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Presidential Documents

Title 3—

Proclamation 4938 of May 3, 1982

The President

Application of Certain United States Laws to the Northern Mariana Islands

By the President of the United States of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). The United States has undertaken to promote the political development of the Trust Territory toward self-government or independence, to protect the rights and fundamental freedoms of its peoples, and to guarantee freedom of speech and of the press.

The United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241; 90 Stat. 263; 48 U.S.C. 1681 note) pursuant to which many provisions of the laws of the United States have become applicable to the Northern Mariana Islands as of January 9, 1978 (Proclamation No. 4534, Section 2). Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended.

The Communications Act of 1934, as amended, is applicable to the Northern Mariana Islands. Certain provisions of that Act limit the issuance of licenses, other authorizations, and privileges to citizens of the United States. Other provisions of the Act prohibit the issuance of certain licenses to foreign governments, aliens, corporations organized under the laws of a foreign government, and corporations of which any officer or director is an alien, or of which more than one-fifth of the capital stock is owned by aliens, or to corporations which are directly or indirectly controlled by corporations under alien control.

The vast majority of the citizens of the Northern Mariana Islands will not become citizens of the United States until the termination of the Trusteeship Agreement. Consequently, the Government of the Northern Mariana Islands, its citizens, and corporations organized or existing under laws of the Northern Mariana Islands, as well as domestic corporations which have officers, directors, or stockholders in excess of 20 percent, who are citizens of the Northern Mariana Islands, or which are otherwise under the control of Northern Mariana Islands interests cannot receive certain licenses, authorizations, and other privileges under the Act. This result would be inconsistent with the obligation assumed by the United States in the Trusteeship Agreement to protect the rights and fundamental freedoms of the people of the Trust Territory and to guarantee freedom of speech and of the press.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

1. Any provision of the Constitution or laws of the United States which prohibits the issuance of a license or authority or the grant of a privilege under the Communications Act of 1934, as amended, to foreign governments, aliens, corporations organized or existing under the laws of the Northern Mariana Islands or to domestic corporations which have alien officers, directors, or stockholders, or which are otherwise directly or indirectly controlled by foreign interest would be inconsistent with the Trusteeship Agreement if applied to the Government of the Northern Mariana Islands, or to corporations organized or existing under the laws of the Northern Mariana Islands, and would be inconsistent with the Trusteeship Agreement to the extent that citizens of the Northern Mariana Islands would be considered as aliens or the Government of the Northern Mariana Islands a foreign government for the purposes of the administration of that Act.

2. The application of any such provision, including Sections 303 and 310 of the Communications Act of 1934, as amended (47 U.S.C. 303 and 310), to such Government, corporations, and persons is therefore suspended to the extent of such inconsistency until the termination of the Trusteeship Agreement pursuant to Section 1002 of the Covenant.

3. As used in this Proclamation: (a) "citizen of the Northern Mariana Islands" means an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled within the meaning of Section 1005(e) of the Covenant in the Northern Mariana Islands, and a partnership, unincorporated company, or association whose members and officers are all citizens of the Northern Mariana Islands.

(b) "corporation organized or existing under the laws of the Northern Mariana Islands" means a corporation organized under the Laws of the Government of the Northern Mariana Islands, including a predecessor government, which is doing business exclusively in the Northern Mariana Islands or in the United States.

(c) "Government of the Northern Mariana Islands" includes a political subdivision of the Government of the Northern Mariana Islands;

(d) "domestic corporation" means a corporation organized under the laws of the United States, a State, the District of Columbia, a Territory, or the Commonwealth of Puerto Rico.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

Rules and Regulations

Federal Register

Vol. 47, No. 87

Wednesday, May 5, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Revision of the United States Standards for Beans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed and is making changes to the U.S. Standards for Beans. In the interest of clarity, to promote a better understanding of the standards, and to facilitate the marketing of dry beans, FGIS is changing the format of the grade tables in the U.S. Standards for Beans and is eliminating the special and premium grades in all classes of beans except the class Pea beans.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken Jr., Regulations and Directives Management, USDA, FGIS, 1400 Independence Avenue SW., Washington, D.C. 20250, Telephone (202) 382-0231.

SUPPLEMENTARY INFORMATION: The U.S. Standards for Beans were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) (Act). This action has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1. Since the changes

¹ Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

are revisions in format to clarify the standards and delete certain special and premium grades, the action has been determined to be nonmajor. Kenneth A. Gilles, FGIS Administrator, has determined that the action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this action applies only to FGIS and those limited number of States which have entered into cooperative agreements with FGIS to perform inspection services under the Act. Further, the changes will not have a significant economic impact on the industry because the revision involves format changes of a non-substantive nature and deletion of certain special and premium grades which more closely reflect current trading practices. Although changes are being made at this time, FGIS will continue to study and evaluate the standards to meet the future needs of the industry.

On October 28, 1980, a proposed rule to revise the format of the grade tables in the U.S. Standards for Beans (7 CFR 68.101 *et seq.*) was published in the Federal Register (45 FR 71486). A majority of the comments objected to the proposed revisions on the basis that the tables included the "Choice handpicked" and "Handpicked" special grades for beans. Based on these comments the proposed rule was withdrawn. The tables were further revised and a new proposed rule to revise the format of the grade tables in the U.S. Standards for Beans (7 CFR 68.101 *et seq.*) was published in the Federal Register on October 5, 1981 at 46 FR 49066. Several tables which appeared in this proposed rule were incorrect due to error in publication. The October 5, 1981 proposed rule was corrected by an October 20, 1981 Federal Register publication at 46 FR 51415. Two comments were received from interested parties on the proposed changes. Both comments supported the proposed changes to the U.S. Standards for Beans with one commenter indicating that the special grades "Choice handpicked", "Handpicked", and "Extra No. 1" are not used in his State because beans are now mechanically milled.

In summary the U.S. Standards for Beans are being revised to reflect the following:

Section 68.133, Grades and grade requirements for the class Pea beans, be

revised by changing the format of the table and incorporating information previously shown in footnotes. The heading for § 68.133 is changed to read *Grades, grade requirements, special grades and special grade requirements for the class Pea beans.*

Section 68.134, Grades and grade requirements for the classes Blackeye, Cranberry, Yelloweye, Pinto, Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, Mung, and Miscellaneous beans, be revised to apply only to the class Blackeye beans and by changing the format of the table and incorporating information previously shown in footnotes into the body of the table. Further, the grades and grade requirements for the remaining classes of beans which appear in the current § 68.134 are revised and redesignated as §§ 68.135 through 68.138 as listed below, by changing the format of the tables, and incorporating information previously shown in the footnotes into the body of the tables:

Section 68.135, Grades and Grade Requirements for the Classes Yelloweye Beans and Cranberry Beans, § 68.136, Grades and Grade Requirements for the Class Pinto Beans, § 68.137, Grades and Grade Requirements for the Classes Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, and Miscellaneous Beans, and § 68.138, Grades and Grade Requirements for the Class Mung Beans.

Current § 68.135, *Grades and Grade Requirements for the class Large Lima beans, and § 68.136, Grades and Grade Requirements for the class Baby Lima beans, and for the classes of Miscellaneous Lima beans, be redesignated as §§ 68.139 and 68.140 respectively and revised by deleting the premium grades of "Extra No. 1", changing the format of the tables, and incorporating information previously shown in the footnotes into the body of the tables.*

Current § 68.137, *Grade Designations, be redesignated as § 68.141 and that the designation for the grade "U.S. Substandard" be amended by deleting the requirement that the percentages of splits, damaged beans, contrasting classes and foreign material be shown*

as part of the grade designation. This factor information is shown elsewhere on the certificate if an official determination is made during the course of inspection.

Current § 68.138, *Special grades, special grade requirements, and special grade designation for all classes of beans*, be redesignated as § 68.142, *Special Grade Designations*, and be revised by deleting the grade "Handpicked" from all applicable classes of beans and the grade "Choice handpicked" from all classes except Pea beans. The current premium grades "Choice handpicked" and "Prime handpicked" for the class Pea beans are designated as special grades in the revision.

In addition to the above, § 68.1119, *Good Natural Color*, is removed because it is only applicable to the premium grade "Extra No. 1" which is eliminated.

The § 68.119 is reserved for future use. Further, § 68.103, *Grades*, is amended to delete the term "premium" as that term is no longer necessary in view of the revisions to the regulations.

List of Subjects in 7 CFR Part 68

Administrative practice and procedure, Agricultural commodities, Export.

This final rule is identical to the October 5, 1981 proposed rule (46 FR 49066) as corrected on October 20, 1981 (46 FR 51415), except for several non-substantive changes made for grammatical and usage purposes. In §§ 68.141 and 68.142, the references to the internal divisions of the first sentence which appeared as "a, b, c, and d" in the proposal are changed to "1, 2, 3, and 4" in this final rule.

Accordingly, the United States Standards for Beans are amended so that footnote 1 to Subpart B is revised, § 68.119 is removed and reserved, § 68.103 and §§ 68.133 through 68.138 are revised and §§ 68.139 through 68.142 are added to read as follows:

Subpart B—U.S. Standards for Beans¹

§ 68.103 Grades.

Grades shall be the numerical grades, substandard grades, sample grades, and special grades provided for in § 68.133–§ 68.142.

§ 68.119 [Reserved]

¹ Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

Grades, Grade Requirements, Grade Designations, Special Grades and Special Grade Requirements

§ 68.133 Grades, grade requirements, special grades and special grade requirements for the Class Pea Beans.

Special grade and grade	General appearance	Percent maximum limits of—						
		Moisture ¹	Total defects (total damaged, total foreign material, contrasting classes, splits)	Badly damaged	Foreign material		Contrasting classes ²	Classes that blend ³
					Total (includes stones)	Stones		
U.S. Choice Handpicked.....	(*)	18.0	1.5	0.3	0.01	0.01	0.01	2.0
U.S. Prime Handpicked.....	(*)	18.0	3.0	0.3	0.01	0.01	0.01	2.0
U.S. No. 1.....	(*)	18.0	2.0	2.0	0.4	0.2	0.5	4.0
U.S. No. 2.....	(*)	18.0	3.0	3.0	0.8	0.4	1.0	4.0
U.S. Substandard.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)
U.S. Sample grade.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture and graded High moisture.

² Beans with more than 2.0 percent contrasting classes are classed Mixed beans.

³ Beans with more than 15.0 percent classes that blend are classed Mixed beans.

⁴ Shall not grade off color.

⁵ The special grade off color may be applied after the removal of total defects.

⁶ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. Choice Handpicked through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁷ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.

§ 68.134 Grades and grade requirements for the Class Blackeye Beans.

Grade	General appearance	Percent maximum limits of—							
		Moisture ¹	Total Defects (total damaged, total foreign material, contrasting classes, splits)	Total damaged	Clean cut weevil bored ²	Foreign material		Contrasting classes ³	Classes that blend ⁴
						Total (includes stones)	Stones		
U.S. No. 1.....	(5)	18.0	4.0	2.0	0.0	0.5	0.2	0.5	5.0
U.S. No. 2.....	(5)	18.0	6.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3.....	(5)	18.0	8.0	6.0	0.5	1.5	0.6	2.0	15.0

Grade	General appearance	Percent maximum limits of—							
		Moisture ¹	Total Defects (total damaged, total foreign material, contrasting classes, splits)	Total damaged	Clean cut weevil bored ²	Foreign material		Contrasting classes ³	Classes that blend ⁴
						Total (includes stones)	Stones		
U.S. Substandard.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
U.S. Sample grade.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture are graded High moisture.

² Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.

³ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

⁴ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

⁵ The special grade off color may be applied after removal of total defects.

⁶ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁷ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing, or filth, animal filth, or any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.

§ 68.135 Grades and grade requirements for the Classes Yelloweye Beans and Cranberry Beans.

Grade	General appearance	Percent maximum limits of—							In addition to classes that blend, white beans similar in size and shape in the class yelloweye beans
		Moisture ¹	Total defects (total damage, total foreign material, contrasting classes, splits)	Total damage	Foreign material		Contrasting classes ²	Classes that blend ³	
					Total (includes stones)	Stones			
U.S. No. 1.....	(*)	18.0	4.0	2.0	0.5	0.2	0.5	5.0	5.0
U.S. No. 2.....	(*)	18.0	6.0	4.0	1.0	0.4	1.0	10.0	5.0
U.S. No. 3.....	(*)	18.0	8.0	6.0	1.5	0.6	2.0	15.0	
U.S. Substandard.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
U.S. Sample grade.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture are graded High moisture.

² Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

³ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

⁴ The special grade off color may be applied after removal of total defects.

⁵ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3, or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁶ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance broken glass or metal fragments; or which are otherwise of distinctly low quality.

§ 68.136 Grades and grade requirements for the Class Pinto Beans.

Grade	General appearance	Percent maximum limits of—						
		Moisture ¹	Total defects (total damaged, total foreign material contrasting classes, splits)	Total damaged	Foreign material		Contrasting classes ²	Classes that blend ³
					Total (includes stones)	Stones		
U.S. No. 1.....	(*)	18.0	3.0	3.0	0.5	0.2	0.5	5.0
U.S. No. 2.....	(*)	18.0	5.0	5.0	1.0	0.4	1.0	10.0
U.S. No. 3.....	(*)	18.0	7.0	7.0	1.5	0.6	2.0	15.0
U.S. Substandard.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)
U.S. Sample grade.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture are graded High moisture.

² Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

³ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

⁴ The special grade off color may be applied after removal of total defects.

⁵ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁶ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.

[illegible]

Grade	General appearance	Percent maximum limits of—											
		Moisture ¹	Total blistered wrinkled and defects (blistered, wrinkled, total damage, total foreign material, contrasting classes, splits)	Damaged beans		Foreign material		Contrasting classes ²	Splits	Broken	Classes that blend ³	Beans through a sieve	
				Total	Badly damaged	Total (includes stones)	Stones					2 3/4 inch	2 1/4 inch
U.S. Sample Grade.....	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture are graded High moisture.

² Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

³ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

⁴ The special grade off color may be applied after removal of total defects.

⁵ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁶ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.

§ 68.140 Grades and Grade Requirements for the Classes Baby Lima and Miscellaneous Lima Beans.

Grade	General appearance	Percent maximum limits of—								
		Moisture ¹	Total defects (total damage, total foreign material, contrasting classes)	Badly damaged	Foreign material		Contrasting classes ²	Blistered wrinkled and/or broken	Splits	Classes that blend ³
					Total (includes stones)	Stones				
U.S. No. 1	(*)	18.0	2.0	1.0	0.5	0.2	0.5	3.0	3.0	5.0
U.S. No. 2	(*)	18.0	3.0	1.5	1.0	0.3	1.0	5.0	5.0	10.0
U.S. No. 3	(*)	18.0	5.0	2.0	1.5	0.6	2.0	8.0	8.0	15.0
U.S. Substandard	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
U.S. Sample grade	(*)	18.0	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

¹ Beans with more than 18.0 percent moisture are graded High moisture.

² Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

³ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

⁴ The special grade off color may be applied after removal of total defects.

⁵ U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.

⁶ U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.

§ 68.141 Grade designations.

The grade designation for all classes of beans shall include in the following order: (a) The letters "U.S."; (b) the name or number of the grade or the name of any applicable special grade designation as appears in § 68.142 (a) and (b); (c) the class, and in the case of Mixed beans, the name and percentage of each class in the mixture; and (d) the special grade designations, if applicable, as appears in § 68.142 (c) and (d). In addition, the designation for the grade "U.S. Substandard" shall include the percentage of sound beans. Mixed beans shall be graded according to the grade requirements of the class of beans which predominates in the mixture. The factors of contrasting classes, classes that blend and sieve size requirements in the class Large Lima beans shall be disregarded in Mixed beans.

§ 68.142 Special grade designations.

(a) *Choice handpicked*. The special grade designation "Choice handpicked" shall be applicable only to the class Pea beans. The "Choice handpicked" designation shall include in the following order: (1) The letters "U.S.";

(2) the words "Choice handpicked"; and (3) "Pea beans".

(b) *Prime handpicked*. The special grade designation "Prime handpicked" is applicable only to the class Pea beans. The "Prime handpicked" designation shall include in the following order: (1) The letters "U.S."; (2) the words "Prime handpicked"; and (3) "Pea beans".

(c) *High moisture*. The special grade designation "High moisture" is applicable to all classes of beans containing over 18.0 percent moisture. The words "high moisture" and the percentage of moisture shall follow the class name.

(d) *Off-color*. The special grade designation "Off-color" shall be applicable to all classes of beans that upon the removal of total defects, are distinctly off-color due to age or any other natural cause but are not materially weathered. The words "off-color" shall follow the name of the class. The special grades "Choice Handpicked", "Prime Handpicked", and the grade "U.S. No. 1", in the class Pea beans shall not be applied if the beans are determined to be off-color.

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended; (7 U.S.C. 1622, 1624))

Dated: April 13, 1982.

Kenneth A. Gilles,
Administrator.

[FR Doc. 82-11854 Filed 5-3-82; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1006, 1007, 1011, and 1012

[Milk Order Nos. 7, 6, 11, and 12; Docket Nos. AO-366-A19, et al.]

Milk in the Georgia and Certain Other Marketing Areas; Order Amending Orders

7 CFR Part	Marketing Area	AO Nos.
1007	Georgia	AO-366-A19
1006	Upper Florida	AO-356-A19
1011	Tennessee Valley	AO-251-A24
1012	Tampa Bay	AO-347-A22

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts on an emergency basis amendments to the Georgia, Upper Florida, Tennessee Valley, and Tampa Bay orders. The order changes will provide handlers with limited transportation credits from the marketwide pool for certain Class II and Class III milk transferred or diverted to unusually distant outlets for surplus disposal. The changes, which will apply only through June 30, 1982, were considered at a public hearing held on March 16-17, 1982, in East Point, Georgia. The order changes were requested by cooperative associations that represent dairy farmers who supply milk to the markets.

The changes are necessary to reflect current marketing conditions and to insure that all producers in the affected markets share more equitably in the cost of disposing of unusually large supplies of surplus milk that are expected this spring. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto were omitted. Cooperative associations in each market representing more than two-thirds of the producers have approved the issuance of the amended orders.

EFFECTIVE DATE: May 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447-4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued March 4, 1982; published March 10, 1982 (47 FR 10230).

Emergency Final Decision: Issued April 19, 1982; published April 23, 1982 (47 FR 17530).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto;

and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective upon publication in the Federal Register. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued April 19, 1982 (47 FR 17530). The changes effected by this order will not require extensive preparation or

substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective upon publication in the Federal Register and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within each of the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

List of Subjects in 7 CFR Parts 1007, 1006, 1011, 1012

Milk marketing orders, milk, dairy products.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. In § 1007.60, paragraph (g) is added to read as follows:

§ 1007.60 Handler's value of milk for computing uniform price

* * * * *

(g) With respect to milk marketed on and after the effective date hereof

through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1007.42(b)(3) or § 1007.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Atlanta, Georgia; the city hall in Augusta, Georgia; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.60, paragraph (h) is added to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price

(h) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1006.42(b) or § 1006.42(c)(3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 550 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Jacksonville, Florida; the city hall in Tallahassee, Florida; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. In § 1011.60, paragraph (g) is added to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price

(g) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1011.42(b)(3) or § 1011.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Bristol, Tennessee; the city hall in Knoxville, Tennessee; the city hall in Chattanooga, Tennessee; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.60, paragraph (h) is added to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price

(h) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1012.42(b) or § 1012.42(c)(3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 700 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Tampa, Florida; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

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

Effective date: May 5, 1982.

Signed at Washington, D.C., on April 30, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-12221 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274

Seizure and Forfeiture of Vehicles, Vessels, and Aircraft; Immigration and Nationality Act Amendments of 1981

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Service is amending its regulations dealing with the seizure and forfeiture of conveyances used in the unlawful transportation of aliens in violation of the Immigration and Nationality Act. The recent amendments to the Immigration and Nationality Act by Public Law 97-116 strengthen the Service's authority to seize and forfeit conveyances as a deterrent to the smuggling of aliens into the United States. This interim rule implements the related section of the Act as amended by Public Law 97-116, as well as reorganizes and rewrites the remaining regulations for improved readability.

EFFECTIVE DATES: May 5, 1982.

Comments must be received on or before: June 7, 1982.

ADDRESS: Please submit written comments in duplicate to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkil, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: Paul D. McClure, Criminal Investigator, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536, Telephone: (202) 633-2471.

SUPPLEMENTARY INFORMATION: Section 12 of Pub. L. 97-116, effective December 29, 1981 (95 Stat. 1617) amended section 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) to

bring the Immigration and Naturalization Service (INS) forfeiture law and procedures into conformity with those of other enforcement agencies by removing the "innocent owner" seizure exemption previously contained in the Act. All conveyances are now subject to seizure provided the INS can show probable cause that the conveyance seized was used to illegally transport aliens in violation of section 274(a) of the Act. Pub. L. 97-116 provides two exceptions to the forfeiture of seized conveyances: (1) Common carriers, unless the owner or person in charge was a consenting party or privy to the illegal act; and (2) conveyances unlawfully in the possession of a person other than the owner. The Report of the Judiciary Committee (H. Rep. No. 264, 97th Cong., 1st Sess. 27 (1981)) provides a broader exception from forfeiture for an "innocent owner" than in apparent in the plain language of the statute as amended by Pub. L. 97-116. The Report states that the Immigration and Naturalization Service shall provide owners of conveyances with an opportunity to show "that they were not involved in or knowledgeable about its illegal use." This rule incorporates the broad "innocent owner" exception to forfeiture intended by the Committee. Although not stated specifically in the amendment to section 274(b) of the Act, the Committee on the Judiciary also expressed the view that INS should promulgate regulations which will: (1) Require its officers to make a good faith inquiry to ascertain ownership of seized conveyances; (2) insure timely and effective notice to the owners and others with a financial interest in the conveyances; and (3) afford owners the opportunity (prior to the institution of forfeiture proceedings) to show that they were not involved in criminal activity. Section 274.5 of this rule meets these requirements.

The amendment to the Act also relieves INS of the obligation to pay any administrative and incidental costs incurred by a successful claimant provided INS had probable cause for the original seizure. The former requirement in the Act that INS satisfy valid lien or third party interests in the conveyance "without expense to the interest holder" was also removed. The Act now allows the lien holder's interest to be satisfied only after INS' costs associated with the seizure have been deducted and also provides that the Attorney General may retain, sell, or require the General Services Administration to dispose of, any forfeited conveyances.

In addition to implementing the changes made by Pub. L. 97-116, this

interim rule reorganizes certain sections of 8 CFR Part 274, and includes pertinent provisions of the Customs law applicable to the Service. These include: Termination of property interests from date of seizure, if the conveyance is later forfeited; requirement that the burden of proof is on the claimant that the property interest in the conveyance existed prior to seizure; change from retail to wholesale value in appraisals; a separate section setting out provisions for filing petitions (for mitigation, remission, or restoration); separate sections on remission and mitigation; requirement that lien holders granted remission or mitigation not return conveyances to culpable owners; provision for INS comment before judicial forfeitures are compromised; and, provision for payment to informants.

The following section-by-section analysis describes the new or amended sections of the regulations:

Section-by-Section Analysis

8 CFR 274.1(a) adds a definition of "common carrier" based on 49 U.S.C. 1(3).

8 CFR 274.1(e) adds a definition of "lien," upon the existence of which a lien holder will be determined.

8 CFR 274.1(f) redefines "owner" (former 8 CFR 274.1(e)) as a person or persons with exclusive rights to possession.

8 CFR 274.1(h) defines "property interest" upon which claims and petitions are based.

8 CFR 274.1(i) adds "or his delegate" to the definition of "regional commissioner."

8 CFR 274.1(m) redefines "seizure" (former 8 CFR 274.1(k)) by removing the 72-hour temporary holding exception to seizure. Under Pub. L. 97-116, INS is now authorized to seize all conveyances based on probable cause.

8 CFR 274.4(a) removes the exceptions to seizure which were provided by the prior law.

8 CFR 274.4(b) provides for termination of property interests from date of seizure if the conveyance is later forfeited.

8 CFR 274.4(c) authorizes the regional commissioner to execute documents of title on forfeited conveyances.

8 CFR 274.5(a) provides that after seizure the Service must attempt to determine ownership of the conveyance in order to determine whether it is subject to forfeiture.

8 CFR 274.5(b) provides that the following conveyances are not subject to forfeiture: (1) Common carriers, unless the owner or person in charge was a consenting party or privy to the

illegal act; (2) a conveyance illegally in the possession of another; and (3) a conveyance used in an act to which the owner was not privy, or did not consent.

8 CFR 274.5(c) provides an owner with the opportunity to show that a conveyance is not subject to forfeiture rather than seizure.

8 CFR 274.5(d) provides that an owner who establishes that the conveyance is not subject to forfeiture is responsible for all costs incurred by INS, and for their own costs associated with the seizure.

8 CFR 274.6 provides that the burden of proof is on the claimant that a property interest existed prior to seizure.

8 CFR 274.7 revises the appraisal provisions (former 8 CFR 274.6), so that wholesale values, rather than retail price, may be used, based on the presumption that the wholesale value is the value of the conveyance.

8 CFR 274.8, regarding notice to owners and lienholders (former 8 CFR 274.7), is amended by changing the reference to 8 CFR 274.9 due to renumbering.

