, persons in the community may send the inmate money for the purchase of stamps. To a comment that the inmate's purchase of stamps not be counted against the inmate's commissary spending limitation we reply that the commissary limitation was raised to accommodate the purchase of postage stamps, and, if determined appropriate, the spending limitation can again be raised. There is no intent to unduly limit the amount of correspondence that an inmate may mail. If an inmate desires, the inmate's entire commissary allotment may be used to purchase postage stamps. We do not agree with a comment that this condition violates the individual's first amendment rights. We consider the requirement that stamps be a part of the spending allotment as a reasonable means of monitoring and controlling the accessibility of stamps within the institution, thereby protecting institution security and good order.

II. *Part 544, Subpart L—Annual Survey of Inmate Education, Recreation, and Library Programs*

Section 544.110 is revised to read that it is the Warden's responsibility to ensure that an annual survey is administered as opposed to stating that the Warden shall administer this survey.

III. *Part 545, Subpart G—Incentive Awards Program, UNICOR Inmates*

Section 545.63 (c)(1) and (c)(2) and § 545.64(b) are revised to state that the Warden may submit comments (both of the Warden and of other persons) on the recommendation.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(t), 28 CFR, Chapter V is amended as set forth below. The effective date of these rules is October 1, 1981.

Dated: August 25, 1981.

Norman A. Carlson,

Director, Bureau of Prisons.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

The authority citation for Part 540 reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99

* * * * *

In subchapter C, Part 540, Subpart B, is amended by revising § 540.20 to read as follows:

Subpart B—Correspondence

§ 540.20 Payment of postage.

(a) Except as provided in paragraphs (d), (e), (f), and (i) of this section, postage charges are the responsibility of the inmate. The Warden shall ensure that the inmate commissary has postage stamps available for purchase by inmates.

(b) Writing paper and envelopes are provided at no cost to the inmate.

(c) Inmate organizations will purchase their own postage.

(d) An inmate who has neither funds nor sufficient postage and who wishes to mail legal mail (includes courts and attorneys) or Administrative Remedy forms will be provided the postage for such mailing. To prevent abuses of this provision, the Warden may impose restrictions on the free legal and administrative remedy mailings.

(e) When requested by an inmate who has neither funds nor sufficient postage, and upon verification of this status by staff, the Warden shall provide the postage for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties. To prevent abuses of this provision, the Warden may impose restrictions on the free mailings.

(f) Mailing at government expense is also allowed for necessary correspondence in verified emergency situations for inmates with neither funds nor sufficient postage.

(g) Inmates must sign for all stamps issued to them by institution staff.

(h) Mail received with postage due may not be delivered to the inmate until the inmate has authorized withdrawal of funds from his commissary account to pay the postage due.

(i) Holdovers and pre-trail commitments will be provided a reasonable number of letters at government expense.

(j) Inmates may not be permitted to receive stamps or stamped envelopes other than by issuance from the institution or by purchase from commissary.

PART 544—EDUCATION

By adding Subpart L to Part 544 to read as follows:

* * * * *

Subpart L—Annual Survey of Inmate Education, Recreation, and Library Programs

Sec.
544.110 Purpose and scope.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart L—Annual Survey of Inmate Education, Recreation, and Library Programs

§ 544.110 Purpose and scope.

(a) The Bureau of Prisons has established a systematic approach for assessing the education, recreation, and library programs which operate within each Bureau of Prisons institution. Except for such community treatment centers and camps where education, recreation, and library programs may not be feasible, the Warden shall ensure that an annual survey is administered to a representative sample of the local inmate population to determine inmate perception of needs, attitudes, opinions, and recommendations concerning the structure and content of the education, recreation, and library programs which operate within the institution.

(b) The questionnaire shall be administered to a minimum of 10% of each institution's inmate population on the survey date.

(c) The results of the annual survey shall be used by staff who are responsible for planning and management of the education, recreation, and library programs which operate within the institution.

PART 545—WORK AND COMPENSATION

By adding Subpart G to Part 545 to read as follows:

Subpart G—Incentive Awards Program, UNICOR Inmates

Sec.
545.60 Purpose and scope.
545.61 Types of incentives.
545.62 Award scales for payment for inmate suggestion or invention.
545.63 Procedures for recognition of inmate suggestion or invention.
545.64 Procedures for recognition of inmate special achievement.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4128, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart G—Incentive Awards Program, UNICOR Inmates

§ 545.60 Purpose and scope.

Federal Prison Industries, Inc. (UNICOR) provides incentives to its inmate workers for special achievements by them, as well as for their suggestions or inventions which improve operations or safety, or conserve energy or materials of Federal Prison Industries, Inc.

§ 545.61 Types of incentives.

(a) An inmate shall receive a formal (written) commendation for any suggestion or invention adopted, or for any special achievement of the inmate related to the inmate's industrial assignment. A copy of the commendation is to be placed in the inmate central file.

(b) An inmate shall receive a cash bonus for any suggestion or invention which is adopted and which contributes a net savings to Federal Prison Industries, Inc. of at least $250. Cash awards shall be based on estimated net first year savings, with a minimum award of $25.

(c) An inmate shall receive either a cash bonus or gifts for any special achievement which, under the standards below, deserves special recognition.

§ 545.62 Award scales for payment for inmate suggestion or invention.

Awards under the Inmate Incentive Awards Program for a suggestion or invention which is adopted are ordinarily provided in accordance with the following table. All awards will be rounded upward to the nearest $25.

Net savings (first year)	Amount of award
$250–$1,000	$25.
$1,000–$10,000	$50 for the first $1,000 plus $2.50 for each additional $100 or fraction thereof.
$10,000–$20,000	$275 for the first $10,000 plus $2.50 for each additional $200 or fraction thereof.
$20,000–$100,000	$400 for the first $20,000 plus $2.50 for each additional $1,000 or fraction thereof.
$100,000 or more	$600 for the first $100,000 plus $2.50 for each additional $5,000, not to exceed $1,000 total cash bonus.

§ 545.63 Procedures for recognition of inmate suggestion or invention.

(a) Inmate suggestions for operational or safety improvements, or for conservation of energy or materials must be in writing.

(b) The inmate shall submit the suggestion to the inmate's immediate supervisor. The supervisor shall review the suggestion and shall then submit the suggestion, with the supervisor's comments and recommendation, to the local Superintendent of Industries.

(c) The Superintendent of Industries shall ensure that all inmate suggestions and/or inventions are considered for incentive awards by a committee comprised of Industry personnel, and designated by the Superintendent.

(1) The Committee shall forward recommendations for awards for *inventions* through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit comments on the recommendation.

(2) The committee may approve an inmate whose suggestion is adopted for an award (cash or gifts) not to exceed $50 in value. A recommendation for an award in excess of $50 shall be forwarded through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The committee may refer a suggestion having corporate-wide implications

through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit comments on the recommendation.

§ 545.64 Procedures for recognition of inmate special achievement.

(a) While recognition of special inmate achievements may originate from any source, the achievement is ordinarily to be described in writing by the inmate's immediate supervisor.

(b) The Superintendent of Industries shall appoint a local committee, which may include inmate participation, to consider inmates for special achievement recognition. The committee shall forward its recommendations to the Superintendent of Industries, who is authorized to approve individual awards (cash or gifts) not to exceed $50 in value. A recommendation for an award in excess of $50 (cash or gifts) shall be forwarded, with the Superintendent's recommendation and the justification for it, through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit comments on the recommendation.

[FR Doc. 81-25284 Filed 8-28-81; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 553

Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons is proposing a rule for the management of inmates in Federal correctional institutions. This proposal is part of the Bureau's program to publish in the Federal Register, and subsequently in the Code of Federal Regulations, Bureau rules relating to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons' proposed rule on Inmate Personal Property. The rule discusses limitations on inmate personal property, as well as the identification of, and procedures for handling contraband. The rule is intended to contribute to the management of inmate personal property in the institution, and to contribute to a safe environment for staff and inmates by reducing fire hazards, security problems, and sanitation issues which relate to inmate personal property.

DATE: Comments must be received on or before October 16, 1981.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the Federal Register its proposed rule on Inmate Personal Property.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rule involves agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354) does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534. Comments received on or before October 16, 1981 will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend 28 CFR, Chapter V by adding a new Part 553 to Subchapter C to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 553—INMATE PROPERTY

Subpart A—[Reserved]

Subpart B—Inmate Personal Property

Sec.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Inmate Personal Property

§ 553.10 Purpose and scope.

It is the policy of the Bureau of Prisons that an inmate may possess only that property which the inmate is authorized to retain upon admission to the institution, which is issued while the inmate is in custody, which the inmate purchases in the institution commissary, or which is approved by staff to be mailed to, or otherwise received by an inmate. These rules contribute to the management of inmate personal property in the institution, and contribute to a safe environment for staff and inmates by reducing fire hazards, security risks, and sanitation problems which relate to inmate personal property. Consistent with the mission of the institution, each Warden shall identify in writing that personal property which may be retained by an inmate.

§ 553.11 Limitations on inmate personal property.

(a) *Storage space.* Staff shall set aside space within each housing area for use by an inmate. The designated area shall include a locker or other securable area in which the inmate may store authorized personal property. The inmate is allowed to purchase an approved locking device.

(1) Staff may allow an inmate to retain that personal property which the inmate may neatly and safely place or store in the designated area.

(2) Staff may not allow an inmate to accumulate materials to the point where the material becomes a fire, sanitation, security, or housekeeping hazard.

(b) *Clothing.* Staff may allow an inmate to retain that clothing, whether civilian or institution, which the inmate is able to neatly store in the space provided.

(c) *Special purchase items.* Staff may authorize an inmate to retain special purpose items provided that the items are able to be stored within the designated storage area.

(d) *Legal Materials.* Staff may allow an inmate to maintain those legal materials which are necessary for an inmate's legal actions. Legal reference materials, such as books, may be retained if such materials are not available in the institution library. To ensure that materials do not become a fire, sanitation, security, or housekeeping hazard, each institution may establish a limit on the amount of, and storage location for, legal materials in the inmate's living area. Staff may authorize additional storage space, on a temporary short-term basis, to the inmate who demonstrates a need for additional material in connection with the inmate's legal activities.

(e) *Hobbycraft Materials.* Staff shall limit an inmate's hobby shop projects within the cell or living area to those projects which the inmate may store or contain in designated personal property containers. Staff may make an exception for an item (for example, a painting) where size would prohibit the item's placement in a locker. Staff shall require that hobby shop items be removed from the living area when completed, and be disposed of in accordance with the provisions of Part 544, Subpart D.

(f) *Commissary Items.* The total value of an inmate's accumulation of commissary items may not exceed the inmate's montly spending limitation. Staff may exclude from this restriction special purchases and designated items such as headphones, tennis shoes, etc.

(g) *Radios and watches.* An inmate may possess or own only one approved

radio and one approved watch at any one time. The inmate must be able to demonstrate proof of ownership.

(h) *Correspondence and reading materials.* An inmate may retain those books, letters, newspapers, etc. which can be neatly and safely contained or stored in the designated storage space. Educational materials or current correspondence courses are exempt from this requirement.

§ 553.12 Contraband.

(a) Staff shall consider an item possessed by an inmate to be contraband unless that item was issued by staff, purchased in the commissary, purchased or received through approved channels, approved for receipt by an authorized staff member, or authorized by institution guidelines.

(b) There are two types of contraband.

(1) Staff shall consider as hard contraband any item which poses a serious threat to the security of an institution and which ordinarily is not approved for possession by an inmate or for admission into the institution. Examples of hard contraband include guns, intoxicants, and currency (where prohibited).

(2) Staff shall consider as nuisance contraband any item which may be, or previously has been authorized for possession by an inmate, but is prohibited when its condition or excessive quantities of it present a health, fire, or housekeeping hazard. Examples of nuisance contraband include excessive newspapers, letters, or magazines which cannot be stored or placed neatly and safely in the designated area, or food items which are spoiled or retained beyond the point of safe consumption.

§ 553.13 Procedures for handling contraband.

(a) Staff shall seize any item in the institution which has been identified as contraband whether the item is found in the physical possession of an inmate, in an inmate's living quarters, or in common areas of the institution.

(b) Staff shall dispose of items seized as contraband in accordance with the following procedures.

(1) Staff shall return to the institution's issuing authority any item of government property seized as contraband, except where the item is needed as evidence for disciplinary action or criminal prosecution. In such cases, staff may retain the seized property as evidence.

(2) Items of personal property confiscated by staff as contraband are to be inventoried and stored pending identification of the true owner (if in question) and possible disciplinary action. Following an inventory of the confiscated items, staff shall employ the following procedures.

(i) Staff shall provide the inmate with a copy of the inventory as soon as practicable.

(ii) The inmate shall have seven days following receipt of the inventory to provide staff with evidence of ownership of the listed items.