8 CFR 274.9(a), regarding advertisements (former 8 CFR 274.8(a)), changes reference to 8 CFR 274.8, due to renumbering.

8 CFR 274.9(b)(3) refers the advertisement reader to the provisions of 8 CFR Part 274 rather than republishing those provisions in the advertisement.

8 CFR 274.10, relating to judicial forfeiture upon filing of a claim and bond (former 8 CFR 274.9), is rewritten to remove INS review of the claim for accuracy (a question for the court). This section also provides that the bond will be maintained in the custody of the regional commissioner until resolution of the judicial forfeiture proceedings.

8 CFR 274.11, regarding summary forfeiture (former 8 CFR 274.10), removes the notification requirement to the Commissioner of forfeiture action taken by the regional commissioner.

8 CFR 274.12, relating to judicial forfeiture of conveyances appraised at over \$10,000 (former 8 CFR 274.11), is amended to include reference to §§ 274.9 and 274.10.

8 CFR 274.13 sets out the procedure to be used for filing petitions relating to seizure and forfeiture. These are: remission, mitigation, and restoration.

8 CFR 274.13(a) provides that each petition must be executed and sworn to by the petitioner.

8 CFR 274.13(b) sets out the required elements of the petition.

8 CFR 274.13(c) requires filing a separate petition for each request for relief.

8 CFR 274.13(d) provides that a petition may be denied by the regional commissioner if the petition is contrary to the interests of justice.

8 CFR 274.14 sets out the requirements for filing a petition for remission. Formerly, requirements for petitions for remission and mitigation were set out in one section (former 8 CFR 274.12).

8 CFR 274.14(a) provides that a lienholder may file a petition for remission using the procedures under § 274.13 of 8 CFR.

8 CFR 274.14(b) provides that an owner is ineligible for remission under this section and must proceed under § 274.5 of 8 CFR. The conveyance of an innocent owner is not subject to forfeiture.

8 CFR 274.14(c) sets out the eligibility requirements for remission.

8 CFR 274.14(d)(1) requires payment of costs, or of the amount by which appraised value exceeds petitioner's interest before remission is granted.

8 CFR 274.14(d)(2) requires that the petitioner execute an instrument holding the government harmless for all future claims before remission is granted.

8 CFR 274.14(d)(3) requires the petitioner to agree not to return the conveyance to any culpable owner before remission is granted.

8 CFR 274.14(d)(4) provides that the regional commissioner may set additional requirements before remission as appropriate.

8 CFR 274.14(e) provides that where rival claimants exist, primary claimants and registered owner petitions are to be adjudicated first.

8 CFR 274.14(f) provides that filing a petition for remission does not extend the period for filing claim and bond.

8 CFR 274.15 provides for petitions for mitigation (formerly included in 8 CFR 274.12).

8 CFR 274.15(a) provides that a grant of mitigation is discretionary, must be filed as provided by § 274.13, and will take the form of a money penalty in addition to costs under remission. Mitigation may be granted only if it promotes justice and does not diminish the deterrent effects of section 274(b) of the Act.

8 CFR 274.15(b) conditions a grant of mitigation upon: (1) Execution by the petitioner of an instrument holding the government harmless for future claims; (2) an agreement not to return the vehicle to a culpable owner; and (3) other terms as the regional commissioner finds appropriate.

8 CFR 274.16 sets out the requirements for a petition of restoration of proceeds after sale, or for value of a conveyance placed into official use.

8 CFR 274.16(a) provides that a petition for restoration must be supported by proof that the petitioner did not know of the seizure prior to declaration of forfeiture.

8 CFR 274.16(b) provides that a petition for restoration may be granted only as provided by §§ 274.5, 274.14, and 274.15 of this part as applicable.

8 CFR 274.17 sets out the time limits for filing petitions.

8 CFR 274.17(a) provides that once a conveyance has been forfeited and sold, or placed in official use, a petition for remission or mitigation may not be accepted.

8 CFR 274.17(b) provides that a petition for restoration must be made within 90 days of sale or placement into official use of the conveyance.

8 CFR 274.18 sets out straw purchase transactions (formerly part of 8 CFR 274.13 relating to provisions applicable to particular situations). A lienholder is ineligible for remission, mitigation, or restoration if the lienholder knew, or had reason to believe, the purchaser was a straw purchaser.

8 CFR 274.19(a) provides that petitions on seizures where judicial proceedings have been instituted are to be forwarded to the appropriate U.S. Attorney.

8 CFR 274.19(b) provides for an investigation of each petition forwarded to the U.S. Attorney.

8 CFR 274.19(c) provides that the Assistant Attorney General, Criminal Division, Department of Justice, shall adjudicate petitions on seizures in which judicial proceedings have been instituted.

8 CFR 274.20 provides that judicial forfeiture proceedings may be compromised only with concurrence of the Criminal Division and an opportunity for comment by the regional commissioner.

8 CFR 274.21 incorporates the provisions of 19 U.S.C. 1619 regarding compensation to informants as provided for by section 12 of Pub. L. 97-116, 95 Stat. 1617.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the changes are mandated by law and delay is contrary to the public interest.

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

This rule is not a major rule within the meaning of E.O. 12291.

List of Subjects in 8 CFR Part 274

Administrative practice and procedure, Aircraft, Conveyances, Immigration, Law enforcement, Mitigation, Motor carriers, Motor vehicles, Penalties, Seizures and forfeitures, Vessels.

Accordingly, Title 8, Chapter I, of the Code of Federal Regulations is amended as follows:

1. 8 CFR Part 274 is revised to read as follows:

PART 274—SEIZURE AND FORFEITURE OF VEHICLES, VESSELS AND AIRCRAFT

- Sec.
- 274.1 Definitions.
 - 274.2 Officers who will make seizures.
 - 274.3 Custody and other duties of the regional commissioner.
 - 274.4 Conveyances subject to seizure; termination of interest.
 - 274.5 Return to owner of seized conveyance not subject to forfeiture; opportunity for personal interview.
 - 274.6 Proof of property interest.
 - 274.7 Appraisal.
 - 274.8 Notice to registered owner and lienholder of seizure.
 - 274.9 Advertisement.
 - 274.10 Judicial forfeiture upon claim and bond.
 - 274.11 Summary forfeiture.
 - 274.12 Judicial forfeiture.
 - 274.13 Procedures for filing petitions.
 - 274.14 Petition for remission.
 - 274.15 Petition for mitigation.
 - 274.16 Petition for restoration of proceeds.
 - 274.17 Time for filing petitions.
 - 274.18 Straw purchase transactions.
 - 274.19 Handling of petitions; judicial forfeiture.
 - 274.20 Compromise of claim.
 - 274.21 Awards of compensation to informants.

Authority: Secs. 103, 274(b) of the Immigration and Nationality Act as amended by Sec. 12, Pub. L. 97-116, 95 Stat. 1617 (8 U.S.C. 1103, 1324(b)).

§ 274.1 Definitions.

As used in this part, the following terms mean:

(a) The term "common carrier," as defined in 49 U.S.C. 1(3), means an express carrier, a rail carrier, a sleeping car carrier, a motor common carrier, a water common carrier, and a freight forwarder.

(b) The term "consenting party or privy to the illegal act" means that the person knew of the illegal activity. A person shall be presumed to have knowledge of an illegal activity if the facts and circumstances are such that a person would reasonably be expected to know of the illegal activity.

(c) The term "conveyance" means a vessel, vehicle, or aircraft as used in

section 274(b) of the Act. A trailer shall be considered a vehicle if it is being towed or readily capable of being towed. However, an immobilized house trailer which has been placed on permanent foundations, which is not readily mobile, is not a vehicle subject to seizure.

(d) The term "custodian" means the regional commissioner who, under section 274.3 of this part has been designated to receive and maintain in storage all conveyances seized under the Act.

(e) The term "lien" means an interest created by a conditional sales contract, mortgage, title retention contract, lease, or debt reduced to a judicial judgment against the vehicle.

(f) The term "owner" means a person or persons who have the right to possess and use the conveyance to the exclusion of others.

(g) The term "person" means an individual, partnership, corporation, joint business enterprise, or other entity capable of owning a conveyance.

(h) The term "property interest" means any assertion of ownership, lien, or other legal entitlement to permanent possession of the vehicle.

(i) The term "record" means an arrest followed by a conviction, except that a single arrest and conviction and the expiration of any sentence imposed as a result of the conviction, all of which occurred more than ten years prior to the date the petitioner acquired interest in the seized property, is not considered a record: *Provided, however*, that two convictions shall always be considered a record regardless of when the convictions occurred: *And provided further*, that the regional commissioner may consider as constituting a record, an arrest or series of arrests in which the charge or charges were subsequently dismissed for reasons other than acquittal or lack of evidence.

(j) The term "related crime" means any crime related to the illegal bringing in, harboring, transportation, entry, reentry, or importation of aliens.

(k) The term "reputation" means repute with a law enforcement agency or among law enforcement officers or in the community generally, including any pertinent neighborhood or other area.

(l) The term "regional commissioner" means the regional commissioner of the Immigration and Naturalization Service or his delegate.

(m) The term "seizure" means the act of taking the conveyance into the custody of the Service for the express purpose of forfeiting it in accordance with the provisions of section 274(b) of the Act.

§ 274.2 Officers who will make seizures.

For the purpose of carrying out the provisions of section 274(b) of the Act, any immigration officer may be authorized and designated by the Commissioner of the Immigration and Naturalization Service to seize a conveyance which may be subject to seizure.

§ 274.3 Custody and other duties of the regional commissioner.

Any officer seizing a conveyance under the Act shall store the conveyance in a location designated by the custodian, which location shall be generally in the judicial district of the seizure. Regional commissioners are designated as custodians to receive and maintain in storage all conveyances seized under the Act. The regional commissioners are also authorized to dispose of any conveyances pursuant to the Act and any other applicable statutes or regulations relative to disposal, and to perform other duties (not inconsistent with the provisions of the Act) regarding the seized conveyances and the proceeds of sales thereof as are imposed on district directors of the U.S. Customs Service with respect to seizures under the Customs law, including the maintenance of appropriate records concerning the seizure and disposition of vehicles.

§ 274.4 Conveyances subject to seizure; termination of interest.

(a) Any conveyance which an officer has probable cause to believe has been used in the commission or furtherance of a violation of section 274(a) of the Act is subject to seizure.

(b) Any property interest is automatically terminated as of the date of the seizure if the vehicle is later forfeited. Any provision of state law which recognizes a continued property interest or right to reinstatement of property in a conveyance has no effect after the seizure.

(c) The regional commissioner has authority to execute a document of title which will be recognized in deciding any challenge to ownership of a conveyance forfeited under this part.

§ 274.5 Return to owner of seized conveyance not subject to forfeiture; opportunity for personal interview.

(a) The Service shall attempt with due diligence to ascertain the ownership of any conveyance seized under section 274(b) of the Act and this Part, to determine whether the conveyance is subject to forfeiture.

(b) The following conveyances are not subject to forfeiture: (1) A conveyance used by any person as a common carrier, unless it appears that the owner

or other person in charge was a consenting party or privy to the illegal act; (2) a conveyance established by the owner to have been unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state; and (3) a conveyance established by the owner to have been used in an act to which the owner was not privy, or did not consent.

(c) The owner of the seized conveyance will be informed of the right to request a personal interview with an immigration officer and to present evidence to establish that the vehicle is not subject to forfeiture. If the officer determines not to forfeit the vehicle, the vehicle may be returned to the owner upon payment of costs as provided for in paragraph (d) of this section.

(d) If at any time after seizure the regional commissioner decides not to forfeit the conveyance, the owner shall be notified by letter, return receipt requested, that the vehicle will be made available at the place of storage. The owner is responsible for all expenses of seizure and custody, which must be paid prior to release of the conveyance. If the conveyance involved is the subject of judicial forfeiture proceedings instituted under section 274(b) of the Act and § 274.12 of this Part, the regional commissioner shall notify the U.S. Attorney that the conveyance is required to be returned to the owner under section 274(b) of the Act, and that judicial forfeiture proceedings must be terminated. The notice to the owner must also state that if the conveyance remains unclaimed for 60 days following the receipt of the notice provided in this paragraph, the conveyance shall be considered to be voluntarily abandoned to the government, and the regional commissioner shall dispose of it under section 274(b) of the Act and this Part.

§ 274.6 Proof of property interest.

The burden of proof is on the claimant that the property interest existed prior to seizure. A presumption that an interest does not exist will be made where the claimant fails to present documentation showing compliance with required state formalities.

§ 274.7 Appraisal.

The custodian shall appraise the conveyance to determine the domestic value at the time and place of seizure. The custodian shall use appraisal publications showing wholesale values common to the area. If there is no market for the conveyance at the place of seizure, the domestic value will be considered the wholesale value in the

principal market nearest the place of seizure. The wholesale value will be the presumed value of the conveyance.

§ 274.8 Notice to registered owner and lienholder of seizure.

Whenever a seizure takes place, notice must be given to the registered owner and any known lienholder notifying them of the seizure of the conveyance and the contemplated forfeiture. The notice must be accompanied by copies of the applicable regulations, section 274 of the Act, and the proposed advertisement if an advertisement is required under § 274.9 of this part. The owner shall be informed of the provisions of § 274.5(b) of this part.

§ 274.9 Advertisement.

(a) If the appraised value does not exceed \$10,000, the custodian shall cause a notice of the seizure and of the intention to forfeit and sell or otherwise dispose of the conveyance to be published once a week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the seizure occurred. A copy of this notice must be sent to the registered owner of the conveyance and to any known lienholder, in accordance with § 274.8 of this part.

(b) The notice must: (1) Describe the conveyance seized and show the motor and serial numbers, if known; (2) state the time, cause, and place of seizure; and (3) state that the conveyance is subject to forfeiture except as provided by Part 274 of this chapter.

§ 274.10 Judicial forfeiture upon claim and bond.

(a) Any person claiming ownership of a seized conveyance may obtain judicial review by filing a claim within 20 days of the date of first publication of the notice of seizure, alleging that the conveyance was improperly seized, and posting bond to cover all the costs and expenses of the proceedings if forfeiture is denied. The bond in the sum of \$250 must be in cash, certified check, or on Form I-637 (Bond of Claimant of Seized Conveyance for Costs of Court), if the surety is approved by the regional commissioner. The bond must be made payable to the Immigration and Naturalization Service and will be maintained in the custody of the regional commissioner. The regional commissioner may waive the bond requirement in the manner provided by *Waiver of fees* in § 103.7(c)(1) of this chapter.

(b) The regional commissioner shall transmit the claim, notice that a satisfactory surety has been accepted,

and provide a description of the facts and circumstances of the seizure to the United States Attorney for the judicial district in which the seizure was made, for forfeiture proceedings on the vehicle in the manner prescribed by law.

(c) The filing of a claim and the posting of bond does not entitle the claimant to possession of the vehicle but does stop the summary forfeiture proceedings. Upon conclusion of the action, the regional commissioner shall disburse the money to pay costs up to \$250, and shall return any additional sum to the obligor.

§ 274.11 Summary forfeiture.

If the appraised value does not exceed \$10,000, and a claim and bond are not filed within 20 days of the first publication of the advertisement specified under § 274.9 of this part, the regional commissioner, as custodian, may declare the conveyance forfeited. The regional commissioner shall prepare the declaration of forfeiture and proceed as provided for in § 274.3 of this part.

§ 274.12 Judicial forfeiture.

If the appraised value is greater than \$10,000, or a claim and bond have been received for a conveyance appraised at \$10,000 or less, as provided by § 274.10 of this part, the custodian shall transmit a description of the conveyance and a complete statement of the facts and circumstances surrounding the seizure to the U.S. Attorney for the judicial district in which the seizure was made for forfeiture proceedings in the manner provided by law. The U.S. Attorney shall also be furnished with the newspaper advertisement if an advertisement was required by § 274.9 of this part.

§ 274.13 Procedures for filing petitions.

(a) Any person having an appropriate property interest in any conveyance which has been seized may file a petition. The petition shall be filed with the regional commissioner if the conveyance is subject to summary forfeiture under § 274.11 of this part, and filed with the Attorney General if the conveyance is subject to judicial forfeiture under § 274.10 or § 274.12 of this part. The petition must be executed and sworn to by the person alleging an interest in the conveyance.

(b) The petition must include the following: (1) A complete description of the conveyance, including motor and serial numbers, if known, and the date and place of seizure; (2) the petitioner's interest in the conveyance which must be established as provided in § 274.6 of this part; and, (3) the facts and circumstances relied upon by the

petitioner to justify remission, mitigation, or restoration.

(c) A separate petition must be filed to support each request for relief from forfeiture as provided for in §§ 274.14, 274.15, or 274.16 of this part.

(d) Although a petitioner has satisfactorily established compliance with the administrative conditions applicable to the particular situation, the regional commissioner may deny relief if there are unusual circumstances present which provide reasonable grounds for concluding that remission or mitigation of the forfeiture would be contrary to the interests of justice.

§ 274.14 Petition for remission.

(a) A petition for remission may be filed by any person holding a lien against a seized conveyance. The petition must be filed as provided for in § 274.13 of this part.

(b) The owner of the conveyance is ineligible for the relief under this section and must proceed under § 274.5 of this part for relief.

(c) The regional commissioner shall not remit a forfeiture unless the petitioner establishes:

(1) A valid, good faith interest in the seized conveyance;

(2) That at no time did the petitioner have any knowledge or reason to believe that the conveyance in which an interest is claimed was being or would be used in violation of the law;

(3) That at no time did the petitioner have any knowledge or reason to believe that the owner of the conveyance had any record or reputation for violating laws of the United States or of any state for related crime; and

(4) That the petitioner had taken all reasonable steps to prevent the illegal use of the conveyance.

(d) Grant of a petition for remission is conditioned upon:

(1) Payment of all costs of seizure incurred by the United States or payment of the amount by which the appraised value at time of seizure exceeds the petitioner's net interest in the conveyance, whichever is greater;

(2) Execution of an instrument by the petitioner holding the government, its agents, and employees harmless from all claims which may result from the grant of remission;

(3) Execution of an agreement that the vehicle shall not be returned to any culpable owner; and

(4) Any other terms or conditions as the regional commissioner determines to be appropriate.

(e) Where rival claimants exist, remission will not be granted to any

petitioner who has a subordinate lien to another petitioner nor until any claim of the registered owner has been finally adjudicated.

(f) Filing of a petition does not extend the time for filing a claim and bond.

§ 274.15 Petition for mitigation.

(a) In addition to discretionary authority to grant relief by way of complete remission of forfeiture, the regional commissioner may mitigate forfeitures of seized conveyances. A petition for mitigation may be filed only as provided for in § 274.13 of this part. To be eligible for relief under this section, the petitioner must establish that return of the vehicle promotes the interests of justice and does not diminish the deterrent effect of section 274(b) of the Act. Mitigation will take the form of a money penalty imposed upon the petitioner in addition to any other sums chargeable as a condition to remission. This penalty is considered as an item of cost payable by the petitioner.

(b) Grant of a petition for mitigation is conditioned upon:

(1) Execution of an instrument by the petitioner holding the government, its agents, and employees harmless from all claims which may result from the grant of mitigation;

(2) Execution of an agreement that the vehicle shall not be returned to any culpable owner; and

(3) Any other terms or conditions as the regional commissioner determines to be appropriate.

§ 274.16 Petition for restoration of proceeds.

(a) A petition for restoration of proceeds of sale, or for value of a conveyance placed in official use must be supported by proof that the petitioner did not know of the seizure prior to the declaration of forfeiture.

(b) Any petition for restoration of proceeds must be filed and may be granted only as provided for in §§ 274.5, 274.14, and 274.15 of this part, as applicable.

§ 274.17 Time for filing petitions.

(a) Once a seized conveyance has been forfeited and placed in official use, or sold, a petition for remission or mitigation of forfeiture can no longer be accepted.

(b) A petition for restoration of proceeds of sale, or for the value of property placed in official use, must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

§ 274.18 Straw purchase transactions.

Any person who purchases in their own name a conveyance for another who has a record or reputation for related crimes is a straw purchaser. If a lienholder knows or has reason to believe that the purchaser of record is a straw purchaser, a petition filed by the lienholder shall be denied unless the petitioner-lienholder complies with the requirements of § 274.14(c) of this part as to both the purchaser of record and the real purchaser. This rule also applies where money is borrowed on the security of property held in the name of the straw purchaser for the real purchaser.

§ 274.19 Handling of petitions; judicial forfeiture.

(a) If the petition involves a case which has been referred to the U.S. Attorney for institution of judicial forfeiture, the regional commissioner shall transmit the petition to the U.S. Attorney for the judicial district in which the seizure occurred. The regional commissioner shall notify the petitioner of this action.

(b) The regional commissioner shall initiate a Service investigation into the merits of every petition transmitted to the U.S. Attorney, and shall, if requested, promptly submit a report to the U.S. Attorney.

(c) Upon receipt of a petition and a copy of the investigation, the United States Attorney shall forward a copy of the petition, the report, and a recommendation as to the grant or denial of the petition to the Assistant Attorney General, Criminal Division, Department of Justice for adjudication.

§ 274.20 Compromise of claim.

Once a judicial forfeiture proceeding is commenced, it may be compromised by the United States Attorney only with the concurrence of the Assistant Attorney General, Criminal Division, Department of Justice. In considering a compromise, the United States Attorney shall submit a report addressing the probabilities of successfully prosecuting the forfeiture action and the terms of the possible compromise offer. A copy of this report will also be forwarded to the regional commissioner for Service comment before final action is taken.

§ 274.21 Awards of compensation to informants.

The regional commissioners may, as provided for in 19 U.S.C. 1619, make awards of compensation to informants who have provided information leading to seizures and eventual forfeitures of conveyances. An award is not to exceed 25 percent of the net recovery to the

United States nor exceed \$50,000 in any case.

Dated: April 21, 1982.

Alan C. Nelson,
Commissioner of Immigration and Naturalization.

[FR Doc. 82-12235 Filed 5-4-82; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Docket No. R-0402; Reg. H]

Membership of State Banking Institutions in the Federal Reserve System; Technical Amendment

AGENCY: Federal Reserve System.

ACTION: Technical amendment.

SUMMARY: Section 208.9(d) of Regulation H (12 CFR 208.9(d)) is amended to conform a citation in the footnote with regulatory changes adopted by the Board.

EFFECTIVE DATE: April 28, 1982.

FOR FURTHER INFORMATION CONTACT:

Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Beverly A. Belcamino, Attorney (202/452-3623), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In 1979, the Board revised its regulations dealing with the foreign operations of member banks (Regulation M, 12 CFR Part 213) and foreign investment by bank holding companies (§ 225.4(f) of Regulation Y, 12 CFR 225.4(f)). These regulations have been combined in a comprehensive regulation entitled "International Banking Operations" and designated as Regulation K (12 CFR Part 211).

Section 208.9(d) continues to cite Regulation M in reference to a definition that presently appears in § 211.2(f) of Regulation K (12 CFR 211.2(f)). Consequently, the Board has amended § 208.9(d) to conform with this regulatory change. Because this amendment is technical in nature, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553 (b) and (d) with regard to this action are unnecessary and contrary to the public interest.

List of Subjects in 12 CFR Part 208

Banks, banking, Reporting requirements, Securities.

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Pursuant to its authority under section 9 of the Federal Reserve Act (12 U.S.C. 321-338), the Board amends Regulation H by revising § 208.9(d) to read as follows:

§ 208.9 Establishment or maintenance of branches.

(d) Foreign branches. With prior Board approval, a member state bank having capital and surplus of \$1,000,000 or more may establish branches in "foreign countries", as defined in § 211.2(f) of Regulation K (12 CFR 211.2(f)). If a member state bank has established a branch in such a country, it may, unless otherwise advised by the Board, establish other branches therein after 30 days' notice to the Board with respect to each such branch.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors, April 28, 1982.

William W. Wiles,
Secretary of the Board.

[FR Doc. 82-12288 Filed 5-4-82; 6:45 am]

BILLING CODE 6210-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5323/R102; PH FRL 2113-8]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in corn oil. This regulation to establish the maximum permissible level for the combined residues of the insecticide in corn oil was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on May 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis

Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 16, 1981 (46 FR 61326) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted a food additive petition (FAP 1H5323) to the EPA. The petition proposed that 21 CFR 193.85 be amended by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in corn oil at 3.0 parts per million (ppm).

No comments were received in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated. The toxicological data considered in support of the tolerance included: A 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from these tolerances and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing this tolerance.

A related document [FAP 1H5323/R103] establishing a regulation permitting residues of chlorpyrifos in or on corn soapstock appears elsewhere in this issue of the Federal Register.

Desirable data which are considered lacking from the petition include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated February 11, 1982, the petitioner indicated that these studies

would be submitted to the Agency by June 1983. The petitioner also agreed to voluntarily delete the use on corn from the label should the studies be found to exceed the risk criteria for unreasonable adverse effects.

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before June 4, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945). Effective on: May 5, 1982.

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

Dated: April 20, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 21 CFR 193.85(d) is revised by reformatting the material into alphabetical tabular format and

alphabetically inserting corn oil to read as follows:

§ 193.85 Chlorpyrifos.