(iii) If the inmate establishes ownership, but the item is identified as contraband, staff shall mail such items (other than hard contraband), at the inmate's expense, to the home address of the inmate or to the address the inmate provides for return of all property. The Warden or designee may authorize the institution to pay the cost of such mailings where the inmate has insufficient funds and no likelihood of new funds being received. Where the inmate has established ownership of a contraband item, but is unwilling, although financially able to pay postage, or refuses to provide a mailing address for return of the property, the property is to be disposed of through approved methods, including destruction of the property.

(iv) If the inmate is unable to establish ownership, staff shall make reasonable efforts to determine such ownership before any decision to destroy the property is made.

(v) Staff shall prepare and retain documentation describing any items destroyed and the reasons for such action.

(vi) Where disciplinary action is appropriate, staff shall delay disposition of property until completion of such action.

(c) Staff shall retain items of hard contraband for disciplinary action or prosecution or both. The contraband items may be delivered to law enforcement personnel for official investigation and prosecution use. When it is determined that the item is not needed for prosecution, the hard contraband shall be destroyed as provided in subsection (b)(2)(v) of this section. Written documentation of the destruction shall be maintained.

(d) Staff shall deliver to the cashier any money, currency, or negotiable instruments found in an inmate's possession which exceed the institution's allowable limits. If an inmate is able to demonstrate that the funds are properly in the inmate's possession, the funds shall be deposited to that inmate's account. If clear indication of lawful ownership is not shown by the inmate, staff shall confiscate the money for credit to the U.S. Treasury. Staff may not allow an inmate to retain possession of currency or other funds in excess of established institutional limits.

(1) Where disciplinary action against the inmate is appropriate, staff shall delay final disposition of the funds until such action is completed.

(2) Prior to a decision on the disposition of funds, staff shall allow the inmate the opportunity to establish ownership.

§ 553.14 Inmate transfer between institutions.

When the institution to which an inmate is transferred has less available storage space then the sending institution, staff at the receiving institution shall arrange for the inmate's excess personal property to be mailed to a destination of the inmate's choice. The receiving institution shall bear the expense for this mailing.

§ 553.15 Limitations on personal property—medical transfers.

The Warden may set a limit on the amount of personal property that may accompany an inmate transferring to a medical facility. For purpose of this rule, a medical facility is one which provides observation and/or treatment of a medical, surgical, or psychiatric nature, or any combination of these. Such medical transfers are ordinarily of a short-term duration (30–120 days).

(a) The Wardens of the sending and receiving institution shall allow the inmate to retain those legal materials specifically needed in respect to on-going litigation. Questions as to the need for such material may be referred to Regional Counsel.

(b) The Warden of the sending institution shall designate a secure location for storage of all inmate personal property not accompanying the inmate.

(c) Personal property permitted in the sending institution, but not in the receiving institution, shall be mailed to a destination of the inmate's choice. The receiving institution shall bear the expense for this mailing.

(d) The Warden of the treating facility shall return an inmate's personal property in the same or equivalent size container as originally used by the sending institution. Property accumulated over that amount, at the option of the inmate, will either be sent to a destination selected by the inmate, at the inmate's expense, donated, or destroyed.

Dated: August 25, 1981.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 81-25285 Filed 8-28-81; 8:45 am]

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federal register

Monday
August 31, 1981

Part IV

Department of Health and Human Services

Office of the Secretary

Grant Appeals Board; Process for Appeals From Final Written Decisions

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 16 and 74

Grant Appeals Board; Process for Appeals From Final Written Decisions

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) revises 45 CFR Part 16 to substitute new requirements and procedures applicable to disputes arising under certain HHS grant and cooperative agreement programs. HHS also adds certain related provisions to 45 CFR Part 74, which contains general requirements applicable to all HHS grant and cooperative agreement programs. The provisions will improve the Department's capability to provide a fair, quick and flexible process for appeals from final written decisions.

DATE: Effective September 30, 1981.

FOR FURTHER INFORMATION CONTACT: John Settle, Chair, Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201; Telephone: (202) 245–0222.

SUPPLEMENTARY INFORMATION:

I. Background

On January 6, 1981, HHS published a Notice of Proposed Rulemaking in the **Federal Register** containing proposed new requirements and procedures applicable to the Departmental Grant Appeals Board and those who use the Board's dispute resolution services (46 FR 1644). The rules below contain changes made in response to comments received.

II. Summary of comments and changes

Overall, the comments were very supportive of the proposed procedures. The few criticisms are discussed below.

Small cases. We invited comment on whether we should eliminate Board review of small cases, suggesting a threshold of $5,000. Comments were negative; furthermore, since we receive few cases under $5,000, the savings of time by the Board would be minimal. We therefore have not eliminated small cases from Board jurisdiction. The procedures do contain an expedited review process for cases of $25,000 or less (§ 16.12).

Subgrantees. One commenter argued that subgrantees of HHS grantees should have a right to appeal to the Board. We have not provided such a general right of access. The Board's primary responsibility is to deal with disputes between HHS and its grantees, and Board resources are not great enough to permit us to substantially expand our role. Furthermore, HHS has no direct relationship with the subgrantee, and disputes between the subgrantee and the grantee generally should be resolved between those parties. The rules do contain a provision (§ 16.16) under which a subgrantee which is the real party in interest can intervene if the appellant does not object, and any party with an identifiable interest in a case may, in the discretion of the Board, participate in the process in some lesser manner (for example, by submitting a brief).

Standard of review. One commenter suggested that the Board adopt a standard of review, such as a "substantial evidence" test. We have not done so because the wide range of programs the Board serves, and the complexity of issues within those programs, cannot be adequately covered by a single standard of review or burden of proof statement.

Conflict of interest. One commenter felt that the proposed rules were weak concerning potential conflicts of interest on the part of Board personnel. We have modified the provisions to state an affirmative but general standard, based on the Code of Judicial Conduct and case law such as *Cinderella Career & Finishing Schools, Inc. v. FTC*, 425 F.2d 583, 591 (D.C. Cir. 1970). This case states that the test for disqualification is whether a disinterested observer could conclude that the decisionmaker "has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." Canon 3.C.(1) of the Code says that "a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned," and lists examples of circumstances. The Board will use the Code and relevant case law as guidance in applying its rule (see § 16.5(d)).

Filing time limits. Three commenters felt the time frames in §§ 16.7 and 16.8 were too short. We have not modified these provisions, because we believe that the commenters failed to realize that the new provisions actually represent a substantial expansion of front-end filing time over existing regulations. Under provisions currently in effect, the grantee is required to file an application for review within 30 days after the adverse agency decision. The application for review contains both notice of an appeal and the appellant's substantive argument. Under the new rule, an appellant has 30 days to file a notice of appeal (which can be very brief) and then has a further 30 days to prepare its argument after the Board acknowledges the notice of appeal. Thus, §§ 16.7 and 16.8 more than double the amount of front-end time the appellant has to prepare its position.

In return for this expanded time at the beginning of the appeal, the Board expects greater completeness in grantee briefing, so that the Board will save time later by avoiding successive requests for information or briefing.

Uses of conferences. Section 16.10 has been modified slightly to clarify that the conference is provided not only to elicit answers to specific questions from the Board, but also to give the parties an opportunity to make an oral presentation. The Board still intends to keep the scope of the conference, to the maximum extent practicable, restricted to consideration of material in the appeal file. The conference is not an evidentiary hearing.

Electing a hearing. One commenter found § 16.11(a) too restrictive, reading it to mean that unless a party specifically requested a hearing at the outset of a case, none would be granted, regardless of the issues involved. The commenter suggested this would lead to *pro forma* requests for hearings in all cases. This interpretation was not intended, and we have added language to make it clear that the Board can respond to a later request for a hearing or can schedule one on its own.

Prehearing conferences and the record. One commenter stated that it was "uneasy" about § 16.11(b), which states that the Board, "after consulting with the parties," may reduce the results of an informal prehearing conference to writing in a document which would be made part of the record. The commenter felt that both parties should be given the opportunity of reviewing and commenting on what the Board proposes to include in the record. The Board intends to provide precisely that opportunity, and that is how the Board will interpret the "consulting" phrase.

Sanctions. Two commenters felt the provisions of § 16.15(b), providing for possible dismissal of an appeal for failure to meet deadlines, were too severe or unfair compared to penalties applicable to the HHS component. The procedures give the Board ample authority to accommodate the legitimate needs of grantees which need extensions for valid reasons, but we cannot allow unreasonable delays. The reason the procedures do not contemplate dismissal against the HHS component for failure to meet deadlines is that there is a substantial legal and

policy question whether the Board could or should take an action effectively precluding HHS from recouping funds which HHS determined the grantee possesses or claims illegally, by virtue, for example, of having incurred an unallowable cost. If the HHS component does unreasonably delay, the Board can treat the HHS case as submitted for decision based on the record assembled to that point.

Secretarial review. The provision which provoked the most comments was proposed § 16.21(c), which provided that Board decisions would not be final and would be subject to modification in whole or part at the discretion of the Secretary. The Department continues to study whether Board decisions should be "final" or should be subject to Secretarial review. In order to avoid further delay in implementing the other provisions, these procedures are being published without § 16.21(c), and that section is reserved for the addition of a provision dealing with the matter of the finality of Board decisions. In the interim, the decisions of the Board will be the final administrative action of the Department on the matter in dispute.

Staying agency action. Several commenters objected to § 16.22(b), on the basis that it gives an HHS component too much authority to take action pending the outcome of the appeal. The range of actions an HHS component may take under the provisions of § 16.22(b) (1) through (3) are reasonably limited; the broadest authority is contained in § 16.22(b)(4), which provides for any other action "specifically authorized by statute or regulation." The latter provision merely restates what would be the rule even if this provision were not included here, and we believe that commenters' attention generally should focus on the adequacy or desirability of any specific provision of law or regulation that may be proposed by an HHS component to authorize or require predecision action. However, we have clarified § 16.22(b)(3). It is intended to apply only to certain Social Security Act programs in situations where a disallowance is taken, based on a report of actual expenditures, before the disallowed claim has ever been approved.

Provisions related to jurisdiction. The final rule adds disallowances under Title III of the Older American Act. Under a final rule published by the Social Security Administration (46 FR 29190, May 29, 1981), the Board will also review certain audit determinations, and provide a hearing on a proposed finding of "substantial failure," in disputes arising under section 221 of the Social Security Act.

One commenter expressed "disappointment" that the Board would rely so heavily on HHS component input in situations where Board jurisdiction is unclear, since we will be bound by an HHS opinion that is not clearly erroneous (Appendix A, Paragraph G). The determination that the Board should have jurisdiction for certain programs reflects a policy decision by Departmental managers. Thus, it would be inappropriate for the Board to extend jurisdiction to cases where we did not clearly have it. Furthermore, it is important to have a rapid decision-forcing mechanism in these unclear cases, to let the grantee and the agency involved know quickly what their review options are.

"Final" agency decisions. Concerning proposed § 74.304, one commenter observed that there can be a problem with an HHS component delaying a final decision, so that failure to provide a final decision should trigger a right to appeal. We have not included such a provision. It is administratively very difficult to determine the scope of an undefined dispute, and thus in most cases virtually impossible to adjudicate it. The Board's regulation does indicate that an agency should issue a decision "promptly." Board personnel who participate in agency training sessions continually try to impress upon agency personnel the need to issue timely final decisions, both to reduce legal and political risk and to foster good grantee/grantor relationships.

Minor wording changes. A number of other minor changes have been made to assure consistent terminology, to clarify meaning without substantial change, and to improve grammar and style.

III. Continuing comments invited

Although this is a final rule, we invite comment and criticism on a continuing basis, and we will make modifications in the future as they are needed. Please communicate with the Chair, Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201 (telephone 202/245-0222).

IV. Implementation

These procedures apply to all appeals filed on and after the effective date. These procedures also apply to all appeals pending on the effective date, to the extent practicable and not inconsistent with fairness to the parties. The Board will conduct all hearings and conferences in pending appeals in accordance with the new §§ 16.5, 16.10 and 16.11, but the parties in these cases are not required to duplicate earlier effort by developing the appeal file under new § 16.8. Unless the parties otherwise agree, the expedited process in § 16.12 does not apply to pending appeals. The Board will consult with the parties in each pending appeal concerning the transition to the new procedures, and will apply the old procedures where a party shows why they would be fairer in that appeal.

Accordingly, the Department amends 45 CFR as follows:

1. By revising Part 16 as follows:

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

Sec.

Authority: 5 U.S.C. 301 and sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

§ 16.1 What this part does.

This part contains requirements and procedures applicable to certain disputes arising under the HHS programs described in Appendix A. This part is designed to provide a fair, impartial, quick and flexible process for appeal from written final decisions. This part supplements the provisions in Part 74 of this title.

§ 16.2 Definitions.