(d) Tolerances are established for the combined residues of the insecticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the following commodities:

Commodities	Parts per million
Corn oil.....	3.0
Peanut oil.....	1.5

[FR Doc. 82-11825 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 1H5323/R103; PH FRL 2114-3]

Tolerances for Pesticides in Animal Feeds Administered by Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in or on corn soapstock. This regulation to establish the maximum permissible level for the combined residues of the insecticide in or on the commodity was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on May 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 18, 1981 (46 FR 61326) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted a feed additive petition (FAP 1H5323) to the EPA. The petition proposed that 21 CFR 561.98 be amended by establishing a regulation

permitting the combined residues of the insecticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on corn soapstock at 1.0 part per million (ppm).

No comments were received in response to this notice of filing.

The scientific data and other relevant material in support of this regulation are contained and discussed in a related document [FAP 1H5323/R102] which appears elsewhere in this issue of the Federal Register.

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before June 4, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945). Effective on: May 5, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: April 20, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 21 CFR 561.98(a) is amended by adding and alphabetically inserting the commodity corn soapstock to read as follows:

§ 561.98 Chlorpyrifos.

(a) * * *

Feed	Parts per million
Corn soapstock.....	1.0

[FR Doc. 82-11824 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 92

[DoD Directive 1215.8]

Senior Reserve Officers Training Corps Programs

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This Part is being reissued to update ROTC policy and to establish guidance for conducting and administering the ROTC. Relevant changes add (1) an active duty commitment and reimbursement requirements for ROTC scholarship students who fail voluntarily to complete the ROTC program; (2) a means for assessing unit viability as required by Congressional guidance; and (3) a language requirement for ROTC students.

EFFECTIVE DATE: This part was approved and signed by the Deputy Secretary of Defense February 8, 1982, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Tucker, Director of Training and Education (OSD/MRA&L(TE)), (202) 695-1760. Office of the Deputy Assistant Secretary of Defense (MP&FM), the Pentagon, Room 3C-980, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: In FR Doc. 68-10646, appearing in the Federal Register on September 5, 1968 (33 FR

12548), the Office of the Secretary of Defense (OSD) published this Part, and in FR Doc. 71-11574, appearing in the Federal Register on August 11, 1971 (36 FR 14736) the OSD revised this Part. OSD is again reissuing Part 92, updating it, and incorporating the changes mentioned in the SUMMARY, above.

List of Subjects in 32 CFR Part 92

Armed Forces reserves, Colleges and universities.

Accordingly, Chapter I, 32 CFR Part 92 is revised to read as follows:

Part 92—SENIOR RESERVE OFFICERS TRAINING CORPS PROGRAM

Sec.

92.1 Reissuance and purpose.

92.2 Applicability.

92.3 Definitions.

92.4 Policy.

92.5 Procedures.

92.6 Responsibilities.

92.7 Procedures regarding oaths and security requirements, medical examinations, deferment, commissioning and assignment of graduates.

Authority: 5 U.S.C. 301, 10 U.S.C. 511, 672(d); 2102(b) (1), (2), and (3), and 2109; 11 U.S.C.

§ 92.1 Reissuance and purpose.

This Part is reissued, outlines the policy of the Senior Reserve Officers Training Corps (ROTC) program, assigns responsibilities, and establishes guidance for conducting and administering the ROTC.

§ 92.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense and the Military Departments. The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 92.3 Definitions.

(a) *Field Training.* (1) Summer camp training prescribed by section 2109, U.S.C. Title 10.

(2) Additional training, authorized by the Secretary of the Military Department concerned, as practical field training designed for the further instruction and leadership development of members of the program.

(b) *Education.* Any course or program of instruction in an institution of postsecondary education.

(c) *ROTC Scholarship.* The payment in whole or in part by the Secretary of the Military Department concerned for any course or program of education provided by any public or private educational institution. This includes payment for tuition, fees, books, and supplies essential for a course of postsecondary study, and authorized

pay and allowances for room, board, uniforms, travel, and military training.

(d) *ROTC Scholarship, Educational Costs.* The portion of the scholarship that pays for an ROTC member's tuition, fees, books, and supplies essential for a course of postsecondary study and other educational expenses paid by the ROTC scholarship. It excludes the portion of the scholarship that provides for pay and allowances for room, board, uniforms, travel and military training.

§ 92.4 Policy.

(a) The purpose of the Senior ROTC is to provide a permanent and stable program of military education at designated college-level institutions to prepare selected students for service as Regular or Reserve commissioned officers in the Army, Navy, Air Force, or Marine Corps.

(b) Senior ROTC educational programs qualify students for commissioning and establish a sound basis for their future professional growth and effective performance in the Military Service of their choice. The primary objectives of the Senior ROTC program are to provide ROTC students with:

(1) An understanding of the fundamental concepts and principles of military, naval science, or aerospace studies.

(2) A basic understanding of associated professional knowledge.

(3) A strong sense of personal integrity, honor, and individual responsibility.

(4) An appreciation of the requirements for national security.

§ 92.5 Procedures.

(a) *Establishment and Continuation of ROTC Units at Educational Institutions.*

(1) To receive consideration for establishment of an ROTC unit, an educational institution must:

(i) Apply in writing to Military Departments.

(ii) Be fully accredited by the appropriate regional accrediting association, recognized by the Council on Postsecondary Accreditation and the Department of Education.

(iii) Agree to provide adequate physical facilities as specified by the respective Military Department.

(iv) Certify that it does not discriminate with respect to admission or subsequent treatment of students on the basis of race, religion, color, national origin, or sex, unless the institution is a single sex institution in its overall admissions policy.

(2) ROTC units may not be established or maintained at an educational institution unless:

(i) The senior commissioned officer of the Military Department concerned is given the academic rank of professor (10 U.S.C. 2102(b)(1))

(ii) The institution fulfills the terms of its agreement with the Secretary of the Military Department concerned (10 U.S.C. 2101(b)(2))

(iii) The institution adopts as a part of its curriculum a 4-year course of military instruction or a 2-year course of advanced training of military instruction, or both, which the Secretary of the Military Department concerned prescribes and conducts (10 U.S.C. 2102(b)(3)). Student enrollment shall be elective or compulsory as provided by state law or the authorities of the institution.

(3) Two or more Military Departments may operate ROTC units on the same campus. Decisions to collocate additional units shall be based on the school's ability to accommodate the additional unit without affecting the ability of the original unit to remain productive. Before final selection of an educational institution to receive a new ROTC unit, a Military Service shall:

(i) Furnish lists of proposed new units to the other Military Services.

(ii) Consult with any Military Service that already has a unit at the school under consideration or is actively considering the school for establishment of a new unit.

(iii) Negotiate with such Military Service when problems may arise from collocation of two or more ROTC units on the same campus.

(iv) Refer matters of conflict to the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics (ASD(MRA&L))) if the difficulties cannot be resolved among the Military Services.

(4) Before releasing information on the location of proposed ROTC units, the Military Department shall provide this information to the Office of the ASD(MRA&L) and the other Military Services.

(b) *Disestablishment of ROTC Units.* Officer production from each ROTC unit shall be adequate to justify the investment of DoD resources.

(1) Officer production indices from an ROTC unit shall be based on viability standards that take into account the following factors.

(i) The quality of the officer produced.

(ii) The cost of maintaining the unit.

(iii) The kinds of officers produced.

(iv) The number of officers produced by the unit.

(2) The methodology used to compute the four factors in the formula shall be left to the discretion of the Military

Department Secretaries. The ASD(MRA&L) in coordination with the Assistant Secretary of Defense (Comptroller) shall approve the methodology used and any proposed changes.

(3) The Secretary of the Military Department concerned may set the minimum enrollment standards at the Military Science 3-level and above.

(4) Each year the Military Departments shall advise ROTC institutions whose units fall below the prescribed minimum viability standards that the units have been placed in an evaluation status for a period of up to 4 years. During this period, the Military Services shall work closely with the institutions to seek measures that will make the ROTC units fully viable.

(5) Units shall be released from evaluation status as soon as they meet or exceed the minimum viability index.

(6) At the end of the evaluation period, the Military Departments shall initiate disestablishment procedures. Units shall be phased out with sufficient time to permit enrolled ROTC students to complete the program or offer the students a practical alternative for obtaining commissions.

(7) OASD(MRA&L) shall be advised when ROTC units are placed in an evaluation status and of the final disposition of each case.

(8) The decision to disestablish an ROTC unit is the prerogative of the Secretary of the Military Department concerned.

(c) *Operation of ROTC Units*—(1) *Academic Credit for ROTC Courses Taught by Military Instructors.* Credit for ROTC courses shall be reviewed by host institutions on the same basis as other institutional courses. If credit is questioned, the institution shall recommend adjustments that would make the courses credit-worthy. Regardless of the amount of credit, ROTC course grades must appear on student transcripts. Denial of degree credit for ROTC courses would not necessarily mean withdrawal of the unit, but the Military Departments shall stress preference for degree credit ROTC courses when writing contracts with institutions.

(2) *Student Eligibility for ROTC Based on Undergraduate Major Courses of Study.* Undergraduate students may not be denied the opportunity to enroll in ROTC solely because of their major course of study.

(3) *Active Duty Commitment and Reimbursement Requirements for Scholarship Students.*—(i) *The Secretary of the Military Department concerned shall require, as a condition of providing an ROTC scholarship to any person,*

that he or she enter into a written contract in which the recipient agrees:

(A) To complete the educational requirements specified in the agreement and to serve on active duty for the period specified in the agreement;

(B) That if that person fails to complete the education requirements specified in the agreement, that person will serve on active duty for a period specified in the agreement;

(C) That if he or she voluntarily or because of misconduct fails to complete the period of active duty specified in the agreement, he or she shall reimburse the United States in an amount that bears the same ratio to the total cost of education provided that person as the unserved portion of active duty bears to the total period of active duty the person agreed to serve; and

(D) To such other terms and conditions as the Secretary of the Military Department concerned may prescribe to protect the interests of the United States.

(ii) The Secretary concerned shall determine the period of active duty to be served by any ROTC scholarship recipient.

(iii) The Military Department Secretary concerned shall (A) prescribe the conditions for repayment of an individual's outstanding loan obligation such that the interest rate, if applicable, the monthly repayment, term, and method of payment reasonably replicate the repayment schedule of the Guaranteed Student Loan (GSL) sponsored by the Department of Education, and (B) establish procedures for proper accounting and timely collection of loan repayment funds due to the Treasury on behalf of the Military Service concerned.

(iv) The obligation to reimburse the United States is, for all purposes, a debt owing the United States. A discharge in bankruptcy under Title 11 U.S.C. may not release a person from an obligation to reimburse the United States under the terms of an agreement defined in this Directive if the final decree of the discharge in bankruptcy was issued within a period of 5 years after the last day of a period which such person had agreed to serve on active duty. This applies to a discharge in bankruptcy in any proceeding that began after September 30, 1978.

(4) *Procedures When Advanced Course Students Drop ROTC.* When advanced course students drop ROTC in breach of their contractual agreements, the senior officer commanding the ROTC unit shall appoint a board of officers or an investigating officer to determine the reasons of such action. At least one university official (an

administrator or faculty member appointed by the institution) shall be permitted to observe the hearing or investigation.

(i) The student concerned has the right to appear personally before the board or the officer conducting the hearing.

Disenrollees shall normally be ordered to active enlisted service. Each case shall be considered on its own merits.

(ii) This does not preclude the Military Department from considering medical disqualification, humanitarian reasons, needs of the Military Service, or other mitigating circumstances in waiving active enlisted service for the disenrolled ROTC cadet. Such considerations shall be carefully documented in the board's or investigating officer's report and by the Military Service. The final decision concerning active enlisted service shall be made by the Military Department concerned.

(5) *Ordering Disenrolled ROTC Students to Active Duty Enlisted Service.* The Military Departments shall delay ordering students who have breached their contracts to active duty until they complete their undergraduate degree requirement or disenroll from the institution, whichever occurs first. Graduate students may not be ordered to active duty until they would normally complete the academic year in which they are enrolled or disenroll from the institution, whichever occurs first. Scholarship students who complete their junior and senior years, but who refuse to accept their commissions, will be required to serve for 4 years. Scholarship students who were active duty enlisted personnel when selected for ROTC scholarship and were discharged early for the purpose of accepting the scholarship shall normally be ordered to active duty at the end of the school term in which they were disenrolled. Their service commitment shall be determined as follows:

(i) If they were members of the basic course when disenrollment occurred, their service commitment shall be equivalent to the time not served on their original enlistment contract when they were discharged or separated to accept an ROTC scholarship. Those individuals with less than 1 year remaining shall be discharged upon approval of the disenrollment by the Military Department concerned.

(ii) If they were members of the advanced course when disenrollment occurred, their service commitment shall be the same as other contract violators cited above.

(6) *Appropriate Titles for Military Officers Assigned to ROTC.* In

accordance with 10 U.S.C. 2102(b)(1) the senior officer of each ROTC unit must receive the academic rank of professor, including appropriate prerogatives and perquisites associated with the position of a professor (excluding tenure) as head of a department or program at the institution. As an alternative to the title of professor, the most complimentary title for the ROTC unit commander is the military title of the officer. Other titles, such as Visiting Professor, are acceptable provided the prerogatives and prerequisites of professional rank (excluding tenure) accompany the position, and the title is not demeaning or indicative of some lesser status. Other ROTC officers shall be evaluated by the host institution for appropriate academic rank, using procedures comparable to those used for their civilian faculty colleagues.

(7) *Titles of ROTC Unit on Campus.* The term "Program" instead of "Department" is acceptable as a descriptive term for the ROTC educational institution, provided no extracurricular connotation is involved. In this sense, "Program" would be applied to ROTC in the same manner as other academic programs within the institution.

(8) *Unit Discretion on Uniforms and Amount of Drill.* The Military Department shall prescribe the specific standards of performance cadets and midshipmen shall achieve in drill. The specific amount of drill to obtain this standard shall be prescribed by the Professors of Military Science, Naval Science, and Aerospace Studies. Uniforms shall be worn for drill and as otherwise prescribed by the commanding officer of the unit.

(9) *Institutional Standing Committees on ROTC.* The Military Department shall cooperate with institutional standing committees on ROTC to develop mutually a program of instruction consistent with the goals of both parties. When the university poses changes that are inconsistent with the law or military policies, the Military Departments shall reject the proposals.

(10) *Course Substitution.* The Military Departments may use institutionally taught courses or courses taught jointly by both civilian and military faculties, when these courses satisfy the objective contained in the ROTC curriculum and exist or can be developed by the university. Guest lecturers may provide specific hours of instruction in areas where they are academically qualified, provided the institution approves of this practice. This provision may not be used to reduce the required minimum military contact hours as specified by the Military Departments.

(11) *Language Training Requirement for ROTC Scholarship Students.* (i) The Secretary of the Military Department concerned shall require, as a condition of providing an ROTC scholarship to any person, that he or she must agree to complete at least one quarter or semester of college instruction in a major Indo-European or Asian language prior to commissioning.

(ii) The Military Departments shall provide guidance that allows exceptions to this requirement only if the student's academic advisor or other institutional official provides a written statement to the campus ROTC Commanding Officer that (A) the institution does not offer such instruction; or (B) the language requirement will result in a significant course work overload in the student's schedule.

(d) *Acceptance by ROTC Staff Members of Payments or Other Benefits Offered by Educational Institutions.* An ROTC staff member may accept only the following payments or other benefits from an institution.

(1) Reasonable compensation or other benefits for services that are rendered the institution other than during the duty hours of the military staff members of the ROTC unit (such as coach for an athletic team, parking lot attendant, assistant military property custodian, commandant of cadets, assistant commandant of cadets), provided the services are not part of the member's regularly assigned military duties, do not interfere with the full and effective performance of his or her official military duties, do not bring discredit upon the government, and do not interfere with the customary or regular employment of local civilians in their art, trade, or profession. Duty hours for individual staff members of an ROTC unit may not vary from the duty hours of the unit simply to permit them to qualify for compensation for services rendered to an institution during the duty hours of the ROTC unit.

(2) Housing, if a reasonable rental is paid therefore. If housing is accepted by a member from an institution at other than a reasonable rental, as for example, without charge, the housing shall be considered as furnished on behalf of the United States and the member may not be entitled to a basic allowance for quarters.

(3) Reimbursement by the institution for expenses incurred by the member for services that the member performed at the request of the institution and, although clearly beyond the scope of the member's regularly assigned military duties, that he or she might have been expected to perform by virtue of the member's position, such as hosting a

social function for visiting dignitaries or conducting an off-campus workshop for faculty or students. Itemized bills for these expenses must be presented to the institution. When practicable, arrangements shall be made for the institution to be billed for these expenses so they may be paid directly by the institution. Under no circumstances may a commuted or fixed allowance be accepted from the institution for the purpose of meeting these expenses.

(4) Enrollment in courses by the member or any member of his or her immediate family; tickets to school or school-sponsored activities; parking privileges; books and other supplies and materials from the institution's book store; and library privileges, either without charge or at a reduced rate if offered on the same basis to civilian members of the staff or faculty of the institution.

(e) *Procedures Regarding Oaths and Security Requirements, Physical Examination, Deferment, Commissioning and Assignment of Graduates.* See § 92.7.

(f) *ROTC Scholarship Program.* The minimum age for award of ROTC scholarship is 17. At least 50 percent of each Military Department's ROTC scholarship recipients must qualify for in-state tuition rates at their respective institutions and shall receive tuition benefits at that rate. The limitation is applied on a departmental basis.

(g) *Conduct of Field Training.* Training under § 92.3(a) is prescribed by 10 U.S.C. 2109 and requires successful completion by members of the program as a prerequisite to commissioning. Additional practical field training under § 92.3(a) may be authorized by the Secretary of the Military Department concerned when determined that such training serves the best interest of the Military Service. The Secretary of the Military Department concerned may authorize such expenditures as considered necessary to ensure successful participation in practical field training programs.

§ 92.6 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall:

(1) Establish overall DoD policy and provide guidance for the conduct and administration of the ROTC program.

(2) Resolve matters of conflict that may arise among the Military Services operating ROTC units. (§ 92.5(a)(3)(iv)).

(3) Approve, in coordination with the Assistant Secretary of Defense (Comptroller), the methodology used to

disestablish ROTC units proposed by the Military Department Secretaries (§ 92.5(c)).

(b) The Secretaries of the Military Departments shall:

(1) Establish and operate ROTC units upon requests from accredited educational institutions meeting the requirements outlined in § 92.5(b).

(2) Advise the ASD(MRA&L) and other Military Services on the location of proposed ROTC units before releasing such information § 92.5(b)(4).

(3) Initiate disestablishment procedures of ROTC units in accordance with § 92.5(c).

(4) Enter into a written contract as a condition of providing an ROTC scholarship to persons who agree to conditions stipulated in paragraphs § 92.5(c)(3) and (11), and are otherwise qualified.

(5) Determine the period of active duty to be served by an ROTC scholarship recipient (§ 92.5(c)(3)(ii)).

(6) Authorize additional practical field training under when determined that such training serves the best interest of the Military Service, and authorize resultant expenditures (§ 92.5(g)).

§ 92.7 Procedures regarding oaths and security requirements, medical examination, deferment, commissioning and assignment of graduates.

(a) Oaths and security requirements.—

(1) Basic Course Enrollment. (i) With the exception of foreign students enrolled under 10 U.S.C. 2103(b) each applicant for formal enrollment in the basic course, Senior ROTC, shall execute the following oath or affirmation:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion.

(ii) Students who are required or permitted by educational institutions to undergo military training and who are not accepted for formal enrollment may receive basic course instruction with the approval of the Military Department concerned.

(2) Financial Assistance Programs and Advanced Course Enrollment. Each applicant for appointment or enrollment in any of the financial assistance programs of the Military Services and each applicant for appointment or enrollment in the advanced course, Senior ROTC, must satisfy the loyalty and security requirements for enlistment in the Reserve Components of the appropriate Military Service.

(b) Medical examination. (1) To reduce to an absolute minimum the loss,

at graduation, of persons found medically disqualified for appointment as commissioned officers, thorough and complete medical examinations shall be conducted before enrollment in the scholarship program or at the time of or immediately before enrollment in the advanced courses of Army, Navy, and Air Force ROTC programs.

(2) Such examinations shall, in all respects, be equal to the examination conducted to determine medical qualifications for appointment as a commissioned officer.

(3) Medically disqualified persons may participate in a nonenrolled status with the approval of the Military Department concerned.

(c) Cross-enrollment. In order to increase the number of quality students in their host institution's ROTC programs, ROTC units may enroll qualified students from nearby nonhost institutions. Cross-enrollment is permitted when a host and nonhost institution are directly linked by a cross-town or consortium agreement. A cross-town agreement is a written agreement among a host institution, a nonhost institution, and Army, Navy, or Air Force ROTC permitting students from the nonhost institution to enroll in the appropriate ROTC program. A consortium agreement is an agreement made by two or more institutions for their mutual benefit to permit cross-enrollment of their students. As a department of the host institution, the ROTC unit shares as a beneficiary of the consortium agreement.

(d) Commissioning of graduates. Upon the successful completion of the required course of instruction, a graduate of a program referred to herein shall, if otherwise qualified, be appointed a regular or reserve officer in the appropriate Military Service.

(e) Assignment of graduates. (1) Graduates shall be called to active duty or active duty for training as soon as possible within a 12-month period following their appointment as commissioned officers.

(2) Graduates who have fulfilled their active military training and service obligation, or who have enlisted reserve status and have performed 6 months of active duty for training under 10 U.S.C. 511 or 672(d) following their appointment as commissioned officers and in accordance with Military Service requirements, may either be ordered to active duty or active duty for training under conditions contained in agreements with the Military Departments, or be given appropriate Ready Reserve assignments, preferably in the Selected Reserve, when unit location and skill requirements are

compatible with the residence of the assignee and with his or her military skill.

(3) A graduate may be delayed from being ordered to active duty or active duty for training under regulations issued by the Secretary of the Military Department concerned if he or she (i) is the recipient of a fellowship or scholarship; (ii) has been accepted by a recognized institution of higher education for graduate studies; (iii) would suffer undue personal hardship; or (iv) is otherwise precluded from reporting as ordered for cogent and acceptable reasons. If delayed, the graduate shall remain subject to the assignment criteria prescribed in § 92.7(e) (1) and (2), above, and shall be assigned to active duty or active duty for training, as appropriate, at such time as the cause of his or her delay ceases to exist.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

April 30, 1982.

[FR Doc. 82-12228 Filed 5-4-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-1913-4]

Approval and Promulgation of Implementation Plans; Maricopa County Urban Planning Area Nonattainment Area Plan; State of Arizona

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency is conditionally approving changes to the Arizona State Implementation Plan for the Maricopa County Planning Area. These changes were submitted to EPA for approval by the Director of the Arizona Department of Health Services under the provisions of Part D of the Clean Air Act. These revisions consist of control strategies and regulations for carbon monoxide (CO), ozone, (O₃), and total suspended particulate (TSP). This revision provides emission limits necessary to insure attainment of the National Ambient Air Quality Standards for Maricopa County Urban Planning Area.

DATE: This action is effective May 5, 1982.

ADDRESS: A copy of the NAP mentioned above is located at: The Office of the

Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: David Howecamp, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105. Attn: Douglas Grano (415) 974-8224.

SUPPLEMENTARY INFORMATION:

Background

On January 4, January 18, February 23, July 3, and November 8, 1979, the Director of the Arizona Department of Health Services, the Governor's official designee, submitted revisions to the Arizona State Implementation Plan (SIP) consisting of control strategies and regulations for the Maricopa County Urban Planning Area. These revisions, which comprise the NAP, are intended to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) for CO, O₃, and TSP.

On June 11 and October 30, 1979, EPA published notices of proposed rulemaking for the CO and O₃ portions of the NAP. On January 10 and May 28, 1980, EPA published notices of proposed rulemaking for the Arizona State Rules and Regulations and the TSP portion of the NAP, respectively. Those notices provided a description of the NAP and regulations, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and proposed to approve, conditionally approve, and disapprove portions of the NAP. In addition, on July 23, 1980, EPA published a notice of proposed rulemaking, addressing among other things, the Arizona State New Source Review (NSR) rules submitted on April 1, 1980.

On October 22, 1980, EPA published a notice of proposed rulemaking for the NAP since revisions were submitted on June 23 and July 17, 1980. The October 22, 1980 notice supersedes the June 11 and October 30, 1979 notices and supplements the January 10, May 28, and July 23, 1980 notices. Therefore, the January 10, May 28, July 23, and October 22, 1980 notices should be used as a reference in reviewing today's action.

Supplemental Revisions

On April 1, 1980, the State submitted as SIP revisions amendments to its Rules and Regulations for Air Pollution Control. On July 23, 1980, EPA proposed action on those rules related to New Source Review (NSR). However, in that proposal EPA inadvertently did not propose action on Rule R9-3-101 .A. No. 111, the definition of "significance levels." This definition is important to

the administration of many provisions in Arizona's NSR rules, and its inclusion in today's final rulemaking is necessary to preserve the meaning and intent of these provisions. Since the public has had adequate opportunity to comment on Arizona's NSR rules which use the term, EPA finds that for good cause additional notice and comment on this definition is unnecessary.

On July 17, 1980, the State submitted an SIP revision which included the renumbering of several definitions. EPA also finds that for good cause additional notice and comment on the following renumbered definitions is unnecessary since they are not substantive changes:

R9-3-101—Definitions; A., Nos. 73, 74, 75, 83, 86, 87, 88, 90, 91, 94, 98, 99, 100, 113, 119, 120, and 124.

It should be noted that the State submitted an SIP revision requesting an extension to the CO attainment date for the Maricopa County Urban Planning Area on October 30, 1980. That revision is not addressed in today's final rulemaking notice, however, EPA proposed approval of the extension request in a recently published Federal Register notice.

Public Comments

During the public comment period, EPA received comments from the Maricopa County Health Department, Maricopa Association of Governments, Arizona Public Service Company, and Arizona Department of Health Services (ADHS). Comments received are specifically identified and responded to in EPA's Public Comment Technical Support Document (contained in Document File NAP-AZ-1 at the EPA Library in Washington, D.C. and the Region 9 Office).

EPA Actions

Introduction

The criteria used in EPA's review are detailed in the General Preamble and four supplements referenced in the notice of proposed rulemaking.

While EPA's evaluation of the NAP for ozone includes use of "Control Technique Guidelines" ("CTG's") documents as a "presumptive norm," the states may adjust the recommended controls or develop requirements which are not based on the CTG's, provided that they submit information supporting their decisions.

It should be noted that action may be taken on a portion of the NAP for a specific pollutant. Therefore, a portion of the NAP may be adequate for one pollutant but inadequate for others. It is EPA's policy to take final action on all portions of the NAP for each pollutant.

As a result, this notice contains a series of actions for each pollutant and for each portion of the NAP rather than a single action. One of the following three actions may be taken for each portion of the NAP:

1. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective of the NAP; or

2. Approval where the portion of the NAP under consideration meets all requirements; or

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's understanding that the State will proceed expeditiously to correct the noted deficiency by certain dates.

For further information, see the supplements to EPA's General Preamble.

EPA's final actions on the Maricopa County Urban Planning Area NAP are described below and are based on the proposed rulemaking notices, the supplemental revisions submitted by the State and the public comments received by EPA.

Approved Portions of the NAP

EPA is taking final action under Section 172 of the Clean Air Act to approve Rules 33 and 34 since they provide emission limits necessary to insure attainment of the NAAQS.

As proposed in the May 28 and October 22, 1980 notices, EPA is taking final action under Part D of the Clean Air Act to approve the following portions of the Maricopa County Urban Planning Area NAP: emission inventory, modeling, emission reduction estimates, attainment provision (except TSP), reasonable further progress, legally adopted measures, emission growth, annual reporting, resources, public and government involvement, and public hearing. Although EPA is approving the NAP for CO, it should be noted that the CO control strategy is not adequate to attain the standard by 1982. An extension request indicating attainment by 1987 has been submitted and proposed for approval in a separate Federal Register notice.

Conditionally Approved Portions of the NAP

As proposed in the May 28 and October 22, 1980 notices, the following portions of the Maricopa County Urban Planning Area NAP contain minor deficiencies and the State has provided assurances to correct these deficiencies: Attainment provision (TSP only) and

oxides in the Maricopa, Pima, Central Arizona, and Southeast Arizona Intrastate Regions.

(b) The Administrator hereby extends for 18 months the statutory timetable for submittal of the plan for attainment and maintenance of the secondary standards for sulfur oxides in the Maricopa, Pima, Central Arizona, and Southeast Arizona Intrastate Regions.

(c) The Administrator hereby extends to July 31, 1977, the attainment date for the national primary standards for sulfur oxides in the Northern Arizona Intrastate Region.

(d) The Administrator hereby extends to December 31, 1982 certain attainment dates for the national standards for carbon monoxide (CO), ozone (O₃), and total suspended particulates (TSP), in the following areas:

(1) Maricopa County Urban Planning Area for O₃ and TSP.

3. Section 52.123 is amended by adding paragraphs (c) and (d) reading as follows:

§ 52.123 Approval status.

(c) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in 1977, for the nonattainment areas listed in this paragraph. (1) Maricopa County Urban Planning Area for CO and TSP.

(d) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in 1977, for the nonattainment areas listed in this paragraph. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the State Implementation Plan (SIP) depends on the adoption and submittal by January 1, 1981, of reasonably available control technology (RACT) requirements for sources covered by Control Technique Guidelines (CTG's) published between January 1978 and January 1979.

(1) Maricopa County Urban Planning Area for O₃.

4. Subpart D of Part 52 is amended by adding § 52.124, reading as follows:

§ 52.124 Part D conditional approval.

(a) The following portions of the Arizona SIP contain deficiencies with respect to Part D of the Clean Air Act which must be corrected by meeting the indicated conditions of Part D plan approval.

(1) The Maricopa County Urban Planning Area portion of the Arizona SIP is approved as satisfying Part D requirements provided the following conditions are met:

(i) For carbon monoxide, ozone, and total suspended particulate:

(A) By August 3, 1982, the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980).

(ii) For total suspended particulate:

(A) By August 3, 1982, the State must submit a schedule for the development, adoption, and implementation of those measures necessary for attainment of the particulate standards.

5. In § 52.131, the entries for Arizona are revised as follows:

§ 52.131 Attainment dates for national standards.

Air quality control region and nonattainment area	TSP		SO ₂		NO ₂	CO	O ₃
	Primary	Secondary	Primary	Secondary			
Central Arizona Intrastate	e ¹	e ²	b	b	c	(*)	(*)
Maricopa Intrastate:							
Maricopa County Urban Planning Area Nonattainment Area	d	d	b	b	c	(*)	d
Remainder of Intrastate	e ¹	e ²	b	b	c	(*)	(*)
Mohave-Yuma Intrastate	a	a	a	a	c	a	a
Northern Arizona Intrastate	a	a	(*)	(*)	c	c	c
Pima Intrastate	e ¹	e ²	b	b	c	(*)	(*)
Southeast Arizona Intrastate:							
Santa Cruz County	e ¹	e ²	b	b	c	(*)	(*)
Remainder of Intrastate	a	a	b	b	c	c	c

¹ July 1975.

² July 1977.

³ July 31, 1977.

⁴ May 31, 1977.

⁵ May 31, 1975.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date or the date provided is not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.131 (1980).

(d) December 31, 1982.

6. Section 52.136 is revised to read as follows:

§ 52.136 Control strategy: Carbon monoxide.

The requirements of § 51.14 of this chapter are not met because the plan does not contain sufficient measures to provide for attainment and maintenance of the national standards for carbon monoxide in the Pima Intrastate Region as expeditiously as practicable.

7. Section 52.137 is amended by removing and reserving (a)(1) and by revising paragraph (b) to read as follows:

§ 52.137 Employer carpool incentive program.

(a) * * *

(1) [Reserved]

(b) This section is applicable within the Greater Tucson area in the Pima Intrastate Air Quality Control Region.

8. Section 52.138 is amended by removing and reserving paragraphs (a)(1), (c)(1)(i), (c)(2)(i), and (c)(3)(i) and by revising paragraphs (b) and (d)(2), to read as follows:

§ 52.138 Bus/carpool matching program.

(a) * * *

(1) [Reserved]

(2) * * *

(b) This section is applicable within the Greater Tucson Area in the Pima Intrastate Air Quality Control Region.

(c) * * *

(1) * * *

(i) [Reserved]

(ii) * * *

(2) * * *

(i) [Reserved]

(ii) * * *

(3) * * *

(i) [Reserved]

(ii) * * *

(d) * * *

(2) A manual or computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in the urban area and the semi-rural region surrounding the Greater Tucson Area and matching applicants with identical origin and destination grids and compatible work schedules.

§ 52.139 [Removed and Reserved].

9. Section 52.139 is removed and reserved.

[FR Doc. 82-12063 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL-1909-7]

Approval and Promulgation of Implementation Plans; Santa Barbara County, California, Nonattainment Area Plan**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of final rulemaking.

SUMMARY: On September 5, 1980, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the South Central Coast Air Basin nonattainment area plan (NAP) for ozone (O₃), carbon monoxide (CO), and total suspended particulate matter (TSP). EPA is today conditionally approving the South Central Coast Air Basin NAP for the Santa Barbara County nonattainment areas.

DATE: This action is effective on May 5, 1982.

FOR FURTHER INFORMATION CONTACT: David Howecamp, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974-8222.

A copy of today's revision to the California State Implementation Plan (SIP) is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

SUPPLEMENTARY INFORMATION:**Background**

On October 18, 1979, the California Air Resources Board (ARB) submitted revisions to the California SIP for the South Central Coast Air Basin including control strategies and regulations for O₃, CO, and TSP for Santa Barbara County. Additional regulatory revisions were submitted on December 24, 1979 and May 1, 1980, by the ARB. These revisions comprise the NAP and are intended to provide for attainment of the National Ambient Air Quality Standards (NAAQS) in the Santa Barbara County nonattainment areas.

On September 5, 1980 (45 FR 58912), EPA published a notice of proposed rulemaking for the Santa Barbara County portion of the NAP. That notice should be used as a guide in reviewing today's notice. The September 5, 1980 notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements into 14 criteria, compares portions of the NAP to those criteria, and proposes to approve and conditionally approve portions of the NAP.

Supplemental Revisions

The September 5, 1980 notice proposed to approve Rule 325, "Storage of Petroleum and Petroleum Products," submitted by the ARB on May 1, 1980. This rule was submitted on October 23, 1981 and was changed to clarify its intent, renumber portions of the rule, and add requirements for internal floating roof covers.

The September 5, 1980 notice also proposed to conditionally approve the TSP attainment provision portion of the NAP. On November 18, 1981, the ARB submitted a schedule to study nontraditional TSP sources and a commitment to implement the control measures which result from the study. This action satisfies the proposed condition of approval.

EPA has determined that "good cause" exists (see Administrative Procedure Act, 5 U.S.C. 553(b)) to approve the above items without providing further notice and opportunity to comment. EPA has already provided opportunity to comment on the substance of these items which were addressed in the September 5, 1980 proposal notice. Additional comment would serve no practical purpose since these revisions merely satisfy certain conditions of approval or are minor changes.

Public Comments

During the public comment period EPA received comments from 8 public interest groups and government agencies. A document containing the summarization of substantive comments and the EPA response to each, entitled "EPA Public Comment Technical Support Document", is available for public inspection as a part of Document File NAP-CA-23 at the EPA library in Washington, D.C., at the EPA Region 9 offices in San Francisco, CA and at the other file locations.

EPA Actions

The criteria used in EPA's review are detailed in the General Preamble and four supplements referenced in the notice of proposed rulemaking.

While EPA's evaluation of the NAP for ozone includes use of "Control Technique Guidelines" ("CTG's") documents as a "presumptive norm," the States may adjust the recommended controls or develop requirements which are not based on the CTG's, provided that they submit information supporting their decisions.

It should be noted that action may be taken on a portion of the NAP for a specific pollutant or rule. Therefore, a portion of the NAP may be adequate for

one pollutant but inadequate for others. Further, a rule may be adequate under section 110, but inadequate under section 172 or 173 of the Act. EPA's policy is to take final action on all portions of the NAP for each pollutant. Therefore, this notice contains a series of actions for each pollutant and for each portion of the NAP rather than a single action. The following three actions are possible for each portion of the NAP.

1. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective; or
2. Approval where the portion of the NAP under consideration meets all requirements; or
3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and where the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's understanding that the State will proceed expeditiously to correct the noted deficiency by certain dates.

For further information, see the supplements to EPA's General Preamble.

EPA's final actions on the NAP for the Santa Barbara County nonattainment areas for O₃, CO, and TSP are described below and are based on the proposed rulemaking notice and on public comments received by EPA.

Approved Portions of the NAP for Santa Barbara County

EPA is taking final action under section 110 of the Clean Air Act to approve the following rules since they provide emission limits necessary to insure attainment of the NAAQS: rules 316, 320, 321, 323, 325, 327, and 329 to 332. EPA is also taking action under section 172 of the Act to approve rules 316, 321, 325, 329, 330, and 332 since they satisfy the requirement for reasonably available control technology.

As proposed in the September 5, 1980 notice and as discussed in the Public Comment Technical Support Document, EPA has determined that the following portions of the NAP are consistent with Part D of the Clean Air Act. Therefore EPA is taking final action to approve these portions of the NAP:

Emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, public and government involvement, resources, and public hearing requirements.

Conditionally Approved Portions of the NAP for Santa Barbara County

As discussed in the September proposal and the Public Comment Technical Support Document the following portions of the NAP contain minor deficiencies which the State and Santa Barbara County have assured EPA that they will correct. EPA therefore takes final action to conditionally approve the following portions of the NAP: legally adopted measures and permit program.

The material required to satisfy the conditions of approval is specified below and must be submitted as a SIP revision:

1. By July 6, 1982 the New Source Review rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980).

2. By July 6, 1982 the cutback asphalt rule must be revised so it does not allow for indefinite compliance date extensions.

Final Overall Action on the NAP for Santa Barbara County

EPA is taking final action under Part D of the Clean Air Act to conditionally approve overall the Santa Barbara County portions of the South Central Coast Air Basin NAP for O₃, CO, and TSP. As a result, the prohibition on construction of major new and modified sources in Santa Barbara County is no longer in effect.

Regulatory Process

The new SIP requirements approved or conditionally approved by today's notice are an addition to the existing SIP and do not supersede or replace the "old" SIP requirements until a source comes into compliance with the new requirements. For further information, see EPA's General Preamble.

As a result of approval of certain rules, EPA is taking final action to rescind the following analogous requirements in 40 CFR Part 52 for Santa Barbara County: §§ 52.252, 52.253, 52.255 and 52.256.

EPA finds good cause to make the action immediately effective since it removes the construction ban.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it approves State actions and imposes no new regulatory requirements. This regulation was submitted to the Office of Management

and Budget for review as required by Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 1982. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Pursuant to section 605(b) of the Regulatory Flexibility Act, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action merely approves state actions. This action imposes no new requirements for the sources in California.

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

(Secs. 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601 (a)))

Dated April 22, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart F—California

1. Section 52.220, paragraph (c), is amended by adding subparagraphs (74)(ii), (77)(ii), (103)(iii) and (105) as follows:

§ 52.220 Identification of plan.

- (c) * * *
- (74) * * *
- (ii) Santa Barbara County.
- (A) Rule 318.
- (77) * * *

(ii) The South Central Coast Air Basin Control Strategy (Chapter 17 of the Comprehensive Revision to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards). Those portions of the South Central Coast Air Basin Control Strategy identified by Table 17-1 "Location of Plan Elements Which Meet Clean Air Act Requirements-Santa Barbara County," together with the rules identified below

comprise the submitted nonattainment area plan. The remaining portions are for informational purposes only.

(A) Santa Barbara County APCD Rules 320, 321, 323, 327, 329 to 332, 201.C and 205.C. (except subparagraph 5.b.8.).

* * *

(103) * * *

(iii) Santa Barbara County APCD.

(A) Rule 325.

* * *

(105) Schedule to study Nontraditional Total Suspended Particulate Sources and commitment to implement control measures necessary to provide for attainment, submitted on November 18, 1981 by the Governor's designee.

* * *

2. Section 52.222, paragraph (b), is amended by adding subparagraph (6), as follows:

§ 52.222 Extensions.

* * *

(b) * * *

(6) South Central Coast Air Basin.

(i) Santa Barbara County nonattainment areas for TSP, O₃ and CO.

* * *

3. Section 52.223, paragraph (b), is amended by adding subparagraph (6), as follows:

§ 52.223 Approval status.

* * *

(b) * * *

(6) South Central Coast Air Basin.

(i) Santa Barbara County nonattainment area for O₃, CO and TSP.

* * *

4. Section 52.232, paragraph (a), is amended by adding subparagraph (9), as follows:

§ 52.232 Part D conditional approvals.

(a) * * *

(9) The Santa Barbara County nonattainment areas.

(i) For O₃, TSP, and CO by (90 days from the date of publication of this notice).

(A) The new source review (NSR) rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) and submitted as an SIP revision.

(ii) For O₃ by (90 days from the date of publication of this notice), a revised cutback asphalt paving materials rule which does not allow for indefinite compliance date extensions and submitted as an SIP revision.

* * *

5. Section 52.238 is amended by the revision of the tabular entries for the "South Central Coast Intrastate" and "South Coast Air Basin" (46 FR 5979, January 21, 1981), as follows:

§52.238 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutant					
	TSP		SO ₂		NO _x	CO
	Primary	Secondary	Primary	Secondary		
South Central Coast Intrastate:						
Santa Barbara County Non-AQMA portion.						
West area (40 CFR 81.305).....	(h).....	(h).....	(e).....	(e).....	(e).....	(h).....
East area.....	(e).....	(e).....	(e).....	(e).....	(e).....	(e).....
San Luis Obispo County.....						
Salinas Valley—El Pomar Estrella Planning Area.....	(d).....	(a).....	(e).....	(e).....	(e).....	(e).....
Non-Salinas Valley.....	(d).....	(a).....	(e).....	(e).....	(e).....	(e).....
Metropolitan Los Angeles Intrastate:						
South Coast Air Basin (SCAB).....	(h).....	(c).....	(d).....	(e).....	(h).....	(f).....
Santa Barbara County AQMA portion.	(e).....	(e).....	(e).....	(e).....	(e).....	(h).....
Ventura County (mainland portion) North of Southern Los Padres N.F. boundary.....	(f).....	(c).....	(d).....	(a).....	(f).....	(f).....
South of Southern Los Padres N.F. boundary.....	(f).....	(c).....	(d).....	(a).....	(f).....	(f).....
Channel Islands (other than SCAB islands).....	(e).....	(e).....	(e).....	(e).....	(e).....	(e).....

¹ July 1975.

² May 31, 1977.

6. Section 52.252 is amended by the revision of the introductory text of paragraph (b) and the removal of subparagraphs (b)(2) as follows:

§ 52.252 Control of degreasing operations.

(b) This section is applicable in the Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

7. Section 52.253, paragraph (b), is amended by adding subparagraph (2)(iii), as follows:

§ 52.253 Metal surface coating thinner and reducer.

(b) * * *

(2) * * *

(iii) This section is rescinded for metal parts coaters that are subject to and in full compliance with Rule 330 submitted on October 18, 1979, in the Santa Barbara County APCD.

8. Section 52.255, paragraph (b), is amended by removing and reserving subparagraphs (1)(v) to (ix) and by adding subparagraph (3)(ix), as follows:

§ 52.255 Gasoline transfer vapor control.

(b) * * *

(1) * * *

(v)-(ix) [Reserved]

(3) * * *

(ix) Santa Barbara County APCD.

9. Section 52.256, paragraph (b), is amended by adding subparagraph (1)(ii), as follows:

§ 52.256 Control of evaporative losses from the filling of vehicular tanks.

(b) * * *

(1) * * *

(ii) Santa Barbara County APCD.

[FR Doc. 82-11860 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL-2053-6]

Approval and Promulgation of Implementation Plans; New Mexico Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves revisions to the State Implementation Plan (SIP) for both the primary and secondary sulfur dioxide (SO₂) standards for Grant County, New Mexico. EPA propose approval of the revised plan in the December 17, 1981 issue of the Federal Register (at 46 FR

61491). These revisions include changes to Regulation 652 which primarily affect emission limitations for the Chino Mines Company primary copper smelter at Hurley, New Mexico. Stack emissions under the revised plan are limited by the following: an annual average emission rate; a median annual emission level; and a series of 3-hour average emission levels, each with a fixed number of allowable cumulative occurrences. The allowable frequency and emission rate levels of these occurrence limits are based upon a statistical analysis of smelter emissions data and air quality data in the Hurley area of Grant County.

EFFECTIVE DATE: June 4, 1982.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

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

Environmental Protection Agency, Public Information Reference Unit, Rm. 2922, EPA Library, 401 M St., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Randy Brown, SIP Section, Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2730.

SUPPLEMENTARY INFORMATION: On June 22, 1981, the Governor of New Mexico submitted a revised Regulation 652 (Non-Ferrous Smelters—Sulfur). On May 12, 1981 and August 13, 1981, the New Mexico Environmental Improvement Division submitted a revised control strategy demonstration for attainment of the primary and secondary SO₂ standards in Grant County with revised Regulation 652.

In the December 17, 1981 issue of the Federal Register, EPA proposed to approve the revised primary and secondary SO₂ plan for Grant County, solicited public comments on the Agency's proposed action, and notified the public of the availability of EPA's evaluation report.¹

A comment was received from the Kennecott Minerals Company supporting the proposed approval action. A comment letter was also received from the State of Connecticut, Department of Environmental Protection (DEP) asking for clarification on two aspects of the statistical control strategy demonstration of attainment submitted by the State of New Mexico. Connecticut DEP's questions and our responses follow:

¹ EPA Review of New Mexico State Implementation Plan Revisions of June 22, 1981 (Non-Ferrous Smelters), August 1981.

Connecticut DEP first asked for an explanation of why dispersion modeling was not used.

EPA Response—Use of dispersion modeling to assess the short term (3-hour and 24-hour) air quality impacts of smelter emissions on complex terrain (terrain higher than stack height) is complicated first by the difficulty in selecting representative emission rates for the highly variable emissions from the smelter (emissions can vary an order of magnitude or more during a given hour). The second complication is that despite the need for a refined complex terrain dispersion model for situations like the smelter in Grant County, such a model has not yet been developed. The lack of very extensive data bases and basic knowledge concerning the behavior of atmospheric variables in the vicinity of complex terrain presents a considerable obstacle to the solution of such problems and development of a refined model. New Mexico chose to use a statistical approach, originally developed for Arizona smelters using a year of actual air quality and emission data, as a more representative method than dispersion modeling to account for the variable emissions and the complex terrain dispersion at the smelter in Grant County. EPA published technical criteria for using such techniques in the December 17, 1981 Federal Register. EPA considers the New Mexico statistical analysis an acceptable alternative to dispersion modeling for the Grant County situation.

Connecticut DEP also asked why the New Mexico statistical analysis is called "multipoint," since only one source is taken into account.

EPA Response—The New Mexico analysis is called multipoint rollback because the emission limits established for the smelter are a series of 3-hour average emission levels, each with a fixed number of allowable cumulative occurrences, instead of a single 3-hour limit never to be exceeded. The series of levels and allowable occurrences define an allowable emissions profile, which ensures attainment of the SO₂ standards.

Statistical Demonstration

The New Mexico approach relies on a statistical calculation of the probability that high emissions will coincide with poor dispersion conditions to demonstrate that the national ambient air quality standards (NAAQS) will be attained and maintained. Although the NAAQS for SO₂ is not expressed in probabilistic terms, EPA recognizes that whenever an emission limit is set there is always some probability that the standards may be violated even though

the limit is met. EPA believes that in evaluating the adequacy of a control strategy based on a statistical analysis, it is appropriate to accept a probability of violation that is sufficiently low.

New Mexico has provided estimates of the probability of violation under the revised control strategy. These estimates, and EPA's evaluation of them, are contained in the docket. Based on this analysis and on the factors discussed in the Federal Register proposal, EPA believes that in this case the New Mexico control strategy projects an acceptable probability of attainment.

EPA wishes to emphasize, however, that today's action does not imply that any actual violations of the NAAQS will be acceptable. Today's action indicates only that EPA believes the chance of a violation is acceptably low.

Action

EPA approves the SIP revisions for the primary and secondary SO₂ standards in Grant County, NM submitted by the Governor on June 22, 1981 and supplemented on May 12, 1981 and August 13, 1981.

Regulatory Process

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: April 28, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart GG—New Mexico

1. Section 52.1620, paragraph (c) is amended by adding new paragraph (27) as follows:

§ 52.1620 [Amended]

* * * * *

(c) * * *
(27) Revisions to Regulation 652, Non-Ferrous Smelters—Sulfur, submitted by the Governor on June 22, 1981. A revised sulfur dioxide control strategy demonstration for Grant County based on the revised Regulation 652 was submitted by the New Mexico Environmental Improvement Division on May 12, 1981 and August 13, 1981.

§ 52.1624 [Reserved]

2. Section 52.1624 is removed and reserved.

[FR Doc. 82-12230 Filed 5-4-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-7-FRL-2098-1]

Approval and Promulgation of Implementation Plan: New Mexico: Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: As required by Section 110(a)(1) of the Clean Air Act and the October 5, 1978, (43 FR 46246) promulgation of national ambient air quality standards (NAAQS) for lead, the State of New Mexico has submitted a State Implementation Plan (SIP) for lead. This action approves the SIP which provides for attainment and maintenance of the national ambient air quality standards for lead in all areas of the State except Anapra, New Mexico. Anapra will be addressed in a future rulemaking.