(a) "Board" means the Departmental Grant Appeals Board of the Department of Health and Human Services.

Reference below to an action of "the Board" means an action of the Chair, another Board member, or Board staff acting at the direction of a Board member. In certain instances, the provisions restrict action to particular Board personnel, such as the Chair or a Board member assigned to a case.

(b) Other terms shall have the meaning set forth in Part 74 of this title, unless the context below otherwise requires.

§ 16.3 When these procedures become available.

Before the Board will take an appeal, three circumstances must be present:

(a) The dispute must arise under a program which uses the Board for dispute resolution, and must meet any special conditions established for that program. An explanation is contained in Appendix A.

(b) The appellant must have received a final written decision, and must appeal that decision within 30 days after receiving it. Details of how final decisions are developed and issued, and what must be in them, are contained in 45 CFR 74.304.

(c) The appellant must have exhausted any preliminary appeal process required by regulation. For example, see 42 CFR Part 50 (Subpart D) for Public Health Service programs and Part 75 of this title for rate determinations and cost allocation plans. In such cases, the "final written decision" required for the Board's review is the decision resulting from the preliminiary review or appeal process. Appendix A contains further details.

§ 16.4 Summary of procedures below.

The Board's basic process is review of a written record (which both parties are given ample opportunity to develop), consisting of relevant documents and statements submitted by both parties (see § 16.8). In addition, the Board may hold an informal conference (see § 16.10). The informal conference primarily involves questioning of the participants by a presiding Board member. Conferences may be conducted by telephone conference call. The written record review also may be supplemented by a hearing involving an opportunity for examining evidence and witnesses, cross-examination, and oral argument (see § 16.11). A hearing is more expensive and time-consuming than a determination on the written record alone or with an informal conference. Generally, therefore, the Board will schedule a hearing only if the Board determines that there are complex issues or material facts in dispute, or that the Board's review would otherwise be significantly enhanced by a hearing. Where the amount in dispute is $25,000 or less, there are special expedited procedures (see § 16.12 of this part). In all cases, the Board has the flexibility to modify procedures to ensure fairness, to avoid delay, and to accommodate the peculiar needs of a given case. The Board makes maximum feasible use of preliminary informal steps to refine issues and to encourage resolution by the parties. The Board also has the capability to provide mediation services (see § 16.18).

§ 16.5 How the Board operates.

(a) The Board's professional staff consists of a Chair (who is also a Board member) and full- and part-time Board members, all appointed by the Secretary; and a staff of employees and consultants who are attorneys or persons from other relevant disciplines, such as accounting.

(b) The Chair will assign a Board member to have lead responsibility for each case (the "presiding Board member"). The presiding Board member will conduct the conference or hearing, if one is held. Each decision of the Board is issued by the presiding Board member and two other Board members.

(c) The Board staff assists the presiding Board member, and may request information from the parties; conduct telephone conference calls to request information, to clarify issues, or to schedule events; and assist in developing decisions and other documents in a case.

(d) The Chair will assure that no Board or staff member will participate in a case where his or her impartiality could reasonably be questioned.

(e) The Board's powers and responsibilities are set forth in § 16.13.

§ 16.6 Who represents the parties.

The appellant's notice of appeal, or the first subsequent submission to the Board, should specify the name, address and telephone number of the appellant's representative. In its first submission to the Board and the appellant, the respondent (i.e., the federal party to the appeal) should specify the name, address and telephone number of the respondent's representative.

§ 16.7 The first steps in the appeal process: the notice of appeal and the Board's response.

(a) As explained in 45 CFR 74.304, a prospective appellant must submit a notice of appeal to the Board within 30 days after receiving the final decision. The notice of appeal must include a copy of the final decision, a statement of the amount in dispute in the appeal, and a brief statement of why the decision is wrong.

(b) Within ten days after receiving the notice of appeal, the Board will send an acknowledgment, enclose a copy of these procedures, and advise the appellant of the next steps. The Board will also send a copy of the notice of appeal, its attachments, and the Board's acknowledgment to the respondent. If the Board Chair has determined that the appeal does not meet the conditions of § 16.3 or if further information is needed to make this determination, the Board will notify the parties at this point.

§ 16.8 The next step in the appeal process: preparation of an appeal file and written argument.

Except in expedited cases (generally those of $25,000 or less; see § 16.12 for details), the appellant and the respondent each participate in developing an appeal file for the Board to review. Each also submits written argument in support of its position. The responsibilities of each are as follows:

(a) *The appellant's responsibility.* Within 30 days after receiving the acknowledgment of the appeal, the appellant shall submit the following to the Board (with a copy to the respondent):

(1) An appeal file containing the documents supporting the claim, tabbed and organized chronologically and accompanied by an indexed list identifying each document. The appellant should include only those documents which are important to the Board's decision on the issues in the case.

(2) A written statement of the appellant's argument concerning why the respondent's final decision is wrong (appellant's brief).

(b) *The respondent's responsibility.* Within 30 days after receiving the appellant's submission under paragraph (a) of this section, the respondent shall submit the following to the Board (with a copy to the appellant):

(1) A supplement to the appeal file containing any additional documents supporting the respondent's position, organized and indexed as indicated under paragraph (a) of this section. The respondent should avoid submitting duplicates of documents submitted by the appellant.

(2) A written statement (respondent's brief) responding to the appellant's brief.

(c) *The appellant's reply.* Within 15 days after receiving the respondent's submission, the appellant may submit a short reply. The appellant should avoid repeating arguments already made.

(d) *Cooperative efforts.* Whenever possible, the parties should try to

develop a joint appeal file, agree to preparation of the file by one of them, agree to facts to eliminate the need for some documents, or agree that one party will submit documents identified by the other.

(e) *Voluminous documentation.* Where submission of all relevant documents would lead to a voluminous appeal file (for example where review of a disputed audit finding of inadequate documentation might involve thousands of receipts), the Board will consult with the parties about how to reduce the size of the file.

§ 16.9 How the Board will promote development of the record.

The Board may, at the time it acknowledges an appeal or at any appropriate later point, request additional documents or information; request briefing on issues in the case; issue orders to show cause why a proposed finding or decision of the Board should not become final; hold preliminary conferences (generally by telephone) to establish schedules and refine issues; and take such other steps as the Board determines appropriate to develop a prompt, sound decision.

§ 16.10 Using a conference.

(a) Once the Board has reviewed the appeal file, the Board may, on its own or in response to a party's request, schedule an informal conference. The conference will be conducted by the presiding Board member. The purposes of the conference are to give the parties an opportunity to make an oral presentation and the Board an opportunity to clarify issues and question both parties about matters which the Board may not yet fully understand from the record.