EFFECTIVE DATE: This action will be effective July 6, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be sent to John Hepola, Chief, State

Programs Section, (6AW-AP) 1201 Elm Street, Dallas, Texas 75270. Copies of the plan, the public hearing minutes, and the technical support memo which explain EPA's actions are available for public review at the following locations:

Air Quality Bureau, State of New Mexico, Environmental Improvement Division, P.O. Box 968, Santa Fe, New Mexico 87503;

Environmental Protection Agency, Region VI, Library, 1201 Elm Street, Dallas, Texas 75270;

EPA, Public Information Reference Unit, Library, Room 2922, PM 213, 401 M Street, SW., Washington, D.C. 20460;

The Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John Hepola at (214) 767-2742 or FTS 729-2742.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the national ambient air quality standards for lead were promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu\text{g}/\text{m}^3$) averaged over a calendar quarter. As required by Section 110(a)(1) of the Clean Air Act (CAA), all States must submit a SIP which will provide for attainment and maintenance of these standards. New Mexico has developed and submitted such a SIP.

The general requirements for a SIP are outlined in Section 110(a)(2) of the Clean Air Act and EPA regulations 40 CFR 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, a control strategy, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for ensuring maintenance of the NAAQS. EPA has evaluated this plan by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations.

Description of the New Mexico SIP

On May 19, 1980, the Governor of New Mexico submitted to EPA, the States' SIP for attainment and maintenance of the NAAQS for lead. Before the State submitted a SIP to EPA, it held a public hearing on March 26, 1980. The plan does not, in itself, contain a regulation for the review of new sources of lead emissions, as required by 40 CFR 51.18. However, in a letter to EPA dated February 10, 1982 the State clarified that it intends to review new lead sources and modifications of existing lead

sources under its existing new source review regulation, No. 702. Further, the State has the authority and intends to subject to this review, any new or modified point source which has the potential to emit five tons/year or more of lead.

More than 1,700 filters from hi-volume particulate monitors have been analyzed since 1977. Four monitoring sites, two in Albuquerque and two in Anapra, recorded exceedances of the NAAQS. The exceedances from both monitoring sites in Albuquerque were in the fourth quarter of 1977 (2.39 and $2.40 \mu\text{g}/\text{m}^3$) and were based on less than 12 samples. However, EPA and the State agree that the Federal lead phase-down program will be sufficient to reduce the exceedances below the ambient air quality standards by 1982.

In Anapra, exceedances were recorded at both monitoring sites in the fourth quarter of 1977 (2.47 and $1.65 \mu\text{g}/\text{m}^3$), at one site in the first quarter of 1978 ($3.68 \mu\text{g}/\text{m}^3$) and the first quarter of 1979 ($2.36 \mu\text{g}/\text{m}^3$). The ASARCO smelter in El Paso, Texas is within a few miles of Anapra and its emissions impact on this area of New Mexico. New Mexico contends that attainment demonstrations at the Anapra sites will depend on control measures applied to the ASARCO facility. EPA Region 8 has reviewed this situation and agrees the Anapra sites are directly influenced by the ASARCO smelter and will address this issue during the review of the Texas Lead SIP.

The plan identifies two point sources of lead—the Kennecott Primary Copper Smelter (Chino Mines Company) in Hurley, and the Phelps Dodge Primary Copper Smelter in Playas. Dispersion modeling performed at these point sources showed attainment of the lead standard around the sources.

EPA's Action

EPA has evaluated the New Mexico lead SIP and has determined that it meets the requirements of Section 110(a) of the CAA and 40 CFR Part 51 Subparts B and E. EPA believes that the SIP is adequate to attain and maintain the lead NAAQS and is, therefore, approving it. EPA finds that the SIPs that have been approved for other NAAQS contain regulations that satisfy general regulations not specifically mentioned in this lead SIP and that these general regulations can be incorporated into the lead SIP.

EPA has determined that this SIP is of limited impact because it relies primarily on the Federal program to reduce lead in gasoline and approval of the Texas SIP to attain the NAAQS for

lead. Because of its straight forward nature, EPA does not anticipate any adverse or critical comments and is, therefore, going directly to final rulemaking with this SIP. The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from this date). This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Note.—Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the Federal Register Office on July 1, 1981. (Sec. 110(a) of the Clean Air Act, 42 U.S.C. 7410(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: April 22, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart GG—New Mexico

Title 40, Part 52 Subpart GG—New Mexico of the Code of Federal Regulations is amended to include the following:

1. Section 52.1620 is amended by adding paragraph (c)(26) as follows:

§ 52.1620 Identification of plan.

(c) * * *

(26) The New Mexico Plan was submitted to EPA on May 19, 1980, by

the Governor of New Mexico as adopted by the New Mexico Improvement Board on May 9, 1980. A clarifying letter dated February 10, 1982 also was submitted.

2. Section 52.1630 is amended by adding to the table the pollutant "lead" in a new column in the table as follows:

§ 52.1630 Attainment dates for national standards.

AIR QUALITY		
Pollutant control region	***	Lead
Albuquerque—Mid Rio Grande Interstate:		
a. Bernalillo County	***	b.
b. Remainder of AQCR	***	c.
Arizona—New Mexico Southern Border Interstate:		
a. Grant County	***	c.
b. Remainder of AQCR	***	
El Paso—Las Cruces Alamogordo Interstate:		
a. Las Cruces	***	c.
b. Anapra	***	h.
c. Remainder of AQCR	***	c.
Four Corners Interstate:		
a. San Juan County	***	c.
b. Remainder of AQCR	***	c.
Northeastern Plains Interstate	***	c.
Upper Rio Grande Valley Interstate	***	c.
Pecos—Permian Basin Interstate:		
a. Eddy and Lea Counties	***	c.
b. Remainder of AQCR	***	c.
Southwestern Mountains Augustine Plains Interstate	***	c.

h. Contingent Upon Approval of Texas Lead SIP.

[FR Doc. 82-12338 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1F2544/R419; PH FRL 2114-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite in or on corn fodder and forage. This regulation to establish the maximum permissible level for the combined residues of the insecticide and its metabolite was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on May 5, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm.

3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of October 27, 1981 (46 FR 52416) which announced that Dow Chemical Co., P.O. Box 1706, Midland, MI 48640, had submitted pesticide petition 1F2544 to the EPA proposing that 40 CFR 180.342 be amended by increasing the established tolerances for the combined residues of the insecticide chlorpyrifos [0,0-diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities corn fodder and corn forage from 0.1 part per million (ppm) to 10.0 ppm.

No comments were received in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated. The toxicological data considered in support of the tolerances included: A 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from these tolerances and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing these tolerances.

Desirable data which are considered lacking from the petition include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated February 11, 1982, the petitioner indicated that these studies would be submitted to the Agency by June 1983. The petitioner also agreed to voluntarily delete the use of corn from the label should the studies be found to exceed the risk criteria for unreasonable adverse effects.

The established tolerances for meat, milk, poultry, and eggs are adequate to cover secondary residues resulting from this use.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that establishment of these tolerances will protect the public health; therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before June 4, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: May 5, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 20, 1982.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

**PART 180—TOLERANCES AND
EXEMPTIONS FROM TOLERANCES
FOR PESTICIDE CHEMICALS IN OR ON
RAW AGRICULTURAL COMMODITIES**

Therefore, 40 CFR 180.342 is amended by increasing the established tolerances for corn, fodder and corn, forage to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

Commodities	Parts per million
Corn, fodder	10.0
Corn, forage	10.0

[FR Doc. 82-11626 Filed 5-4-82; 8:45 am]
BILLING CODE 5560-50-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.
ACTION: Final regulations.

SUMMARY: These rules amend the Public Health Service (PHS) regulations on health maintenance organizations (HMOs) by implementing certain changes made by the Health Maintenance Organization Amendments of 1981. The provision governing repayment of grant funds under certain circumstances is also amended. In addition, this rule amends the requirements for the award of loans or loan guarantees to qualified HMOs for the acquisition or construction of ambulatory health care facilities and the acquisition of equipment for those facilities (Subpart J). The amendments to Subpart J are made as a result of public comments on the interim regulations published on April 9, 1980.

EFFECTIVE DATE: The amendments made by this document are effective on May 5, 1982, except for the amendments to § 110.1004 [see the heading "Office of Management and Budget Clearance" under "Supplementary Information"]. In addition, the Secretary invites comments on a number of specific issues, as described below under

"Supplementary Information." These comments should be submitted to Frank H. Seubold, Ph.D., at the address set forth below, by June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Subtitle F of Title IX of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) revised and extended the provisions of Title XIII of the Public Health Service Act (the Act), as amended. Subtitle F is entitled the "Health Maintenance Organization Amendments of 1981" (HMO Amendments). On September 14, 1981, the Department published a Notice in the Federal Register (46 FR 45694) indicating the passage of the HMO Amendments. This Notice further indicated that to the extent that the regulations issued by PHS on HMOs (42 CFR Part 110) are inconsistent with Title XIII, as amended, the provisions of Title XIII will govern. The amendments to the regulations promulgated in this document make the changes necessary to place the regulations (including Subparts A through J) in conformity with the amended Act. In addition, this notice changes the requirement in § 110.211 for the repayment of grant funds, a revision unrelated to the statutory amendments. Finally, this rule amends the PHS regulations for the award of loans or loan guarantees to qualified HMOs for the acquisition or construction of ambulatory health care facilities and the acquisition of equipment for those facilities (Subpart J). Subpart G, which repeats *verbatim* the statutory provisions at section 1311 of the Act, 42 U.S.C. 300e-10, which preempt certain restrictive state laws and practices, has been deleted. The statutory provisions remain in effect. Unlike other provisions of the HMO Act, these provisions do not call for implementing regulations. This deletion has no significance other than avoidance of repetition.

Waiver of Notice of Proposed Rulemaking and of Delayed Effective Date

For the reasons cited below, the Secretary has determined that public participation in rulemaking prior to the issuance of these regulations is unnecessary and that good cause exists for making these regulations effective on May 5, 1982.

With the exception of the revision to the grant repayment requirement, the regulatory changes set forth as final rulemaking reflect and incorporate

statutory changes. In many instances, the revisions eliminate provisions that previously were requirements for qualified HMOs. For example, an amendment to section 1301 of the Act eliminated the open enrollment requirement. Consequently, the provision for an open enrollment period, as set forth under § 110.108(c) of the former regulations, is being deleted by this notice. Another example is the drug utilization review formerly authorized by section 1302(1) of the Act and repealed by the recent amendments. This provision, as described under § 110.103(c) of the former regulations, is also being deleted by this notice. (An HMO may continue to undertake this activity despite the repeal of specific reference to it from the statute and regulations.) Because regulatory changes such as these simply implement statutory amendments that lessen the burdens imposed on qualified HMOs, the Secretary has determined that it is unnecessary to obtain public comment prior to their promulgation.

In other instances, the revisions add or modify regulatory requirements to conform with the statutory amendments. Because these changes incorporate the statutory language *verbatim* and because the Secretary believes that the regulations should be consistent with the statute as soon as possible, the Secretary has determined that it is unnecessary to delay their effective date. To the extent that any of the statutory amendments may be subject to different regulatory interpretations (see, for example, item I(7) below), the Secretary intends to invite public comment through a notice of proposed rulemaking to be issued later. The Secretary intends, in that notice of proposed rulemaking, to propose further amendments to the HMO regulations in Part 110 for the purpose of reducing regulatory burdens on both HMOs and employers offering an HMO option in their employees' health benefits plans.

Because, as described more fully below, the amendment to the grant repayment provision in § 110.211 simply clarifies the requirement for repayment of grant funds when a grant-assisted entity becomes a for-profit entity, the Secretary has determined that no individual or entity will be adversely affected by the change. In fact, as explained below, the amendment should benefit HMOs and their enrollees by encouraging private sector investment in these grant-assisted entities. For these reasons, the Secretary has determined that notice and public comment on this amendment and a delay in its effective date would be unnecessary.

The amendments to Subpart J, regarding assistance for acquisition and construction of ambulatory health care facilities, are being made in response to public comments submitted with regard to the interim regulations published on April 9, 1980 (45 FR 24352-7). Because these amendments relieve or relax restrictions set forth in the interim regulations, no delay in their effective date is required, except for the amendments to § 110.1004 (see the heading "Office of Management and Budget Clearance," below).

Set forth below is a discussion of the significant amendments to the regulations.

I. HMO Amendments of 1981

1. The HMO Amendments of 1981 repealed requirements regarding continuing education for health professionals who contract with an HMO, or who are members of the HMO's staff, or who have contracted with an individual practice association dealing with an HMO. Section 942 of Pub. L. 97-35. The Secretary has deleted these requirements from the regulations. (See § 110.101 definitions of "individual practice association," "medical group," and "staff of the HMO".) In addition, because the Secretary understands that Congress' failure to delete a similar statutory requirement for medical groups dealing with HMOs was inadvertent, he is deleting that requirement from the regulations as well. The Secretary believes that it would be inappropriate to require continuing education for health professionals who are associated with a medical group when this is not required for professionals dealing with the HMO through any of the other organizational arrangements permitted. HMOs are encouraged to continue to provide continuing education where appropriate and in the best interests of their enrollees.

2. Because of an editorial revision to the statute, we are deleting the term "non-conforming medical group" from § 110.101 and § 110.104. The provision permitting an HMO, in specified circumstances, to provide health services through medical groups that do not meet the "substantial responsibility" requirement in the definition of "medical group" has been retained in § 110.104(a)(3).

3. The statute requires that HMOs fix their health services payments under a community rating system. The definition of "community rating" in section 1302(8) of the Act has been broadened to permit a system of "community rating by class." We have incorporated the statutory language into § 110.105(b). The

public is directed to the Congress' conference report on Pub. L. 97-35 for an explanation of how Congress understood this system would work. See H.R. Rep. No. 208, 97th Cong. 1st Sess., July 29, 1981, pp. 812-14.

4. The statutory amendments require at section 1301(c)(8) that the HMO adopt arrangements necessary to protect its members from incurring any liability for payment of fees which are the legal obligation of the HMO. Identical provisions have been included in Subpart A regulations at § 110.108(a)(3). We invite public suggestions on the substantive issues related to member protection.

5. Incorporated into these revised regulations are the significant changes in the provisions and requirements for Federal grant and loan support adopted in the HMO Amendments. In order to be eligible for a feasibility, planning or initial development grant, the entity must have received a grant or contract under section 1303 (feasibility studies) or section 1304 (planning and initial development) of the Act during or before the Federal fiscal year 1981. The HMO Amendments eliminated the non-profit requirement for eligibility for loans, removed a limitation on which for-profit HMOs may obtain loan guarantees, and increased the maximum aggregate amount as well as the yearly disbursement limitations for both loans and loan guarantees. In addition, a major change was made regarding the interest rate applicable to loans and loan guarantees. The Amendments allow the Secretary to set rates of interest for each disbursement at a rate comparable to the rate of interest prevailing on the date each disbursement is made for marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.

6. In Subpart I, "Continued Regulation of HMOs and Other Entities," § 110.904(d) has been amended to incorporate the statutory provision that the Secretary shall provide the HMO with an opportunity for reconsideration of a decision to revoke the HMO's qualification, including at the HMO's election a fair hearing. We will publish administrative procedures and requirements regarding the reconsideration process at a later date.

7. Section 1310 of the Act, as amended, requires that every two years (or such longer period as the Secretary may by regulation prescribe) after the date an HMO becomes a qualified HMO, the HMO must demonstrate to the Secretary that it is qualified within the meaning of the Act. We have not

included provisions for implementing this requirement in this document, since we believe this activity can be implemented within the current compliance process.

II. The Grant Repayment Provision

Section 110.211 of Subpart B explains the effect of a grantee's change from non-profit to for-profit status. Included in this document is an amendment clarifying that the Secretary may, for good cause, waive all or part of the amount of funds repayable to the Secretary upon demand when this happens. This change was precipitated by the Department's goal to provide incentives for private investment in HMOs, which goal is more important to achieve due to the reduced authorization levels for financial assistance enacted by the HMO Amendments of 1981. It has become apparent that private financing may in many cases be more readily available to HMOs if (1) the HMO is for-profit; and (2) the Federal government is willing to forgive or reduce the repayment of grant funds. Section 110.211 has thus been changed to show clearly that the Secretary may waive repayment of all or part of the grant funds upon conversion. The Department has developed a policy statement on the methodology that the Secretary will use to determine the amount of funds repayable to the Federal government. This policy statement can be obtained by writing to the Director, OHMO, at the address listed above, and we invite public comment on the substantive issues involved.

III. Subpart J: Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities

On April 9, 1980, interim regulations were published in the Federal Register (45 FR 24352-7) and designated as 42 CFR Part 110, Subpart J. These interim regulations implemented a new section 1305A, 42 U.S.C. 300e-4a, that authorizes the Secretary to make and guarantee loans to qualified HMOs for the acquisition and construction of ambulatory health care facilities and for the acquisition of equipment for those facilities. Interested persons were given an opportunity to submit comments concerning these regulations by June 9, 1980. Sixty persons submitted comments on the interim regulations: twenty-five letters were received on or before the close of the comment period and thirty-five were received following it. All comments were considered in developing the final regulations.

The comments received, responses thereto, and the changes in the Subpart J interim final regulations are summarized in the Appendix to this document.

Executive Order 12291, Federal Regulation

The Department of Health and Human Services has determined that this is not a major rule for the purposes of Executive Order 12291, Federal Regulation, because it will not result in (1) An annual effect on the economy of \$100 million or more; (2) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Department of Health and Human Services certifies that these regulations will not have a significant impact on a substantial number of small entities, including HMOs, small businesses, small organizational units, and small governmental jurisdictions. In fact, the amendments to the regulations relieve or relax previous restrictions (see, for example, the discussion on loans and loan guarantees for acquisition and construction of ambulatory health care facilities) and should benefit HMOs and their enrollees by encouraging private sector investment (see, for example, the discussion on the grant repayment provision).

Office of Management and Budget Clearance; Reporting and Recordkeeping Requirements

The Department is required to submit to the Office of Management and Budget (OMB) for review and approval sections of the regulations which deal with reporting or recordkeeping requirements. The following is a status report on those sections of the regulations subject to OMB clearance.

A. Requirements Already Approved.

	OMB No.	
Full and fair disclosure 42 CFR 110.108(c)(1).	0937-0093	Apr. 27, 1982.
Reporting and disclosure (National Data Reporting Requirements) 42 CFR 110.108(o).	0937-0022	Do.
42 CFR 110.303		
Planning and initial development 42 CFR 110.403 and 42 CFR 110.404.	0937-0013	Do.

	OMB No.	
Application for HMO qualification and loan assistance 42 CFR 110.504 and 42 CFR 110.604.	0937-0103	Do.

B. Requirement for Which OMB Approval Is Being Requested. In addition, § 110.1004 will be submitted to OMB for their review and clearance. Unlike other provisions in these final rules, the amendments to § 110.1004 will not become effective until the Department receives OMB's approval. The Department will publish in the Federal Register the results of OMB's review as soon as possible and if OMB approves this requirement, the notice will indicate an effective date for the amendment to § 110.1004.

List of Subjects in 42 CFR Part 110

Grant programs/health, Health care, Health facilities, Health insurance, Health Maintenance Organizations, Loan programs/health.

Accordingly, the Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, amends 42 CFR Part 110, as set forth below.

(Sec. 215, 58 Stat. 690 [42 U.S.C. 216]; secs. 1301-1318, as amended, Pub. L. 97-35, 95 Stat. 572-578 [42 U.S.C. 300e-300e-17])

Dated: February 5, 1982.

Edward N. Brandt, Jr.,
Assistant Secretary for Health.

Approved: April 15, 1982.

Richard S. Schweiker,
Secretary.

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

42 CFR Part 110 is amended as follows:

Subpart A—Requirements for a Health Maintenance Organization

§ 110.101 [Amended]

1. In § 110.101, revise the "Individual Practice Association" definition to read as follows:

§ 110.101 [Amended]

"Individual practice association" (IPA) means a partnership, association, corporation, or other legal entity which delivers or arranges for the delivery of health services and which has entered into written services arrangement or arrangements with health professionals, a majority of whom are licensed to practice medicine or osteopathy. The

written services arrangement shall provide:

(1) That these health professionals shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(2) To the extent feasible, for the sharing by these health professionals of health (including medical) and other records, equipment, and professional, technical, and administrative staff.

2. In § 110.101, revise the "Medical Group" definition to read as follows:

"Medical group" means a partnership, association, corporation, or other group:

(1) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services or which the group is responsible;

(2) A majority of the members of which are licensed to practice medicine or osteopathy; and

(3) The members of which:

(i) After the end of the 48 month period beginning after the month in which the HMO for which the group provides health services becomes a qualified HMO, as their principal professional activity (over 50 percent individually) engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility (over 35 percent in the aggregate of their professional activity) for the delivery of health services to members of an HMO;

(ii) Pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other similar plan unrelated to the provision of specific health services;

(iii) Share health (including medical) records and substantial portions of major equipment and of professional, technical, and administrative staff;

(iv) Establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.

3. In § 110.101, remove the definition: "Non-conforming medical group".

4. In § 110.101, revise the "Party in interest" definition by (a) adding after the word employee the following words: "responsible for management or administration"; and (b) removing in subparagraph (3) the words "member of

the immediate family" and replacing them with the following: "spouse, child, or parent".

5. In § 110.101, revise the "Staff of the HMO" definition by removing subparagraph (4) and redesignating subparagraph (5) as (4).

6. In § 110.103, revise paragraph (a) to read as follows:

§ 110.103 [Amended]

(a) An HMO may provide to its members any health service which is not included as a basic health service under § 10.102(a). These health services may be limited as to time and cost.

7. In § 110.103, remove paragraph (c).

8. In § 110.104, revise paragraph (a)(3) to read as follows:

§ 110.104 [Amended]

(a) * * *

(3) After the 4 year period beginning with the month following the month in which an HMO becomes a qualified HMO, an entity which meets the requirements of the definition of medical group in § 110.101, except for subdivision (3)(i) of that definition, may be considered a medical group if the Secretary determines that the principal professional activity (over 50 percent individually) of the entity's members is the coordinated practice of their profession, and if the HMO has demonstrated to the satisfaction of the Secretary that the entity is committed to the delivery of medical services on a prepaid group practice basis by either:

(i) Presenting a reasonable time-phased plan for the entity to achieve compliance with the "substantial responsibility" requirement of subdivision (3)(i) of the definition of "medical group" in § 110.101. The HMO shall update the plan annually and shall demonstrate to the satisfaction of the Secretary that the entity is making continuous efforts and progress towards compliance with the requirements of the definition of "medical group," or

(ii) Demonstrating that compliance by the entity with the "substantial responsibility" requirement is unreasonable or impractical because (A) the HMO serves a non-metropolitan or rural area as defined in § 110.101, or (B) the entity is a multi-specialty group which provides medical consultation upon referral on a regional or national basis, or (C) the majority of the residents of the HMO's service area are not eligible for employer-employee health benefits plans and the HMO has an insufficient number of members to require utilization of at least 35 percent of the entity's services.

9. In § 110.104, remove paragraph (b) and redesignate paragraphs (c) as (b); (d) as (c); (e) as (d); (f) as (e); and (g) as (f);

10. In § 110.104, revise newly redesignated paragraph (b)(2) to read as follows:

(b) * * *

(2) In their contracts with health professionals for the provision of basic and supplemental health services (except for unusual or infrequently used services) at least the provisions described in paragraphs (b)(1) (i), (ii), (iii), and (iv) of this section.

11. In § 110.105, revise paragraph (b) to read as follows:

§ 110.105 [Amended]

(b) *Community rating system.* Under a community rating system, rates of payment for health services may be determined on a per person or per family basis, as described in paragraph (b)(1) of this section or on a per group basis as described in subparagraph (2). An HMO may fix its rates of payment under the system described in paragraph (b)(1) or (b)(2) of this section or under both such systems, but an HMO may use only one such system for fixing its rates of payment for any one group.

(1) A system of fixing rates of payment for health services may provide that the rates shall be fixed on a per person or per family basis and may vary with the number of persons in a family. Except as otherwise authorized in this paragraph, these rates must be equivalent for all individuals and for all families of similar composition. Rates of payment may be based on either a schedule of rates charged to each subscriber group or on a per-member-per-month (or per-subscriber-per-month) revenue requirement for the HMO. In the former event, rates may vary from group to group if the projected total revenue from each group is substantially equivalent to the revenue which would be derived if the schedule of rates were uniform for all groups. In the latter event, the payments from each group of subscribers shall be calculated to yield revenues substantially equivalent to the product of the total number of members (or subscribers) expected to be enrolled from the group and the per-member-per-month (or per-subscriber-per-month) revenue requirement for the HMO. Under the system described in this subparagraph, rates of payment may not vary because of actual or anticipated utilization of services by individuals associated with any specific group of

subscribers. These provisions do not preclude changes in the rates of payment which are established for new enrollments or re-enrollments and which do not apply to existing contracts until the renewal of these contracts.

(2) A system of fixing rates of payment for health services may provide that the rates shall be fixed for individuals and families by groups. Except as otherwise authorized in this paragraph, such rates must be equivalent for all individuals in the same group and for all families of similar composition in the same group. If an HMO is to fix rates of payment for individuals and families by groups, it shall—

(i) Classify all of the members of the organization into classes based on factors which the HMO determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary.

(ii) Determine its revenue requirements for providing services to the members of each class established under paragraph (b)(2)(i) of this section, and

(iii) Fix the rates of payment for the individuals and families of a group on the basis of a composite of the organization's revenue requirements determined under paragraph (b)(2)(ii) of this section for providing services to them as members of the classes established under paragraph (b)(2)(i) of this section. The Secretary will review the factors used by each HMO to establish classes under paragraph (b)(2)(i) of this section. If the Secretary determines that any such factor may not reasonably be used to predict the use of the health services by individuals and families, the Secretary will disapprove the factor for that purpose.

(3)(i) Nominal differentials in rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of potential subscribers:

(A) Individual (non-group) subscribers (including their families).

(B) Small groups of subscribers (100 subscribers or fewer).

(C) Large groups of subscribers (over 100 subscribers).

(ii) Differentials in rates may be established for subscribers enrolled in an HMO: (A) Under a contract with a governmental authority under section 1079 ("Contracts for Medical Care for Spouses and Children: Plans") or section 1086 ("Contracts for Health Benefits for Certain Members, Former Members and their Dependents") of Title 10 ("Armed

Forces"), United States Code; or (B) under any other governmental program (other than the health benefits program authorized by chapter 89 ("Health Insurance") of Title 5 ("Government Organization and Employees"), United States Code; or (C) under any health benefits program for employees of States, political subdivisions of states, and other public entities.

(4) An HMO may establish a separate community rate for separate regional components of the organization upon satisfactory demonstration to the Secretary of the following:

- (i) Each regional component is geographically distinct and separate from any other regional component; and
- (ii) Each regional component provides substantially the full range of basic health services to its members, without extensive referral between components of the organization for these services, and without substantial utilization by any two components of the same health care facilities. The separate community rate for each regional component of the HMO must be based on the different costs of providing health services in the respective regions.

12. In § 110.107, revise the material in introductory text paragraph (b) to read as follows:

§ 110.107 [Amended]

(b) Available and accessible to each of the HMO's members with reasonable promptness with respect to:

13. In § 110.107, revise subparagraph (b)(1) by adding after the word *week* the following:

(b) * * *

(1) * * *, except that an HMO which has a service area located wholly in a non-metropolitan area may make a basic health service available outside its service area if that basic health service is not a primary care or emergency care service and if there is an insufficient number of providers of that basic health service within the service area who will provide that service to members of the HMO;

14. In § 110.108, amend paragraph (a) by adding at the end a new subparagraph (3) to read as follows:

§ 110.108 [Amended]

(a) * * *

(3) *Protection of members.* (i) Each HMO shall adopt at least one of the following arrangements to protect its

members from incurring liability for payment of any fees which are the legal obligation of such organization:

(A) A contractual arrangement with any hospital regularly used by the members of the HMO prohibiting the hospital from holding any member liable for payment of any fees which are the legal obligation of the HMO;

(B) Insolvency insurance, acceptable to the Secretary;

(C) Adequate financial reserve acceptable to the Secretary;

(D) Other arrangements acceptable to the Secretary to protect members; and

(ii) The requirements of this subparagraph do not apply to an HMO if applicable State law provides the members of the HMO with protection from liability for payment of any fees which are the legal obligation of the HMO.

15. In § 110.108, revise paragraph (b) to read as follows:

(b) *Financial risk.* Each HMO shall assume full financial risk on a prospective basis for the provisions of basic health services, except that it may

(1) Obtain insurance or make other arrangements for the cost of providing to any member basic health services the aggregate value of which exceeds \$5,000 in any year;

(2) Obtain insurance or make other arrangements for the cost of basic health services provided to its members other than through the HMO because medical necessity required their provision before they could be secured through the HMO;

(3) Obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for that fiscal year; and

(4) Make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

16. In § 110.108, remove paragraphs (d) and (e) and redesignate paragraphs (f) as (d); (g) as (e); (h) as (f); (i) as (g); (j) as (h); and (k) as (i).

17. In § 110.108, remove paragraphs (l), (m), and (n).

18. In § 110.108 revise paragraph (o)(2) to read as follows:

(o) * * *

(2) Each HMO shall report to the Secretary annually, within 180 days of the end of its fiscal year (unless for good cause shown, the Secretary authorizes an extension of time);

(i) A copy of the report, if any, filed with the Department's Health Care Financing Administration containing the information required to be reported by disclosing entities under regulations implementing section 1124 and section 1902(a)(38) of the Social Security Act (see 42 CFR 420.206 and 42 CFR 455.104), respectively; and

(ii) A description of the following significant business transactions between the HMO and a party in interest, and a justification that the costs of these transactions do not exceed the costs which would be incurred if these transactions were to be with someone who is not a party in interest (or if they do, a justification that the higher costs are consistent with prudent management and fiscal soundness requirements):

(A) Sale, exchange, or leasing of property;

(B) Furnishing for consideration of goods, services (including management services), or facilities between the HMO and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical groups, IPAs, or any combination thereof; and

(C) Lending of money and other extension of credit.

19. In § 110.108, redesignate paragraphs (o) as (j); (p) as (k); (q) as (l); (r) as (m); and (s) as (n).

Subpart B—Federal Financial Assistance: General

20. In § 110.211, amend paragraph (b) by removing the first sentence and by inserting in its place the following:

§ 110.211 [Amended]

(b) Any grantee which becomes a for-profit entity after receiving a grant under section 1304 of the Act shall immediately upon demand by the Secretary repay to the Secretary the total amount of grant funds received under section 1304, unless the Secretary determines for good cause that waiver of all or part of this amount would be in the interest of the United States. * * *

Subpart C—Grants for Feasibility Surveys**§ 110.302 [Amended]**

21. In § 110.302, amend paragraph (a) by adding after the word *organization* the following:

(a) * * * and which received a grant or contract under section 1303 or section 1304 of the Act on or before September 30, 1981.

Subpart D—Grants and Loan Guarantees for Planning and Initial Development Costs**§ 110.402 [Amended]**

22. In § 110.402, amend the first paragraph by adding in the first sentence after *HMO* the following words:

* * * and which received a grant or contract under section 1303 or section 1304 of the Act on or before September 30, 1981.

23. In § 110.407, revise paragraph (c) to read as follows:

§ 110.407 [Amended]

(c) *Repayment.* The principal amount of each loan guarantee, together with interest thereon, shall be repayable in accordance with a repayment schedule which is to be agreed upon by the parties to the loan and approved by the Secretary prior to or at the time of his endorsement of the loan. Unless otherwise specifically authorized by the Secretary, each loan guaranteed by the Secretary shall be repayable in substantially level combined installments of principal and interests, to be paid at intervals not less frequently than annually, sufficient to amortize the loan through the final year of the life of the loan. Principal repayment may be deferred, with payment of interest only by the applicant during a period to be specified in an agreement between the applicant and the Secretary. The Secretary may set rates of interest for each disbursement at a rate comparable to the rate of interest prevailing on the date the disbursement is made for marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.

Subpart E—Loans and Loan Guarantees for Initial Operating Costs**§ 110.503 [Amended]**

24. In § 110.503:

a. Remove in paragraph (a)(2) the word *nonprofit*.

b. Remove paragraph (a)(3).

c. Remove in paragraph (b)(1) the word *nonprofit*.

25. In § 110.503, revise paragraph (b)(2) to read as follows:

(b) * * *

(2) *Loan guarantees.* Loan guarantees may be made pursuant to section 1305 of the Act, and the regulations of Subpart B of this part and this subpart, to guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private qualified HMO for the amounts referred to in paragraph (b)(1) of this section.

§ 110.507 [Amended]

26. In § 110.507, remove the material in the introductory text to paragraph (a) and combine the material in paragraphs (a) (1) and (2) into a paragraph designated as (a).

27. In § 110.508, revise paragraph (c) to read as follows:

§ 110.508 [Amended]

(c) *Repayment.* The principal amount of each loan or loan guarantee, together with interest thereon, shall be repayable in accordance with a repayment schedule which is to be agreed upon by the parties to the loan or loan guarantee and approved by the Secretary prior to or at the time of his endorsement of the loan. Unless otherwise specifically authorized by the Secretary, each loan made or guaranteed by the Secretary shall be repayable in substantially level combined installments of principal and interest to be paid at intervals not less frequently than annually, sufficient to amortize the loan through the final year of the life of the loan. Principal repayment during the first 60 months of operation may be deferred, with payment of interest only by the applicant during such period. The Secretary may set rates of interest for each disbursement at a rate comparable to the rate of interest prevailing on the date the disbursement is made for marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.

Subpart G—Restrictive State Laws and Practices**§ 110.701 [Removed]**

28. Remove the heading of Subpart G and remove § 110.701.

Subpart H—Employees' Health Benefits Plans**§ 110.801 [Amended]**

29. In § 110.801, amend the "Employer" definition by adding before the words *does not include* the words "includes non-appropriated fund instrumentalities of the Government of the United States, but".

§ 110.805 [Amended]

30. In § 110.805, amend paragraph (a)(1) by adding after the word *provides* the following: "more than one-half of its".

31. In § 110.805, amend paragraph (a)(2) by removing the words *basic health services* where they first appear and replacing them with the following: "its basic health services which are provided by physicians".

Subpart I—Continued Regulation of Health Maintenance Organizations and Other Entities**§ 110.903 [Amended]**

32. In § 110.903(a), change the reference to § 110.108(o) to "§ 110.108(j)".

§ 110.904 [Amended]

33. In § 110.904, amend paragraph (d)(1) by inserting after the first sentence the following: "In this notification, the Secretary shall provide the HMO with an opportunity for reconsideration of the revocation, including at the HMO's election a fair hearing. The revocation of qualification shall be effective on the fifth working day after the HMO receives the notice unless the Secretary receives a request for reconsideration by that date. If, upon reconsideration, the Secretary again determines to revoke the HMO's qualification, this revocation shall be effective on the fifth working day after the HMO received notice of the reconsidered decision."

Subpart J—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities**§ 110.1003 [Amended]**

34. In § 110.1003, remove the word "nonprofit" in paragraph (b) and remove paragraph (c).

35. Revise the title of § 110.1004 in the table of sections and revise § 110.1004 to read as follows:

§ 110.1004 What requirements must an applicant meet?

(a) An applicant shall provide an appraisal of the property to be acquired with a loan made or guaranteed under this subpart. The appraisal must be prepared by an independent appraiser approved in advance by the Secretary.

(b)(1) An applicant shall identify any party in interest (as defined in § 110.101 of this part) with whom a transaction is proposed and for which transaction assistance is being requested under this subpart. The applicant must also identify any individual who would become a party in interest as a consequence of a proposed transaction.

(2) Where a party in interest is so identified, the applicant shall provide:

(i) An explanation of the involvement of the party in interest;

(ii) A combined financial statement for the HMO and the party in interest. This statement must be examined by an independent auditor in accordance with generally accepted accounting principles with appropriate opinions and notes;

(iii) Evidence that the proposed transaction with a party in interest will be consistent with the requirements of Subpart A of this Part (for example, the fiscal soundness requirements in 42 CFR 110.108(a)(1)).

(c) The applicant shall provide an assurance satisfactory to the Secretary that the HMO will have title (as defined in § 110.1002) to the facility.

(d) The applicant shall include line drawings of the proposed facility demonstrating that the allocation of square footage complies with the requirements of § 110.1007.

(e) The applicant shall provide assurances satisfactory to the Secretary that—

(1) At the time the application is made the HMO is fiscally sound;

(2) If the application is for a loan, the HMO is unable to secure a loan, at the rate of interest prevailing in the area in which the organization is located, from non-Federal lenders for the project with respect to which the application is submitted, or, if the application is for a loan guarantee, the HMO would be unable to secure a loan from such lenders for the project without the loan guarantee; and

(3) During the period of the loan or loan guarantee, the HMO will remain fiscally sound.

§ 110.1006 [Amended]

36. In § 110.1006(a), change the reference to section 1305A(b)(1) of the Act to "section 1305A(c)(1) of the Act."

37. In § 110.1006, revise paragraph (b)(2) to read as follows:

(b) * * *

(2) The applicant may not use any funds provided under other subparts of this Part to pay for the applicant's portion of eligible costs for a project assisted under this subpart.

38. In § 110.1007, revise paragraph (b)(2) to read as follows:

§ 110.1007 [Amended]

(b) * * *

(2) Where assistance under this subpart is used to acquire or construct facilities for the provision of optical, pharmacy or dental services, the total net assignable square footage available to the HMO for the provision of each of these assisted services may not exceed that needed to serve 110 percent of the projected number of HMO members at the end of the five year period after the acquisition or construction is to be completed. Only the HMO members projected to be enrolled to receive these services on a prepaid basis may be counted for purposes of this limitation. The applicant shall calculate the amount of net assignable square footage which is needed in accordance with instructions provided by the Secretary.

§§ 110.1009, 110.1010, 110.1011, 110.1012, and 110.1015 [Removed]**§§ 110.1013, 110.1014 and 110.1016 Redesignated as 110.1009, 110.1010, and 110.1011**

39. Remove §§ 110.1009, 110.1010, 110.1011, 110.1012, and 110.1015, and redesignate § 110.1013 as § 110.1009, § 110.1014 as § 110.1010 and § 110.1016 as § 110.1011. Revise the table of sections accordingly.

40. The newly redesignated § 110.1009, is revised to read as follows:

§ 110.1009 [Amended]

(a) Each loan made by the Secretary shall bear interest at a rate comparable to the current rate prevailing, with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges. The Secretary may set rates of interest for each disbursement at a rate comparable to the rate of interest prevailing on the date the disbursement is made for marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.

(b) Each loan guaranteed by the Secretary shall bear interest at a rate the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar

maturities, terms, conditions, and security and the risks assumed by the United States.

Appendix**Analysis of Public Comments on Interim Final Subpart J Regulations**

(Editorial note: This Appendix will not appear in the Code of Federal Regulations.)

1. Two commenters raised questions about the definitions at § 110.1002. One commenter suggested that the definition of "ambulatory health care facility" be revised to include a reference to HMO administrative functions in addition to diagnostic, prevention, and treatment services, since § 110.1007 allows loan and loan guarantee proceeds to be used in part to develop HMO administrative space. While the Department recognizes that some administrative activities are necessary in order to facilitate the clinical operation of an HMO, the primary purpose of an HMO is to provide diagnostic, treatment, and prevention services. The Department believes that the present definition sufficiently describes the actual purposes and functions of an HMO, with any administrative activities constituting an implicit part of the clinical functions. The Department notes that the definition in the regulations is identical to the statutory definition. The regulation is not changed.

Another commenter suggested that the definition of "construction" be changed to indicate that the alteration and renovation of leased, newly constructed facilities are acceptable activities under this subpart. Again, the Department notes that the regulations use the statutory definition for the term "construction." Further, the definition permits the renovation of existing facilities and does not preclude the use of funds under this subpart for leased space. Therefore, the regulation is not changed.

2. Section 110.1004 deals with the information and assurances an applicant must provide for a loan or loan guarantee under this subpart. One commenter objected to the requirement at § 110.1004(b) (numbered § 110.1004(c) in the interim regulations) that the HMO identify any party in interest with whom a transaction is proposed and for which transaction assistance is requested on the grounds that the process (1) might result in unacceptable delays of proposed construction projects and (2) was not authorized under Section 1305A of the Act. The commenter asserts that if Congress had wanted disclosure of party in interest transactions for ambulatory health care facility construction projects assisted under this subpart, it would have specifically required such disclosure.

The Department notes that Section 1318 of the Act requires all qualified HMOs to disclose, on an annual basis, party in interest transactions in accordance with regulations of the Secretary. Further, the Department has the authority to issue regulations as needed to protect the Federal interest under discretionary assistance programs such as the HMO ambulatory care facility construction program. It is important to the Department that any involvement in the

management of the HMO by parties in interest occur in a manner which is in the best interest of the HMO. Therefore, it is necessary for the HMO to disclose certain transactions before the Department approves a loan or a loan guarantee under this subpart.

Another commenter requested that a review of any party in interest transactions be expedited so as not to cause undue delays in projects assisted under this subpart. The Department agrees that information disclosed under § 110.1004(b) should be reviewed and evaluated as quickly as possible. In addition, the Department reemphasizes the point made in the preamble to the interim regulations that all disclosures under this section will be scrutinized, and where it is determined that participation of a party in interest in a proposed transaction is likely to affect the HMO adversely, requested financial assistance will not be awarded.

Section 110.1004(b)(2)(ii) requires the HMO to include in its application where a party in interest is identified, a combined financial statement "prepared" by an independent auditor. One commenter observed that independent auditors "examine" financial statements rather than prepare them. The Department agrees that the term "examine" is more precise since financial statements are the representations of management and not necessarily prepared by the auditors. The regulation is changed accordingly. The last phrase in subparagraph (ii) of this section stipulating that the audited financial statement be submitted in the form and manner prescribed by the Secretary has been deleted because independent auditors generally express their opinions concerning the financial statements of their clients in a standard format following generally accepted auditing standards.

3. One commenter objected to the requirement at § 110.1004(c) (numbered § 110.1004(f) in the interim regulations) for the inclusion of line drawings of the proposed facility in the application on the grounds that this requirement would be difficult to comply with if the HMO undertook the fast-track method of construction. The Department points out that the submission of the line drawings is necessary as an indication of whether the scope and purpose of the proposed project will meet the requirements and be consistent with the purposes of this subpart. Further, the Department does not agree that this requirement will prevent an HMO from undertaking fast-track construction, since the HMO is likely to require line drawings for its own purposes at the earliest phases of the project. Therefore, the requirement at § 110.1004(c) is not changed.

4. The Secretary has deleted from § 110.1004 a number of provisions which he views as unnecessary or burdensome. Thus, for example, the requirement at former § 110.1004(c)(2)(iii) for a second appraisal when a party in interest is involved has been removed.

5. With regard to the requirement at § 110.1006(a) limiting the aggregate amount of a loan or loan guarantee to the amount specified in Section 1305A(c)(1) of the Act, one commenter inquired whether an HMO could receive up to the maximum amount

allowed for more than one ambulatory health care facility. Section 1305A(c)(1) of the Act provides that the aggregate amount provided per facility may not exceed \$2,500,000. Under the definition of "facility" in § 110.1002, if an HMO is located in several buildings, each building in which the HMO provides diagnostic treatment, and prevention services to ambulatory patients is a facility.

6. One commenter observed that § 110.1006(b)(2), which prohibits the HMO from using any funds provided under other sections of Title XIII for any portion of the project not paid for by the loan made or guaranteed under Section 1305A of the Act, was inconsistent with the provisions of Section 1304(b)(4) of the Act, which authorizes grants, contracts or loan guarantees for the expansion of the services or the significant expansion of the membership of the area served by a qualified HMO. The commenter asserts that equipping a facility constructed with funds authorized by Section 1305A with funds authorized under Section 1304(b)(4) would be prohibited by § 110.1006(b)(2) of the regulations.

The Department acknowledges that the commenter's concerns are well founded and that the purpose of § 110.1006(b)(2) was to prohibit use of funds provided under Title XIII by the HMO to cover the applicant's share of costs. Therefore, the regulation is changed to reflect this intent.

7. Two commenters mentioned that requirements in § 110.1007 pertaining to the net assignable square footage limitations applicable to an assisted facility were inappropriate. One commenter noted with regard to the restriction in § 110.1007(a)(1) that not more than 25% of the net assignable square footage may be devoted to administrative space that the limitation would hamper an HMO's flexibility in moving the location of its various functional activities. Another stated that Congress did not intend the HMO clinical function to be favored to the "virtual exclusion" of the HMO administrative function. The commenter asserted that in Section 1305A of the Act, Congress tacitly understood that clinical and administrative functions are inseparable.

While we recognize that the HMO requires administrative space to support its clinical activities, we note that the primary purpose of Section 1305A of the Act is to support the development of space to be used for diagnostic, treatment and preventive services. We believe that permitting up to 25% of the space assisted under this section of the Act to be used for administrative purposes is sufficient to enable HMOs to support the provision of health services. Moreover, the requirements can be waived for good cause. Therefore, the regulation at § 110.1007(a)(1) is not changed.

Two commenters noted that the requirement limiting the net assignable square footage to not more than 110% of the projected number of the HMO members at the end of the 5 year period after the acquisition or construction is to be completed is also unnecessarily rigid in that unanticipated membership growth during the 5 year period could place demands on the HMO which might require rapid reallocation

of services and functions among (or between) the HMO's facilities. One commenter suggested that the limitation be increased to 200% of projected membership after 5 years, asserting that this percentage would provide greater flexibility but would not result in overbuilding because HMOs had a disincentive to do so since they could not carry idle space and still remain competitive.

The Department points out that the purpose of the limitation is to protect the financial interest of the Federal government. Overexpansion could have an adverse impact on the financial condition of the HMO as fixed acquisition costs beyond the needs of the members could impair the HMO's ability to support the principal and interest expenses of the Federal loan. Further, the Department believes that the 110% limitation does provide the HMO with adequate flexibility for most situations when enrollment fluctuates upward. Therefore, the requirement at § 110.1007(b)(1) remains unchanged. However, under certain cases, greater than expected growth could justify the need for expansion beyond the original projections. In this event, expansion of space beyond the original level may be warranted so long as the enlarged capacity remains within 110% of the revised membership forecast. The Department notes that § 110.1007 provides that for good cause, the requirements of § 110.1007 may be waived or modified.

There were 46 objections to the requirement at § 110.1007(b)(2), which provides Federal financial assistance to the HMO for the acquisition or construction of that amount of space necessary to provide optical, pharmacy, or dental services to 200% of the projected number of HMO members for whom these services will be provided on a prepaid basis at the end of 5 years. Several of those who objected recommended that the amount of space which could be assisted under this section be reduced to the amount of space needed to serve 100% of the projected number of HMO members at the end of the 5 year period after the acquisition or construction is to be completed. The commenters objected to the existing provision on the grounds that such assistance (1) is an illegal subsidy to non-HMO members, (2) promotes unfair competition between the HMO and unassisted providers of these services and (3) is contrary to the decision in *Abbott Laboratories v. Portland Retail Druggists* (425 U.S. 1, 96 S. Ct. 1305 (1976)). The Supreme Court in *Abbott Laboratories* held that the nonprofit institutions exemption from the price discrimination provisions of the Robinson-Patman Act of 1936, 15 U.S.C. 13(a), 13c, does not exempt all of a nonprofit hospital's drug purchases from the Robinson-Patman Act, but only those purchases which are used as part of or to promote the hospital's intended institutional operation of caring for patients.

To respond to these comments, the Department disagrees with the view that it is without authority to assist HMOs to develop space for certain supplemental services. In enacting Section 1305A of the Act, Congress clearly intended that the Department provide support for HMOs to expand their ability to provide health services. It is significant that

Congress did not differentiate in the Act between basic and supplemental health services in establishing eligibility for assistance. The Department also does not believe that assistance for supplemental services in the form of a loan or a guaranteed loan which must be repaid with interest gives the HMO an unfair competitive advantage over non-HMO providers.

With regard to the applicability of *Abbott Laboratories*, the Department finds that this argument is misplaced inasmuch as this subpart in no way regulates the purchasing policies of HMO pharmacies. To the extent that the HMO might be party to a transaction that violates the Robinson-Patman Act of 1938, it would be doing so entirely apart from carrying out a construction or acquisition project under this subpart. However, the Department does advise HMOs with nonprofit status to be aware of the possible implications of *Abbott Laboratories* for their organizations. While HMOs may properly provide fee-for-service pharmacy or other supplemental services, a nonprofit HMO may possibly be running the risk of being a party to a transaction violating the Robinson-Patman Act if it purchases its fee-for-service products at more favorable prices than those charged to commercial pharmacies by the same supplier. Nonprofit HMOs using the nonprofit institutions exemption, which exempts purchases of supplies by a nonprofit entity for its "own use" from the Robinson-Patman Act prohibitions, should be aware of the Supreme Court's interpretation of the "own use" exemption language in *Abbott Laboratories*. While that case involved a nonprofit hospital and not an HMO, the Court in its decision categorized different types of pharmacy services, some of which were similar to ones an HMO might provide, and then held that only certain ones were reasonably related to the institution's activities and were therefore legitimately for its "own use." The Department does not believe that an HMO's purchase of supplies for the provision of fee-for-service dental, pharmacy, or optical services should necessarily be characterized as being other than for its "own use," but is simply noting that any nonprofit HMOs using the nonprofit institutions exemption to purchase at a discount, supplies such as drugs, for the provision of services on a fee-for-service basis should consider carefully the applicability of the *Abbott Laboratories* guidelines.

The Department has reconsidered this provision, § 110.1007(b)(2), in light of the public comments. The Department notes that HMOs frequently make available a particular service such as pharmacy, to members who may not receive coverage for that service under the HMO's prepaid health package, as a convenience. It agrees, however, that the assistance provided under Section 1305A of the Act is not intended to assist the HMO to expand ambulatory care services on a fee-for-service basis. Therefore, it has amended the regulation to limit the assistance to be provided so that the HMO may only acquire or construct the amount of space necessary to provide optical, pharmacy and dental services to 110% of the projected number of HMO members to be enrolled to receive

these services on a prepaid basis at the end of the 5 year period after the acquisition or construction is to be completed. This is consistent with the requirements at § 110.1007(b)(1) and (3). While several commenters recommended using 100%, the Department adopts 110% in order to allow some flexibility in the membership forecasting process. In addition, as noted above, this limitation may be waived or modified for good cause shown.