(b) If the Board has decided to hold a conference, the Board will consult or correspond with the parties to schedule the conference, identify issues, and discuss procedures. The Board will identify the persons who will be allowed to participate, along with the parties' representatives, in the conference. The parties can submit with their briefs under § 16.8 a list of persons who might participate with them, indicating how each person is involved in the matter. If the parties wish, they may also suggest questions or areas of inquiry which the Board may wish to pursue with each participant.

(c) Unless the parties and the Board otherwise agree, the following procedures apply:

(1) Conferences will be recorded at Department expense. On request, a party will be sent one copy of the transcript. The presiding Board member will insure an orderly transcript by controlling the sequence and identification of speakers.

(2) Only in exceptional circumstances will documents be received at a conference. Inquiry will focus on material in the appeal file. If a party finds that further documents should be in the record for the conference, the party should supplement the appeal file, submitting a supplementary index and copies of the documents to the Board and the other party not less than ten days prior to the conference.

(3) Each party's representative may make an oral presentation. Generally, the only oral communications of other participants will consist of statements requested by the Board or responses to the Board's questions. The Board will allow reply comment, and may allow short closing statements. On request, the Board may allow the participants to question each other.

(4) There will be no post-conference submissions, unless the Board determines they would be helpful to resolve the case. The Board may require or allow the parties to submit proposed findings and conclusions.

§ 16.11 Hearing.

(a) *Electing a hearing.* If the appellant believes a hearing is appropriate, the appellant should specifically request one at the earliest possible time (in the notice of appeal or with the appeal file). The Board will approve a request (and may schedule a hearing on its own or in response to a later request) if it finds there are complex issues or material facts in dispute the resolution of which would be significantly aided by a hearing, or if the Board determines that its decisionmaking otherwise would be enhanced by oral presentations and arguments in an adversary, evidentiary hearing. The Board will also provide a hearing if otherwise required by law or regulation.

(b) *Preliminary conference before the hearing.* The Board generally will hold a prehearing conference (which may be conducted by telephone conference call) to consider any of the following: the possibility of settlement; simplifying and clarifying issues; stipulations and admissions; limitations on evidence and witnesses that will be presented at the hearing; scheduling the hearing; and any other matter that may aid in resolving the appeal. Normally, this conference will be conducted informally and off the record; however, the Board, after consulting with the parties, may reduce results of the conference to writing in a document which will be made part of the record, or may transcribe proceedings and make the transcript part of the record.

(c) *Where hearings are held.* Hearings generally are held in Washington, D.C. In exceptional circumstances, the Board may hold the hearing at an HHS Regional Office or other convenient facility near the appellant.

(d) *Conduct of the hearing.* (1) The presiding Board member will conduct the hearing. Hearings will be as informal as reasonably possible, keeping in mind the need to establish an orderly record. The presiding Board member generally will admit evidence unless it is determined to be clearly irrelevant, immaterial or unduly repetitious, so the parties should avoid frequent objections to questions and documents. Both sides may make opening and closing statements, may present witnesses as agreed upon in the prehearing conference, and may cross-examine. Since the parties have ample opportunity to develop a complete appeal file, a party may introduce an exhibit at the hearing only after explaining to the satisfaction of the presiding Board member why the exhibit was not submitted earlier (for example, because the information was not available).

(2) The Board may request the parties to submit written statements of witnesses to the Board and each other prior to the hearing so that the hearing will primarily be concerned with cross-examination and rebuttal.

(3) False statements of a witness may be the basis for criminal prosecution under sections 287 and 1001 of Title 18 of the United States Code.

(4) The hearing will be recorded at Department expense.

(e) *Procedures after the hearing.* The Board will send one copy of the transcript to each party as soon as it is received by the Board. At the discretion of the Board, the parties may be required or allowed to submit post-hearing briefs or proposed findings and conclusions (the parties will be informed at the hearing). A party should note any major prejudicial transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within a time limit set by the Board).

§16.12 The expedited process.

(a) *Applicability.* Where the amount in dispute is $25,000 or less, the Board will use these expedited procedures, unless the Board Chair determines otherwise under paragraph (b) of this section. If the Board and the parties agree, the Board may use these procedures in cases of more than $25,000.

(b) *Exceptions.* If there are unique or unusually complex issues involved, or other exceptional circumstances, the Board may use additional procedures.

(c) *Regular expedited procedures.* (1) Within 30 days after receiving the Board's acknowledgment of the appeal (see § 16.7), each party shall submit to the Board and the other party any relevant background documents (organized as required under § 16.8), with a cover letter (generally not to exceed ten pages) containing any arguments the party wishes to make.

(2) Promptly after receiving the parties' submissions, the presiding Board member will arrange a telephone conference call to receive the parties' oral comments in response to each other's submissions. After notice to the parties, the Board will record the call. The Board member will advise the parties whether any opportunities for further briefing, submissions or oral presentations will be established. Cooperative efforts will be encouraged (see § 16.8(d)).

(3) The Board may require the parties to submit proposed findings and conclusions.

(d) *Special expedited procedures where there has already been review.* Some HHS components (for example, the Public Health Service) use a board or other relatively independent reviewing authority to conduct a formal preliminary review process which results in a written decision based on a record including documents or statements presented after reasonable notice and opportunity to present such material. In such cases, the following rules apply to appeals of $25,000 or less instead of those under paragraph (c) of this section:

(1) Generally, the Board's review will be restricted to whether the decision of the preliminary review authority was clearly erroneous. But if the Board determines that the record is inadequate, or that the procedures under which the record was developed in a given instance were unfair, the Board will not be restricted this way.

(2) Within 30 days after receiving the Board's acknowledgment of appeal (see § 16.7), the parties shall submit the following:

(i) The appellant shall submit to the Board and the respondent a statement why the decision was clearly erroneous. Unless allowed by the Board after consultation with the respondent, the appellant shall not submit further documents.

(ii) The respondent shall submit to the Board the record in the case. If the respondent has reason to believe that all materials in the record already are in the possession of the appellant, the respondent need only send the appellant a list of the materials submitted to the Board.

(iii) The respondent may, if it wishes, submit a statement why the decision was not clearly erroneous.

(3) The Board, in its discretion, may allow or require the parties to present further arguments or information.

§ 16.13 Powers and responsibilities.