8. One commenter asked that the term "eligible costs" used in § 110.1008 be defined more precisely. The Department notes that the regulations require that eligible costs must be reasonable and necessary for the acquisition or construction of, or the purchase of equipment for, a facility or portion of a facility. Further clarification of the term is provided in subsection (b), (c), (d), and (e) of § 110.1008 by means of examples of costs which are eligible under certain conditions (e.g., land acquisition is an eligible cost only if it is in connection with the acquisition or construction of a facility on that land), and costs which are not eligible (e.g., leasing land for a facility). The Department believes that further specificity would hamper its ability to assess the unique characteristics of each application. Therefore, these terms are not changed in the regulations.

9. In the interest of simplifying the regulation, we have deleted a number of sections which were simply informational (for example, former § 110.1012, "How are loan closing dates determined?") or which were unnecessary as regulatory provisions and could be more appropriately set forth in the loan documents themselves (for example, § 110.1015, regarding rights and obligations of the holder of a loan in the event of default). Thus, former §§ 110.1009-110.1012 and § 110.1015 have been deleted and the remaining sections renumbered accordingly.

10. One commenter suggested that the regulations at § 110.1009 (§ 110.1013 of the interim regulations) provide more specific information with regard to the interest rate to be charged for loans made or guaranteed under this subpart. As noted above, section 1308(b)(2) of the Act has been amended to permit the Secretary to establish separate interest rates for each disbursement under a loan, each to bear interest at a rate comparable to the current rate of interest prevailing with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges. Section 1308(a)(1) of the Act requires that any loan guarantees under Title XIII must bear interest at a rate not exceeding such percentage per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar maturities, terms, conditions, and security and the risks assumed by the United States. We have revised the regulations to reflect these statutory requirements.

[FR Doc. 82-12264 Filed 5-4-82; 8:45 am]

BILLING CODE 4150-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6241

[I-17482, I-18105]

Idaho; Revocation of Secretarial Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two withdrawals affecting 135 acres of national forest land withdrawn for use by the Forest Service as administrative sites. This action will restore the lands to such use and disposition as may, by law, be made of national forest lands.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of August 9, 1907, and January 16, 1909, respectively, are hereby revoked so far as they affect the following described lands:

Boise Meridian

Coeur d'Alene National Forest

T. 50 N., R. 3 E.,

Sec. 28, lot 5.

T. 44 N., R. 3 W.,

Sec. 2, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described contain 15 acres in Shoshone and 120 acres in Benewah Counties.

2. At 7:45 a.m. on June 3, 1982, the above described lands will be open to such forms of disposal as may, by law, be made of national forest lands.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

April 28, 1982.

[FR Doc. 82-12236 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6287]

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

AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-8620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program

(NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

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

The Director finds that delayed effective dates would be contrary to the public interest. The Director 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 provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, 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. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64.

Flood insurance, Flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Arizona: Navajo County	Snowflake, town of	040070	750530, emergency 820301, regular	740406
California: Marin County	Marin County*	060173	710315, emergency 820301, regular	770225
Idaho: Kootenai County	Kootenai County*	160076	740408, emergency 820301, regular	770607
Illinois:				
Cook County	Elgin, city of	170087	750529, emergency 820301, regular	740603
Kane County	Kane County*	170896	760729, emergency 820301, regular	760514
Winnebago County	Roscoe, village of	170724	740611, emergency 820301, regular	740322
Louisiana: Vermilion Parish	Kaplan, city of	220226	740701, emergency 820301, regular	731102
Michigan:				
Gratiot County	Alma, city of	260083	741226, emergency 820301, regular	740510
Jackson County	Concord, village of	260423	760629, emergency 820301, regular	750711
Shiawassee County	Owosso, city of	60596	750523, emergency 820301, regular	750926
New Jersey:				
Burlington County	Florence, township of	340098	750906, emergency 820301, regular	740628
Camden County	Haddon, township of	340134	740412, emergency 820301, regular	741122
Atlantic County	Mullica, township of	340517	740422, emergency 820301, regular	741101
New York: Erie County	Williamsville, village of	360263	740712, emergency 820301, regular	740531
Oregon:				
Yamhill County	Dundee, city of	410253	740423, emergency 820301, regular	740628
Do	Newberg, city of	410256	740805, emergency 820301, regular	740614
Linn County	Sweet Home, city of	410146	750417, emergency 820301, regular	740123

—Continued

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Washington County	Tigard, city of	410276	750205, emergency 820301, regular	780214
Yamhill County	Yamhill, city of	421631	750210, emergency 820301, regular	731130
Pennsylvania:				
Fayette County	Luzerna, township of	421631	750210, emergency 820301, regular	741227
Montgomery County	Skippack, township of	421149	740409, emergency 820301, regular	740726
Texas:				
Fort Bend County	Stafford, city of	480233	791016, emergency 820301, regular	0
Williamson County	Taylor, city of	480670	741107, emergency 820301, regular	740329
Utah:				
Davis County	Centerville, city of	490040	750724, emergency 820301, regular	740628
Do	Davis County*	490038	750422, emergency 820301, regular	780207
Do	Kaysville, city of	490046	750418, emergency 820301, regular	740628
Weber County	South Ogden, city of	490191	740802, emergency 820301, regular	740405
Vermont: Chittenden County	Colchester, town of	500033	740823, emergency 820301, regular	740823
Washington: Pierce County	Wilkeson, town of	530268	760817, emergency 820301, regular	750829
Wisconsin: Milwaukee County	Milwaukee, city of	550278	740130, emergency 820301, regular	740628
California: San Mateo County	Belmont, city of	065016	710402, emergency 820309, regular	740719
Idaho: Cassia County	Burley, city of	160043	750716, emergency 820309, regular	740524
Arkansas:				
Ouachita County	Camden, city of	050163	711230, emergency 820315, regular	740719
Sebastian County	Hackett, city of	050199	750425, emergency 820315, regular	741018
Do	Hartford, city of	050200	750312, emergency 820315, regular	740308
Monroe County	Hoffy Grove, city of	050157	750613, emergency 820315, regular	740405
Ashley County	Montrose, town of	050006	741010, emergency 820315, regular	740503
Conway County	Morrilton, city of	050044	750608, emergency 820315, regular	731102
Franklin County	Ozark, city of	050358	750205, emergency 820315, regular	750926
Arizona: Mohave County	Mohave County*	040058	740506, emergency 820315, regular	750110
Connecticut:				
Tolland County	Ellington, town of	090158	750729, emergency 820315, regular	741101
Middlesex County	Killingworth, town of	090174	750715, emergency 820315, regular	750404
Florida:				
St. Lucie County	Port St. Lucie, city of	120287	750507, emergency 820315, regular	741213
Suwannee County	Sumter County*	120296	740821, emergency 820315, regular	770617
Idaho: Bonner County	Clark Fork, city of	160132	760630, emergency 820315, regular	750919
Kentucky: Greenup County	Raceland, city of	210089	760121, emergency 820315, regular	740208
Massachusetts: Worcester County	Southbridge, town of	250334	740514, emergency 820315, regular	740322
Maine: Washington County	Baring Plantation	230468	740319, emergency 820315, regular	750131
Michigan:				
Kalamazoo County	Augusta, village of	260312	750520, emergency 820315, regular	740308
Do	Ross, township of	260624	750724, emergency 820315, regular	0
Minnesota: Houston County	Hokah, city of	270192	741128, emergency 820315, regular	740308
Montana: Gallatin County	Bozeman, city of	300028	750512, emergency 820315, regular	740215
New Jersey: Morris County	Harding, township of	340344	750610, emergency 820315, regular	740412
New York: Westchester County	Harrison, town of	360912	730202, emergency 820315, regular	760305
Oregon:				
Washington County	Forest Grove, city of	410241	750604, emergency 820315, regular	740301
Yamhill County	Willamina, city of	410258	750121, emergency 820315, regular	731228
Pennsylvania:				
Allegheny County	Collier, township of	421058	750707, emergency 820315, regular	740719
Berks County	Exeter, township of	421063	740927, emergency 820315, regular	740913

—Continued

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Montgomery County	Franconia, township of	422494	741024, emergency 820315, regular	741206
Texas:				
Caldwell County	Caldwell County*	480094	750515, emergency 820315, regular	770527
Harris County	Jersey Village, city of	480300	741009, emergency 820315, regular	740405
Uvalde County	Uvalde, city of	480630	750205, emergency 820315, regular	740531
Vermont: Washington County	Duxbury, town of	500110	750610, emergency 820315, regular	740628
Washington: Jefferson County	Port Townsend, city of	530070	750611, emergency 820315, regular	740614
Illinois:				
Jackson County	Makanda, village of	170301	800317, emergency 820315, regular	740823
Cook County	Westhaven, village of	170172	750218, emergency 820315, regular	740405
Indiana:				
Bartholomew County	Bartholomew County*	180006	750120, emergency 820315, regular	740920
Lake County	Cedar Lake, town of	180127	750725, emergency 820315, regular	731228
Louisiana:				
St. Tammany Parish	Folsom, village of	220285	791109, emergency 820316, regular	750718
Tensas Parish	Newellton, town of	220216	730516, emergency 820316, regular	740614
Oklahoma:				
Logan County	Crescent, city of	400098	750707, emergency 820316, regular	740510
LeFlore County	Heavener, city of	400090	750528, emergency 820316, regular	740524
Louisiana:				
Union Parish	Farmerville, town of	220325	780519, emergency 820323, regular	750502
De Soto Parish	Grand Cane, village of	220291	790219, emergency 820323, regular	750502
Oklahoma:				
Kiowa County	Roosevelt, town of	400088	761112, emergency 820323, regular	741101
Ellis County	Shattuck, town of	400061	781221, emergency 820323, regular	740524
Louisiana:				
Claiborne Parish	Haynesville, town of	220051	740826, emergency 820330, regular	740308
St. Landry Parish	Sunset town of	220176	750424, emergency 820330, regular	740614
Lafayette Parish	Youngsville, village of	220358	740116, emergency 820330, regular	740405
Total, 79.				

Key for reading 5th column (effective date):

First two digits designate the year; middle two digits designate the month; and the last two digits designate the day.

*Unincorporated areas.

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

Issued: April 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11914 Filed 5-4-82; 8:45 am]

BILLING CODE 6718-03-M

Federal Crime Insurance Program**44 CFR Parts 80, 81, 82, 83, and 84****[Docket No. FEMA-FIA-80]****AGENCY:** Federal Emergency Management Agency (FEMA).**ACTION:** Final rule.

SUMMARY: These revisions to the Federal Crime Insurance Program achieve the following purposes: They raise the premiums and deductibles charged for both residential and commercial policies. The use of

geographical territories for determining insurance premiums is eliminated and residential and commercial premium rates are made uniform for policyholders regardless of location, resulting in an additional increase in premiums for policyholders. The list of commercial classifications of businesses is revised to distinguish nonprofit organizations, such as churches, libraries, and public properties from commercial enterprises and to provide for a lesser premium increase for the nonprofit organizations and higher rates for commercial businesses with greater than average exposure to crime losses.

The protective device requirements are amended for some commercial businesses by requiring alarm systems and additional protective devices for all commercial businesses (except nonprofit), regardless of the amount of gross receipts. The regulations also provide more detailed and helpful instructions for calculating premiums and identifying the classification of businesses.

On December 15, 1981, the Federal Insurance Administrator, Federal Emergency Management Agency, published for comment in the Federal Register a proposed rule containing

these revisions which are based upon experience gained in administering the Federal Crime Insurance Program and from suggestions received from interested parties. The revisions will make the Program more effective in serving the needs of those for whom it was intended and benefit the government as well as insureds.

DATE: This rule will be effective June 1, 1982 so as to be effective at the same time as the new Federal Crime Insurance Program Instructions. It is imperative that these matters be placed in effect on the same day.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street, SW., Room 433, Washington, D.C. 20472, Telephone Number (202) 287-0800.

SUPPLEMENTARY INFORMATION: The only written comments received were from an insurance industry organization and the Federal Emergency Management's Inspector General in respect to which the comments were duly considered and some adopted.

These amendments are the result of the experience gained in the eleven years the Federal Crime Insurance Program has been in operation.

The use of territorial differentials in premiums has had an inequitable and unjustifiable impact upon crime insurance policyholders whose exposure to crime is a result of factors beyond their individual control. The use of a uniform premium reflects the existence of a crime threat to all citizens wherever they may reside. However, the refining of the classifications for nonresidential properties takes into account certain differences in exposure which result from the differences in the merchandise or services offered. In general, the premiums resulting from these revisions will produce a higher level to offset the losses which have consistently exceeded the premiums collected.

The significance of the annual gross receipts figure in the rating of commercial policies is emphasized in these regulations and the consequences for material misstatements are clearly spelled out in terms of denial of claims and the voiding of policies.

FEMA has determined that an Environmental Impact Statement is not needed for this final rule. A copy of the Finding of No Significant Impact and An Environmental Assessment is available at the above address.

List of Subjects in 44 CFR Parts 80, 82, 83, and 84

Crime insurance.

List of Subjects in 44 CFR Part 81

Claims, Crime insurance.

Accordingly, 44 FR (Parts 80, 81, 82, 83 and 84 are amended as follows):

PART 80—DESCRIPTION OF PROGRAM AND OFFER TO STATE LICENSED PROPERTY INSURANCE AGENTS AND BROKERS ACTING ON BEHALF OF PURCHASERS OF FEDERAL CRIME INSURANCE

1. Section 80.4 entitled "Offer to Pay Commission to State Licensed Property Insurance Agents and Brokers for Submitting Applications on Behalf of Purchasers of Federal Crime Insurance" is amended by revising paragraph (c) to read as follows:

§ 80.4 [Amended]

(c) Subject to a minimum annual commission of \$15 on each commercial policy and \$5 on each residential policy, the specified commission percentage of the policyholder premium for both residential and commercial insurance coverages shall be the following: Initial policies 14% and for all renewal policies 12%. The renewal commission rate shall apply to any property that has previously been insured under the Program unless the lapse of time since the termination of the previous policy is in excess of 6 months. The commission for any renewal policy shall be deemed payable only to the property insurance agent or broker, of record, if any. A change of agent or broker made at any time other than on a policy anniversary date must be accomplished by the submission of a new application with the applicable premium and a request to replace the policy in force.

2. Section 80.6 is revised to read as follows:

§ 80.6 Name and address of invoicing company.

The following company has been designated to act as servicing company for the Federal Crime Insurance Program, National Con-Serv Inc., t/a Safety Management Institute. Written communications with the servicing company should be addressed to Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20014. The toll free telephone number for the servicing company is 800-638-8780 and this number serves the continental United States, Puerto Rico and the Virgin Islands, except for Maryland and the Washington Metropolitan Area. In the Washington Metropolitan Area call 652-2637. In Maryland, outside the

Washington Metropolitan Area, call collect (301) 652-2637.

PART 81—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

3. Section 81.2 entitled "Eligibility Requirements Applicable to Property Owners" is amended by revising paragraph (c) to read as follows:

§ 81.2 [Amended]

(c) Any material misstatement of fact in the application or in any form submitted at the time of any subsequent renewal may result in the voiding of the policy and the denial of any claim. Intentionally false or misleading statements, either in the application, at the time of subsequent renewals, or in connection with any claim submitted under this program may also result in prosecution.

§ 81.4 [Amended]

4. Section 81.4 entitled "Terms and Conditions of Policy to Govern" is amended by deleting paragraph (d), thereof.

5.a. Section 81.7 entitled "Cancellations, Modifications and Renewals of Coverage" is amended by adding at the end of paragraph (c) the following sentence:

§ 81.7 Cancellation, modification and Renewals of coverage.

(c) * * * The insurer may, at the request of the insured, permit a retroactive cancellation of a policy, but in no event shall such cancellation be effective earlier than thirty days before receipt by the insurer of a lost policy release or the original policy, and such cancellation shall apply only to the policy in force at the time of the receipt of such request.

b. Section 81.7 is further amended by revising paragraph (d) to read as follows beginning with subparagraph (5) of said paragraph:

(d) * * *

(5) Any other substantial failure to comply with the provisions of this subchapter or of the insurance policy as determined by the insurer and stated in its notice of cancellation. Cancellations or any of the grounds in paragraph (d)(2) (3) or (4) of this section may, at the discretion of the insurer, be made retroactive to the date of application or renewal which immediately precedes the first known wrongful act. Refunds of unearned premiums, if any, shall be subject to offsets for the insurer's

administrative expenses (including the payment of agent's commissions, if any) in connection with the issuance of the policy, any inspections of the insured's premises and the expense of claims adjustment, if any. Cancellations by the insurer on the basis of paragraph (d)(5) of this section or as provided by paragraph (e) of this section shall be upon 30 days written notice, and the insured shall be entitled to a short rate refund of premium, if any.

c. Section 81.7 is further amended by amending paragraph (f) to delete the last sentence, thereof.

§ 81.7a [Amended]

d. Section 81.7a entitled "Cancellations in Order to Renew" is amended by adding the following sentence to the end of paragraph (a) to read as follows:

(a) * * * Cancellation and rewrite of coverage to avoid an impending rate increase shall not be permitted, unless such cancellation was made to accomplish an increase in the amount of insurance coverage or as a result of the removal of the insured to another premises.

PART 82—PROTECTIVE DEVICE REQUIREMENTS

§ 82.1 [Amended]

6. Section 82.1 entitled "Definitions" is amended by adding a paragraph (j) which reads as follows:

(j) "Safe" is a non-portable money storage compartment which is reinforced with a minimum of ¼ inch solid steel plate throughout, with the exception of the door, which must be at least one inch thick solid steel plate and equipped with a combination lock, which is an integral part of the door.

7.a. Section 82.5 entitled "Inspection of Commercial Premises" is amended by revising the existing paragraphs (c) and (d) and by revising the last sentence of paragraph (e) as follows:

§ 82.5. Inspection of commercial premises.

(c) An insured whose commercial premises is not one which is required by Section 82.31 to be protected by any type of alarm system but who elects to utilize an alarm system may select particular accessible openings and exterior doors to be protected only by the alarm systems and may protect other accessible and exterior doors with the physical barriers specified in paragraphs (c) and (e) of Section 82.31.

(d) Because the statement of annual

gross receipts is a significant factor in the determination of the applicable protective device requirements as well as in the determination of the correct premium, the annual gross receipts figure reported on the application or at the time of renewal shall be verified at the time of the adjustment of any loss. The applicant or insured shall at the time make available any necessary documentation to substantiate the annual gross receipts figure reported.

(e) * * * The Administrator may also in his discretion determine that the frequency and/or severity of occurrences of loss experienced under any policy issued under the provisions of paragraphs (b) and (c) of this section, requires that as a condition of continuation of coverage or renewal of such policy the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), (f), (1), (2), (3) of § 82.31, for applicable points of entry for incurred losses.

b. Section 82.5 is further amended by adding a paragraph (i) as follows:

(i) If an applicant occupies a premises jointly with other businesses, and there exists no physical barrier separating the business of the applicant from the other businesses, the applicant may still obtain insurance coverage provided that the exterior boundaries of the premises that enclose the business of the applicant and the other businesses are protected in accordance with the protective device requirements applicable to the classification governing the applicant's business. In such a case the applicant, as an insured, will be responsible for the continued existence and maintenance and functioning of the required protective devices. For purposes of the burglary insurance coverage, the premises to which there must be forcible signs of entry is the overall premises confining the business of the applicant and the other businesses. As noted in Section 83.22, the maximum limit of coverage which consists of \$15,000 may not be increased by insuring several departments of a single business or institution at one premises as separate premises and this paragraph does not supersede Section 83.22.

§ 82.3 [Amended]

8. Section 82.3(f) entitled "Minimum Standards for Industrial and Commercial Properties" is revised as follows:

(f) The following types of establishments whose inventories pose a particularly serious risk shall, as a

minimum, in addition to the requirements of paragraphs (a), (b) and (d) of this Section be protected by the type of alarm system indicated. If the system specified in (f)(1) of this Section is not available in the community in which the premises are located, the type of system specified in paragraph (f)(2) of this Section shall be permitted. In addition to, but not in place of, any central station supervised alarm system or silent alarm system required under (f)(1) and (2) of this section, an insured may also utilize a local alarm system.

(1) Central Station, supervised service alarm systems shall be required for the following businesses:

- (i) Auto Parts—No Service—Wholesale/Retail/Mfg.
- (ii) Beer/Wine with Food Retail.
- (iii) Beer/Wine—Wholesale.
- (iv) Cameras/Photo Supplies/Film Processing—Wholesale/Retail/Mfg.
- (v) Clothing/Men's (age 12 and over)—Wholesale/Retail.
- (vi) Clothing/Women's (age 12 and over)—Wholesale/Retail.
- (vii) Drug Stores and Druggists' Sundries.
- (viii) Drugs—Wholesale.
- (ix) Electrical Appliances/Apparatus/Parts—Wholesale/Retail/Mfg.
- (x) Food Stuffs/Wholesale.
- (xi) Furriers—Retail/Wholesale/Mfg/Storage.
- (xii) Gasoline Service Station/Fuel Dealers.
- (xiii) Guns/Ammunition—Wholesale/Retail/Mfg.
- (xiv) Jewelry—Retail/Wholesale/Mfg/Storage.
- (xv) Liquor Sales—Retail.
- (xvi) Liquor—Wholesale.
- (xvii) Pawnbrokers.
- (xviii) Precious Metals/Electroplating—Storage.
- (xix) Precious Metals/Electroplating—Mfg/Wholesale/Retail.
- (xx) Radio/TV/Stereo/Electronic Equipment/Computers—Wholesale/Retail/Mfg.
- (xxi) Record Shop.
- (xxii) Tobacco Dealers—Retail.
- (xxiii) Tobacco—Wholesale.
- (xxiv) Variety Stores/Department Stores.

(2) Silent alarm systems shall be required for the following businesses:

- (i) All Risks Not Otherwise Classified.
- (ii) Amusement Enterprises.
- (iii) Art Supplies—Retail/Wholesale/Mfg.
- (iv) Beach Concession Stands/Supplies.
- (v) Beauty/Barber Shops.
- (vi) Beauty & Health Supplies/Cosmetic—Wholesale/Retail/Mfg.
- (vii) Billiard/Pool Parlors.

(viii) Boutiques.
 (ix) Building Contractors—Material—Retail/Wholesale.
 (x) Candy/Nut Stores—Retail/Wholesale.
 (xi) Clothing Apparel (Children 12 & under)—Retail/Wholesale.
 (xii) Coin/Stamp Shop.
 (xiii) Distributors—Variety/Non-Alcoholic Beverages.
 (xiv) Dry Cleaners.
 (xv) Dry Goods/Textile/Sewing Material—Retail/Wholesale/Mfg.
 (xvi) Fine Arts (Porcelain, Ivory, Oriental Rugs, Paintings, etc.).
 (xvii) Flea Markets/Auction Houses.
 (xviii) Florist—Wholesale/Retail.
 (xix) Funeral Homes.
 (xx) Furniture/Home Furnishings/Floor Covering/Upholstery—New/Used—Retail/Wholesale/Mfg.
 (xxi) Garages/Auto Repair/Body Shop.
 (xxii) Gift Stores—(Costume Jewelry \$25.00 Wholesale Limit)—Retail/Wholesale/Mfg.
 (xxiii) Golf and Other Sports Professionals.
 (xxiv) Grocery Stores/Delicatessens/Health Food Stores.
 (xxv) Hardware/Houseware—Retail/Wholesale/Mfg.
 (xxvi) Hobby Shops/Toys/Novelty—Retail/Wholesale/Mfg.
 (xxvii) Hotel/Motel/Rooming House/Apartments.
 (xxviii) Industrial Materials/Iron & Metal Work—Wholesale/Retail/Mfg.
 (xxix) Laundries.
 (xxx) Leather Products—Retail/Wholesale/Mfg.
 (xxxi) Marine/Aircraft Materials—Sales/Service—Retail/Wholesale/Mfg.
 (xxxii) Meat/Poultry/Fish Dealers.
 (xxxiii) Medical (Doctors, Dentist, etc.) Supplies—Wholesale/Retail/Mfg.
 (xxxiv) Music Stores/Instruments/Supplies—Wholesale/Retail/Mfg.
 (xxxv) Nursing Homes/Convalescent.
 (xxxvi) Office Supplies/Business Machines/Equipment—Retail/Wholesale/Mfg.
 (xxxvii) Parking Lots/Rental Cars/Carwash/Taxi Offices.
 (xxxviii) Pet Stores/Kennels—Supplies.
 (xxxix) Photographers Studios.
 (xl) Professional/Specialized Services (Lawyers, Accountants, etc./Couriers, Housekeeping, etc.).
 (xli) Realty/Insurance/Travel/Employment (Agencies).
 (xlii) Schools (Profit) Day Care Centers/Studios.
 (xliii) Security Locksmiths/Alarms—Retail/Wholesale/Mfg.
 (xliv) Shoe Stores—Retail/Wholesale/Mfg.