In addition to powers specified elsewhere in these procedures, Board members have the power to issue orders (including "show cause" orders); to examine witnesses; to take all steps necessary for the conduct of an orderly hearing; to rule on requests and motions, including motions to dismiss; to grant extensions of time for good reasons; to dismiss for failure to meet deadlines and other requirements; to close or suspend cases which are not ready for review; to order or assist the parties to submit relevant information; to remand a case for further action by the respondent; to waive or modify these procedures in a specific case with notice to the parties; to reconsider a Board decision where a party promptly alleges a clear error of fact or law; and to take any other action necessary to resolve disputes in accordance with the objectives of these procedures.

§ 16.14 How Board review is limited.

The Board shall be bound by all applicable laws and regulations.

§ 16.15 Failure to meet deadlines and other requirements.

(a) Since one of the objectives of administrative dispute resolution is to provide a decision as fast as possible consistent with fairness, the Board will not allow parties to delay the process unduly. The Board may grant extensions of time, but only if the party gives a good reason for the delay.

(b) If the appellant fails to meet any filing or procedural deadlines, appeal file or brief submission requirements, or other requirements established by the Board, the Board may dismiss the appeal, may issue an order requiring the party to show cause why the appeal should not be dismissed, or may take other action the Board considers appropriate.

(c) If the respondent fails to meet any such requirements, the Board may issue a decision based on the record submitted to that point or take such other measures as the Board considers appropriate.

§ 16.16 Parties to the appeal.

(a) The only parties to the appeal are the appellant and the respondent. If the Board determines that a third person is a real party in interest (for example, where the major impact of an audit disallowance would be on the grantee's contractor, not on the grantee), the Board may allow the third person to present the case on appeal for the appellant or to appear with a party in the case, after consultation with the parties and if the appellant does not object.

(b) The Board may also allow other participation, in the manner and by the deadlines established by the Board, where the Board decides that the intervenor has a clearly identifiable and substantial interest in the outcome of the dispute, that participation would sharpen issues or otherwise be helpful in resolution of the dispute, and that participation would not result in substantial delay.

§ 16.17 Ex parte communications (communications outside the record).

(a) A party shall not communicate with a Board or staff member about matters involved in an appeal without notice to the other party. If such communication occurs, the Board will disclose it to the other party and make it part of the record after the other party has an opportunity to comment. Board members and staff shall not consider any information outside the record (see § 16.21 for what the record consists of) about matters involved in an appeal.

(b) The above does not apply to the following: communications among Board members and staff; communications concerning the Board's administrative functions or procedures; requests from the Board to a party for a document (although the material submitted in response also must be given to the other party); and material which the Board includes in the record after notice and an opportunity to comment.

§ 16.18 Mediation.

(a) *In cases pending before the Board.* If the Board decides that mediation would be useful to resolve a dispute, the Board, in consultation with the parties, may suggest use of mediation techniques and will provide or assist in selecting a mediator. The mediator may take any steps agreed upon by the parties to resolve the dispute or clarify issues. The results of mediation are not binding on the parties unless the parties so agree in writing. The Board will internally insulate the mediator from any Board or staff members assigned to handle the appeal.

(b) *In other cases.* In any other grants dispute, the Board may, within the limitations of its resources, offer persons trained in mediation skills to aid in

resolving the dispute. Mediation services will only be offered at the request, or with the concurrence, of a responsible federal program official in the program under which the dispute arises. The Board will insulate the mediator if any appeal subsequently arises from the dispute.

§ 16.19 How to calculate deadlines.

In counting days, include Saturdays, Sundays, and holidays; but if a due date would fall on a Saturday, Sunday or federal holiday, then the due date is the next federal working day.

§ 16.20 How to submit material to the Board.

(a) All submissions should be addressed as follows: Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

(b) All submissions after the notice of appeal should identify the Board's docket number (the Board's acknowledgement under § 16.7 will specify the docket number).

(c) Unless the Board otherwise specifies, parties shall submit to the Board an original and two copies of all materials. Each submission other than the notice of appeal, must include a statement that one copy of the materials has been sent to the other party, identifying when and to whom the copy was sent.

(d) Unless hand delivered, all materials should be sent to the Board and the other party by certified or registered mail, return receipt requested.

(e) The Board considers material to be submitted on the date when it is postmarked or hand delivered to the Board.

§ 16.21 Record and decisions.

(a) Each decision is issued by three Board members (see § 16.5(b)), who base their decision on a record consisting of the appeal file; other submissions of the parties; transcripts or other records of any meetings, conferences or hearings conducted by the Board; written statements resulting from conferences; evidence submitted at hearings; and orders and other documents issued by the Board. In addition, the Board may include other materials (such as evidence submitted in another appeal) after the parties are given notice and an opportunity to comment.

(b) The Board will promptly notify the parties in writing of any disposition of a case and the basis for the disposition.

(c) [Reserved]

§ 16.22 The effect of an appeal.

(a) *General.* Until the Board disposes of an appeal, the respondent shall take no action to implement the final decision appealed.

(b) *Exceptions.* The respondent may—

(1) Suspend funding (see § 74.114 of this title);

(2) Defer or disallow other claims questioned for reasons also disputed in the pending appeal;

(3) In programs listed in Appendix A, B.(a)(1), implement a decision to disallow Federal financial participation claimed in expenditures reported on a statement of expenditures, by recovering, withholding or offsetting payments, if the decision is issued before the reported expenditures are included in the calculation of a subsequent grant; or

(4) Take other action to recover, withhold, or offset funds if specifically authorized by statute or regulation.

§ 16.23 How long an appeal takes.

The Board has established general goals for its consideration of cases, as follows (measured from the point when the Board receives the first submission after the notice of appeal):

—for regular review based on a written record under § 16.8, 6 months. When a conference under § 16.10 is held, the goal remains at 6 months, unless a requirement for post-conference briefing in a particular case renders the goal unrealistic.

—for cases involving a hearing under § 16.11, 9 months.

—for the expedited process under § 16.12, 3 months.

These are goals, not rigid requirements. The paramount concern of the Board is to take the time needed to review a record fairly and adequately in order to produce a sound decision. Furthermore, many factors are beyond the Board's direct control, such as unforeseen delays due to the parties' negotiations or requests for extensions, how many cases are filed, and Board resources. On the other hand, the parties may agree to steps which may shorten review by the Board; for example, by waiving the right to submit a brief, by agreeing to shorten submission schedules, or by electing the expedited process.

Appendix A—What Disputes the Board Reviews

A. What this Appendix covers.

This Appendix describes programs which use the Board for dispute resolution, the types of disputes covered, and any conditions for Board review of final written decisions resulting from those disputes. Disputes under programs not specified in this Appendix may be covered in a program regulation or in a memorandum of understanding between the Board and the head of the appropriate HHS operating component or other agency responsible for administering the program. If in doubt, call the Board. Even though a dispute may be covered here, the Board still may not be able to review it if the limits in paragraph F apply.

B. Mandatory grant programs.

(a) The Board reviews the following types of final written decisions in disputes arising in HHS programs authorizing the award of mandatory grants:

(1) Disallowances under Titles I, IV, VI, X, XIV, XVI(AABD), XIX, and XX of the Social Security Act, including penalty disallowances such as those under sections 403(g) and 1903(g) of the Act and fiscal disallowances based on quality control samples.

(2) Disallowances in mandatory grant programs administered by the Public Health Service, including Title V of the Social Security Act.

(3) Disallowances in the programs under sections 113 and 132 of the Developmental Disabilities Act.

(4) Disallowances under Title III of the Older American Act.

(b) In some of these disputes, there is an option for review by the head of the granting agency prior to appeal to the Board. Where an appellant has requested review by the agency head first, the "final written decision" required by § 16.3 for purposes of Board review will generally be the agency head's decision affirming the disallowance. If the agency head declines to review the disallowance or if the appellant withdraws its request for review by the agency head, the original disallowance decision is the "final written decision." In the latter cases, the 30-day period for submitting a notice of appeal begins with the date of receipt of the notice declining review or with the date of the withdrawal letter.

C. Direct, discretionary project programs.

(a) The Board reviews the following types of final written decisions in disputes arising in any HHS program authorizing the award of direct, discretionary project grants or cooperative agreements:

(1) A disallowance or other determination denying payment of an amount claimed under an award, or requiring return or set-off of funds already received. This does not apply to

determinations of award amount or disposition of unobligated balances, or selection in the award document of an option for disposition of program-related income.

(2) A termination for failure to comply with the terms of an award.

(3) A denial of a noncompeting continuation award under the project period system of funding where the denial is for failure to comply with the terms of a previous award.

(4) A voiding (a decision that an award is invalid because it was not authorized by statute or regulation or because it was fraudulently obtained).

(b) Where an HHS component uses a preliminary appeal process (for example, the Public Health Service), the "final written decision" for purposes of Board review is the decision issued as a result of that process.

D. Cost allocation and rate disputes.

The Board reviews final written decisions in disputes which may affect a number of HHS programs because they involve cost allocation plans or rate determinations. These include decisions related to cost allocation plans negotiated with State or local governments and negotiated rates such as indirect cost rates, fringe benefit rates, computer rates, research patient care rates, and other special rates. The "final written decision" for purposes of Board review of these disputes is the decision issued as a result of the preliminary appeal process at Part 75 of this title.

E. SSI agreement disputes.

The Board reviews disputes in the Supplemental Security Income (SSI) program arising under agreements for Federal administration of State supplementary payments under section 1616 of the Social Security Act or mandatory minimum supplements under section 212 of Pub. L. 93–66. In these cases, the Board provides an opportunity to be heard and offer evidence at the Secretarial level of review as set out in the applicable agreements. Thus, the "final written decision" for purposes of Board review is that determination appealable to the Secretary under the agreement.

F. Where Board review is not available.

The Board will not review a decision if a hearing under 5 U.S.C. 554 is required by statute, if the basis of the decision is a violation of applicable civil rights or nondiscrimination laws or regulations (for example, Title VI of the Civil Rights Act), or if some other hearing process is established pursuant to statute.

G. How the Board determines whether it will review a case.

Under § 16.7, the Board Chair determines whether an appeal meets the requirements of this Appendix. If the Chair finds that there is some question about this, the Board will request the written opinion of the HHS component which issued the decision. Unless the Chair determines that the opinion is clearly erroneous, the Board will be bound by the opinion. If the HHS component does not respond within a time set by the Chair, or cannot determine whether the Board clearly does or does not have jurisdiction, the Board will take the appeal.

PART 74—ADMINISTRATION OF GRANTS

2. Part 74 of Title 45 of the CFR is amended as set forth below:

a. Subparts R and S are reserved as follows:

Subpart R—[Reserved]

Subpart S—[Reserved]

b. The table of contents is revised by adding entries for a new Subpart T, as follows:

* * * * *

Subpart T—Miscellaneous

Sec.

74.250–74.303 [Reserved]

74.304 Final decisions in disputes.

Subpart T—Miscellaneous

§§ 74.250–74.303 [Reserved]

§ 74.304 Final decisions in disputes.

(a) Granting agencies and other Departmental components attempt to promptly issue final decisions in disputes and in other matters affecting the interests of grantees. However, they do not issue a final decision adverse to the grantee until it is clear that the matter cannot be resolved informally through further exchange of information and views.

(b) Under various HHS statutes or regulations, grantees have the right to appeal from, or to have a hearing on, certain final decisions by Departmental components. (See, for example, Subpart D of 42 CFR Part 50 and 45 CFR Parts 16 and 75.) Paragraphs (c) and (d) of this section set forth the standards the Department expects its components to meet in stating a final decision covered by any of the statutes or regulations.

(c) The decision is brief but contains—

(1) A complete statement of the background and basis of the component's decision, including reference to the pertinent statutes, regulations, or other governing documents; and

(2) Enough information to enable the grantee and any reviewer to understand the issues and the position of the HHS component.

(d) The following or similar language (consistent with the terminology of the applicable statutes or regulations) appears at the end of the decision: "This is the final decision of the [title of grants officer or other official responsible for the decision]. It shall be the final decision of the Department unless, within 30 days after receiving this decision, you deliver or mail (you should use registered or certified mail to establish the date) a written notice of appeal to [name and address of appropriate contact; e.g., the Departmental Grant Appeals Board, Department of Health and Human Services, Washington, D.C. 20201]. You shall attach to the notice a copy of this decision, note that you intend an appeal, state the amount in dispute, and briefly state why you think that this decision is wrong. You will be notified of further procedures."

(e) If a decision does not contain the statement, information, and language described in paragraphs (c) and (d) of this section, the decision is not necessarily the granting agency's final decision in the matter. The grantee should notify the granting agency that it wishes a formal final decision following any further exchange of views or information that might help resolve the matter informally.

Dated: August 3, 1981.

Richard Schweiker,

Secretary.

[FR Doc. 81-75315 Filed 8-28-81; 8:45 am]

BILLING CODE 4110-12-M

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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
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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.

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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.**

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