(xlv) Specialized Clothing (Sportswear/Lingerie/Accessories, etc.)—Wholesale/Retail/Mfg.
 (xlv) Stationery/Books/Printing/Engraving/Paper—Plastic Products—Retail/Wholesale/Mfg.
 (xlvii) Tavern/Bar/Lounge.
 (xlviii) Used Clothing/Shoe Repair/Thrift Shops.
 (xlix) Wig Shops.
 (3) Local alarm systems shall be required for the following businesses:
 (i) Antique Store.
 (ii) Art Gallery.
 (iii) Auto Parts Sales/Service—Wholesale/Retail/Mfg.
 (iv) Check Cashing Agency/Money Exchange—Collectors.
 (v) Clothing Manufacturer/Tailoring.
 (vi) Clubs (Serving Alcoholic Beverages).
 (vii) Discos/Dance Halls/Pavilions.
 (viii) Health Clubs/Spas/Massage Parlors.
 (ix) Motorbikes/Bicycles/Mopeds.
 (x) Radio/TV/Stereo/Electronic Equipment/Computers—Service Only.
 (xi) Restaurants.
 (xii) Savings/Loans/Banks and Other Financial Institutions excluding check cashing.
 (xiii) Sports Goods—General—Wholesale/Retail/Mfg.
 (xiv) Vending Machines—Sales/Rentals—Mfg.

PART 83—COVERAGES, RATES AND PRESCRIBED POLICY FORM

§ 83.1 [Amended]

9. Section 83.1 entitled "Description of Residential Coverage" is amended by adding at the end of paragraph (c) the following additional sentences, which read:

(c) * * * A mobile home used as a residence may be insured on a residential application form provided the mobile home has been rendered immobile on a permanent foundation and anchored to resist flotation or lateral movement. A residential premises or a portion thereof owned or leased by a business, corporate or otherwise, may not be insured by said business under a residential policy. A model home held for eventual sale may not be insured under a residential policy. A storeroom used for temporary storage of personal property not pertaining to a business may be insured under a residential policy, provided that the storage area is surrounded by physical barriers which separate it from other storage areas available to other persons and that the storage area utilized by the insured complies with the protective device requirements applicable to residential premises.

10. a. Section 83.2 entitled "Limits of Residential Coverage" is amended to read as follows:

§ 83.2 Limits of residential coverage.

The residential policy may be written in amounts not less than \$1,000 and not in excess of \$10,000 for each insurable premises. An insurable premises is defined as a physically separate area occupied for residential purposes by one or more persons who are permanent members of a single household. The \$10,000 limit of coverage for each insurable premises may not be increased by subdividing the premises shared by members of a common household. Any amount of insurance or fraction thereof, above a specified limit shall be charged the applicable rate for the next higher limit of coverage. Specified limits of coverage are set forth in § 83.4.

§ 83.3 [Amended]

b. The first sentence of § 83.3 entitled "Amount of Residential Policy Deductible" is amended by changing * * * \$50 for each loss occurrence, or 5 percent of the gross amount of the loss, whichever is greater, * * * to read * * * \$100 for each loss occurrence, or 5 percent of the gross amount of the loss, whichever is greater, * * *.

11. Section 83.4 entitled "Residential Crime Insurance Rates" is amended to read as follows:

§ 83.4 Residential crime insurance rates.

The specified limits of coverage and applicable annual premiums for residential crime insurance coverage are as follows:

Policy limit	Annual premium
\$1,000.....	\$60
\$3,000.....	70
\$5,000.....	90
\$7,000.....	110
\$10,000.....	120

12. a. Section 83.22 entitled "Limits of Commercial Coverage" is amended to read as follows:

§ 83.22 Limits of coverage and number of applications required.

The Commercial Crime Insurance Policy may be written in amounts not less than \$1,000 and not in excess of \$15,000 for each insured premises. The maximum limit may not be increased (a) by insuring several departments of a single business or institution at one insurable premises as separate premises, or (b) by establishing separate businesses for different portions of business operations having a common

majority ownership which are located at one insurable premises. Each \$1,000 of insurance or fraction thereof shall be charged the applicable rate for the full \$1,000 of insurance coverage. Insurable premises is defined as one premises or portion thereof utilized for the purpose of conducting the business of the insured. Two or more buildings which are adjoining and have a common connecting door or passageway are considered one building and should be included in one application. Multiple rooms or floors within one building are considered one premises and should be specifically enumerated on one application. Physically separate buildings or portions thereof must be covered on separate applications using the appropriate IRS number, with a different suffix on each application, in order to identify multiple premises of one business. The commercial policy form must be used by a business for residential properties owned or leased by said business, incorporated or otherwise and for model homes. Such risks must meet commercial protective device requirements. If an insured shares a premises with one or more other businesses but there is no physical

barrier meeting protective device requirements to separate the business, the insured is entitled to coverage with limitations as described in §§ 82.5(i) and 83.22.

12. b. Section 83.23 is revised to read as follows:

§ 83.23 Amount of commercial policy deductible.

(a) The Commercial Crime Insurance Policy for industrial and commercial risks shall be subject to a deductible in the following amounts for each loss occurrence or 5 percent of the gross amount of the loss, whichever is greater, in accordance with the following categories of annual gross receipts (or operating budget, if applicable):

Less than \$299,999	\$250
\$300,000 to \$499,999	350
\$500,000 and above	500

(b) The Commercial Crime Insurance Policy for non-profit or public property risks shall be subject to a deductible in the amount of \$250 for each loss occurrence or 5 percent of the amount of loss, whichever is greater.

13. a. Section 83.24 is revised to read as follows:

§ 83.24 Classification of commercial risks.

(a) The governing factor in determining the risk classification applicable to a particular premises is the kind of business conducted by the insured at that location. If there are several types of merchandise applicable to the risk, the highest classification of merchandise inventoried and held for sale governs. For example, a business with the following types of merchandise inventoried, 60% handbags and wigs and 40% fine jewelry, shall be classified as Class 3 Fine Jewelry.

Any change in classification must be reported to the insurer through the servicing company.

(b) Individual concessionaires operating within a premises are classified according to the business or merchandise of the concessionaire.

(c) Warehouses and/or other storage areas shall take the classification of the merchandise or inventory comprising the majority value of the contents.

(d) The following business classifications shall be applicable to the Commercial Crime Insurance Policy:

SCHEDULE 1.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES

Annual premium for—class 1, gross receipts	Amount of coverage											
	\$1,000 options			\$2,000 options			\$3,000 options			\$4,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	120	72	60	228	136	114	324	194	162	408	244	204
25,000-49,999	120	72	60	228	136	114	324	194	162	408	244	204
50,000-99,999	120	72	60	228	136	114	324	194	162	408	244	204
100,000-299,999	180	108	90	342	206	172	486	292	244	612	368	306
300,000-499,999	240	144	120	456	274	228	648	388	324	816	490	408
500,000-999,999	300	180	150	570	342	286	810	486	406	1,020	612	510
1,000,000-1,499,999	480	288	240	912	548	456	1,296	778	648	1,632	980	816
1,500,000-1,999,999	540	324	270	1,026	616	514	1,458	874	730	1,836	1,102	918
2,000,000-2,499,999	600	360	300	1,140	684	570	1,620	972	810	2,040	1,224	1,020
2,500,000-2,999,999	660	396	330	1,254	752	628	1,782	1,070	892	2,244	1,346	1,122
3,000,000-3,499,999	840	504	420	1,596	958	798	2,268	1,360	1,134	2,856	1,714	1,428
3,500,000-3,999,999	900	540	450	1,710	1,026	856	2,430	1,458	1,216	3,060	1,836	1,530
4,000,000-4,999,999	1,080	648	540	2,052	1,232	1,026	2,916	1,750	1,458	3,672	2,204	1,836

Annual premium for class—1, gross receipts	Amount of coverage											
	\$5,000 options			\$6,000 options			\$7,000 options			\$8,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	480	288	240	540	324	270	588	352	294	624	374	312
25,000-49,999	480	288	240	540	324	270	588	352	294	624	374	312
50,000-99,999	480	288	240	540	324	270	588	352	294	624	374	312
100,000-299,999	720	432	360	810	486	406	882	530	442	936	562	468
300,000-499,999	960	576	480	1,080	648	540	1,176	708	588	1,248	748	624
500,000-999,999	1,200	720	600	1,350	810	678	1,470	882	736	1,560	936	780
1,000,000-1,499,999	1,920	1,152	960	2,160	1,296	1,080	2,382	1,412	1,176	2,496	1,498	1,248
1,500,000-1,999,999	2,160	1,296	1,080	2,430	1,458	1,216	2,646	1,588	1,324	2,808	1,684	1,404
2,000,000-2,499,999	2,400	1,440	1,200	2,700	1,620	1,350	2,940	1,764	1,470	3,120	1,872	1,560
2,500,000-2,999,999	2,640	1,584	1,320	2,970	1,782	1,486	3,234	1,940	1,618	3,432	2,060	1,716
3,000,000-3,499,999	3,360	2,016	1,680	3,780	2,268	1,890	4,116	2,470	2,058	4,368	2,620	2,184
3,500,000-3,999,999	3,600	2,160	1,800	4,050	2,430	2,028	4,410	2,646	2,208	4,680	2,808	2,340
4,000,000-4,999,999	4,320	2,592	2,160	4,860	2,916	2,430	5,292	3,176	2,646	5,616	3,370	2,808

SCHEDULE I.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES—CONTINUED

Annual premium for—class 1, gross receipts	Amount of coverage											
	\$9,000 options			\$10,000 options			\$11,000 options			\$12,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	648	388	324	660	396	330	666	400	334	672	404	336
25,000-49,999	648	388	324	660	396	330	666	400	334	672	404	336
50,000-99,999	648	388	324	660	396	330	666	400	334	672	404	336
100,000-299,999	972	584	486	990	594	496	1,000	600	500	1,008	604	504
300,000-499,999	1,296	778	648	1,320	792	660	1,332	800	666	1,344	808	672
500,000-999,999	1,820	972	810	1,850	990	826	1,866	1,000	832	1,880	1,008	840
1,000,000-1,499,999	2,592	1,556	1,296	2,640	1,584	1,320	2,664	1,596	1,332	2,688	1,612	1,344
1,500,000-1,999,999	2,916	1,750	1,458	2,970	1,782	1,486	2,998	1,798	1,498	3,024	1,814	1,512
2,000,000-2,499,999	3,240	1,944	1,620	3,300	1,980	1,650	3,330	1,998	1,666	3,360	2,016	1,680
2,500,000-2,999,999	3,564	2,136	1,762	3,630	2,178	1,816	3,664	2,198	1,832	3,696	2,218	1,848
3,000,000-3,499,999	4,536	2,722	2,268	4,620	2,772	2,310	4,662	2,798	2,332	4,704	2,822	2,352
3,500,000-3,999,999	4,860	2,916	2,430	4,950	2,970	2,417	4,996	2,998	2,498	5,040	3,024	2,520
4,000,000-4,999,999	5,832	3,500	2,916	5,940	3,564	2,970	5,994	3,596	2,998	6,048	3,628	3,024

Annual premium for class—1, gross receipts	Amount of coverage								
	\$13,000 options			\$14,000 options			\$15,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	678	406	340	684	410	342	690	414	348
25,000-49,999	678	406	340	684	410	342	690	414	348
50,000-99,999	678	406	340	684	410	342	690	414	348
100,000-299,999	1,018	610	508	1,026	616	514	1,036	622	518
300,000-499,999	1,356	814	678	1,368	820	684	1,380	828	690
500,000-999,999	1,696	1,018	848	1,710	1,026	858	1,726	1,036	862
1,000,000-1,499,999	2,712	1,626	1,356	2,736	1,642	1,368	2,760	1,666	1,380
1,500,000-1,999,999	3,052	1,832	1,526	3,078	1,848	1,540	3,106	1,864	1,552
2,000,000-2,499,999	3,390	2,034	1,696	3,420	2,052	1,710	3,450	2,070	1,726
2,500,000-2,999,999	3,730	2,238	1,864	3,762	2,258	1,882	3,798	2,278	1,898
3,000,000-3,499,999	4,746	2,848	2,374	4,788	2,872	2,394	4,830	2,898	2,416
3,500,000-3,999,999	5,086	3,052	2,542	5,130	3,078	2,568	5,176	3,106	2,588
4,000,000-4,999,999	6,102	3,662	3,052	6,156	3,694	3,078	6,210	3,726	3,106

Option (1) Burglary and robbery coverage in uniform amount.

Option (2) Robbery only coverage.

Option (3) Burglary only coverage.

The rate for option (4) consists of the sum of the rates for the selected amount of coverage under options (2) and (3).

NOTE.—Consult servicing company for rate information if gross receipts are in excess of \$5 million.

SCHEDULE 2.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES

Annual premium for—Class 2, gross receipts	Amount of coverage											
	\$1,000 options			\$2,000 options			\$3,000 options			\$4,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	144	86	72	274	164	136	388	232	194	490	294	244
25,000-49,999	144	86	72	274	164	136	388	232	194	490	294	244
50,000-99,999	144	86	72	274	164	136	388	232	194	490	294	244
100,000-299,999	216	130	108	410	246	206	584	350	292	734	440	368
300,000-499,999	288	172	144	548	328	274	778	466	388	990	588	490
500,000-999,999	360	216	180	684	410	342	972	584	486	1,224	734	612
1,000,000-1,499,999	578	346	286	1,094	656	548	1,556	934	778	1,958	1,174	980
1,500,000-1,999,999	648	388	324	1,232	740	616	1,750	1,050	874	2,204	1,322	1,102
2,000,000-2,499,999	720	432	360	1,368	820	684	1,944	1,166	972	2,448	1,468	1,224
2,500,000-2,999,999	792	478	396	1,504	902	752	2,138	1,282	1,070	2,692	1,616	1,346
3,000,000-3,499,999	1,008	604	504	1,916	1,150	958	2,722	1,634	1,360	3,428	2,056	1,714
3,500,000-3,999,999	1,080	648	540	2,052	1,232	1,026	2,916	1,750	1,458	3,672	2,204	1,836
4,000,000-4,999,999	1,296	778	648	2,462	1,478	1,232	3,500	2,100	1,750	4,406	2,644	2,204

Annual premium for—class 2, gross receipts	Amount of coverage											
	\$5,000 options			\$6,000 options			\$7,000 options			\$8,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	576	346	286	648	388	324	706	424	352	748	448	374
25,000-49,999	576	346	286	648	388	324	706	424	352	748	448	374
50,000-99,999	576	346	286	648	388	324	706	424	352	748	448	374
100,000-299,999	864	518	432	972	584	486	1,058	634	530	1,124	674	562
300,000-499,999	1,152	692	576	1,296	778	648	1,412	848	706	1,498	898	748
500,000-999,999	1,440	864	720	1,620	972	810	1,764	1,058	882	1,872	1,124	936
1,000,000-1,499,999	2,304	1,382	1,152	2,592	1,556	1,296	2,822	1,694	1,412	2,996	1,798	1,498
1,500,000-1,999,999	2,592	1,556	1,296	2,916	1,750	1,458	3,176	1,906	1,588	3,370	2,022	1,654
2,000,000-2,499,999	2,880	1,728	1,440	3,240	1,944	1,620	3,528	2,116	1,764	3,744	2,246	1,872
2,500,000-2,999,999	3,168	1,900	1,584	3,564	2,138	1,782	3,880	2,328	1,940	4,118	2,470	2,060
3,000,000-3,499,999	4,032	2,420	2,016	4,536	2,722	2,268	4,940	2,964	2,470	5,242	3,146	2,620
3,500,000-3,999,999	4,320	2,592	2,160	4,860	2,916	2,430	5,292	3,176	2,646	5,616	3,370	2,808

SCHEDULE 2.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES—Continued

Annual premium for—class 2, gross receipts	Amount of coverage											
	\$5,000 options			\$6,000 options			\$7,000 options			\$8,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
4,000,000-4,999,999	5,184	3,110	2,592	5,832	3,500	2,916	6,350	3,810	3,176	6,740	4,044	3,370

Annual premium for—class 2, gross receipts	Amount of coverage											
	\$9,000 options			\$10,000 options			\$11,000 options			\$12,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	778	466	388	792	476	396	809	480	400	806	484	404
25,000-49,999	778	466	388	792	476	396	800	480	400	806	484	404
50,000-99,999	778	466	388	792	476	396	800	480	400	806	484	404
100,000-299,999	1,166	700	584	1,188	712	594	1,198	718	600	1,210	726	604
300,000-499,999	1,556	934	778	1,584	950	792	1,598	958	800	1,612	968	806
500,000-999,999	1,944	1,166	972	1,980	1,188	990	1,998	1,198	1,000	2,016	1,210	1,006
1,000,000-1,499,999	3,110	1,866	1,556	3,168	1,900	1,584	3,196	1,918	1,598	3,226	1,936	1,612
1,500,000-1,999,999	3,500	2,100	1,750	3,564	2,136	1,782	3,596	2,158	1,798	3,628	2,176	1,814
2,000,000-2,499,999	3,888	2,332	1,944	3,960	2,376	1,980	3,996	2,398	1,998	4,032	2,420	2,016
2,500,000-2,999,999	4,276	2,566	2,136	4,350	2,614	2,178	4,396	2,636	2,198	4,436	2,662	2,218
3,000,000-3,499,999	5,444	3,266	2,722	5,544	3,326	2,772	5,594	3,356	2,798	5,644	3,386	2,822
3,500,000-3,999,999	5,832	3,500	2,916	5,940	3,564	2,970	5,994	3,598	2,998	6,048	3,628	3,024
4,000,000-4,999,999	6,998	4,198	3,500	7,128	4,276	3,564	7,192	4,316	3,596	7,258	4,354	3,628

Annual premium for—class 2, gross receipts	Amount of coverage											
	\$13,000 options			\$14,000 options			\$15,000 options					
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	814	488	406	820	492	410	828	496	414	836	496	414
25,000-49,999	814	488	406	820	492	410	828	496	414	836	496	414
50,000-99,999	814	488	406	820	492	410	828	496	414	836	496	414
100,000-299,999	1,220	732	610	1,232	740	616	1,242	746	622	1,252	752	628
300,000-499,999	1,628	976	814	1,642	986	820	1,656	994	828	1,670	1,002	836
500,000-999,999	2,034	1,220	1,018	2,052	1,232	1,026	2,070	1,242	1,036	2,088	1,252	1,046
1,000,000-1,499,999	3,254	1,952	1,628	3,284	1,970	1,642	3,312	1,988	1,656	3,340	1,996	1,670
1,500,000-1,999,999	3,662	2,196	1,832	3,694	2,216	1,846	3,726	2,236	1,864	3,758	2,256	1,884
2,000,000-2,499,999	4,068	2,440	2,034	4,104	2,462	2,052	4,140	2,484	2,070	4,176	2,506	2,088
2,500,000-2,999,999	4,474	2,684	2,238	4,514	2,708	2,258	4,554	2,732	2,278	4,594	2,756	2,298
3,000,000-3,499,999	5,896	3,418	2,848	5,946	3,448	2,872	5,996	3,478	2,898	6,046	3,508	2,924
3,500,000-3,999,999	6,102	3,682	3,052	6,156	3,694	3,078	6,210	3,726	3,106	6,264	3,754	3,134
4,000,000-4,999,999	7,322	4,394	3,662	7,388	4,432	3,694	7,452	4,472	3,726	7,516	4,512	3,758

Option (1) Burglary and robbery coverage in uniform amount.

Option (2) Robbery only coverage.

Option (3) Burglary only coverage.

The rate for option (4) consists of the sum of the rates for the selected amount of coverage under options (2) and (3).

NOTE.—Consult servicing company for rate information if gross receipts are in excess of \$5 million.

SCHEDULE 3.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES

Annual premium for—class 3, gross receipts	Amount of Coverage											
	\$1,000 options			\$2,000 options			\$3,000 options			\$4,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	168	100	84	320	192	160	454	272	226	572	344	286
25,000-49,999	168	100	84	320	192	160	454	272	226	572	344	286
50,000-99,999	168	100	84	320	192	160	454	272	226	572	344	286
100,000-299,999	252	152	128	478	288	240	680	408	340	856	514	426
300,000-499,999	336	202	168	638	382	320	908	544	454	1,142	686	572
500,000-4,999,999	420	252	210	798	478	400	1,134	680	56	1,428	856	714
1,000,000-1,499,999	672	404	336	1,276	786	638	1,814	1,088	908	2,284	1,370	1,142
1,500,000-1,999,999	756	454	378	1,436	862	718	2,042	1,226	1,022	2,570	1,542	1,286
2,000,000-2,499,999	840	504	420	1,596	958	798	2,288	1,360	1,134	2,856	1,714	1,428
2,500,000-2,999,999	924	554	462	1,756	1,054	878	2,494	1,496	1,248	3,142	1,886	1,570
3,000,000-3,499,999	1,176	706	588	2,234	1,340	1,118	3,176	1,906	1,588	3,998	2,398	2,000
3,500,000-3,999,999	1,260	756	630	2,394	1,436	1,198	3,402	2,042	1,702	4,284	2,570	2,142
4,000,000-4,999,999	1,512	908	756	2,872	1,724	1,436	4,082	2,450	2,042	5,140	3,084	2,570

Annual premium for—class 3, gross receipts	Amount of coverage											
	\$5,000 options			\$6,000 options			\$7,000 options			\$8,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	672	404	336	756	454	378	824	494	412	874	524	436
25,000-49,999	672	404	336	756	454	378	824	494	412	874	524	436

SCHEDULE 3.—FEDERAL CRIME INSURANCE PROGRAM, PART IV—COMMERCIAL CRIME INSURANCE RATES—Continued

Annual premium for—class 3, gross receipts	Amount of coverage											
	\$5,000 options			\$6,000 options			\$7,000 options			\$8,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
50,000-99,999	672	404	336	756	454	378	824	494	412	874	524	436
100,000-299,999	1,008	604	504	1,134	680	568	1,234	740	618	1,310	786	656
300,000-499,999	1,344	806	672	1,512	908	756	1,646	988	824	1,748	1,048	874
500,000-999,999	1,680	1,008	840	1,890	1,134	946	2,058	1,234	1,030	2,184	1,310	1,092
1,000,000-1,499,999	2,688	1,612	1,344	3,024	1,814	1,512	3,292	1,976	1,646	3,484	2,096	1,748
1,500,000-1,999,999	3,024	1,814	1,512	3,402	2,042	1,702	3,704	2,222	1,852	3,932	2,360	1,966
2,000,000-2,499,999	3,360	2,016	1,680	3,780	2,268	1,890	4,116	2,470	2,058	4,368	2,620	2,164
2,500,000-2,999,999	3,696	2,218	1,848	4,158	2,494	2,080	4,528	2,716	2,264	4,804	2,882	2,402
3,000,000-3,499,999	4,704	2,822	2,352	5,292	3,176	2,646	5,762	3,458	2,882	6,116	3,670	3,058
3,500,000-3,999,999	5,040	3,024	2,520	5,670	3,402	2,836	6,174	3,704	3,088	6,552	3,932	3,276
4,000,000-4,999,999	6,048	3,628	3,024	6,804	4,082	3,402	7,408	4,444	3,704	7,862	4,718	3,932

Annual premium for—class 3, gross receipts	Amount of Coverage											
	\$9,000 options			\$10,000 options			\$11,000 options			\$12,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	908	544	454	924	554	462	932	560	466	940	564	470
25,000-49,999	908	544	454	924	554	462	932	560	466	940	564	470
50,000-99,999	908	544	454	924	554	462	932	560	466	940	564	470
100,000-299,999	1,360	816	680	1,386	832	694	1,400	840	700	1,412	848	708
300,000-499,999	1,814	1,088	908	1,848	1,108	924	1,864	1,118	932	1,882	1,130	940
500,000-999,999	2,268	1,360	1,134	2,610	1,366	1,156	2,332	1,400	1,166	2,352	1,412	1,176
1,000,000-1,499,999	3,628	2,176	1,814	3,696	2,218	1,848	5,130	2,238	1,864	3,764	2,258	1,882
1,500,000-1,999,999	4,082	2,450	2,042	4,158	2,494	2,080	4,196	2,518	2,098	4,234	2,540	2,116
2,000,000-2,499,999	4,536	2,722	2,268	4,820	2,772	2,310	4,662	2,798	2,332	4,704	2,822	2,352
2,500,000-2,999,999	4,990	2,994	2,494	5,062	3,050	2,542	5,128	3,076	2,564	5,174	3,104	2,588
3,000,000-3,499,999	6,350	3,810	3,176	6,468	3,880	3,234	6,526	3,916	3,264	6,586	3,952	3,292
3,500,000-3,999,999	6,804	4,082	3,402	6,930	4,158	3,466	6,994	4,196	3,496	7,056	4,234	3,528
4,000,000-4,999,999	8,164	4,898	4,082	8,316	4,990	4,158	8,392	5,036	4,196	8,468	5,080	4,234

Annual Premium for—class 3 Gross Receipts	Amount of coverage								
	\$13,000 options			\$14,000 options			\$15,000 options		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Less than \$25,000	\$950	\$570	\$476	\$958	\$574	\$478	\$966	\$580	\$484
25,000-49,999	950	570	476	958	574	478	966	580	484
50,000-99,999	950	570	476	958	574	478	966	580	484
100,000-299,999	1,424	854	712	1,456	882	718	1,450	870	724
300,000-499,999	1,898	1,138	950	1,916	1,150	958	1,932	1,160	966
500,000-999,999	2,374	1,424	1,186	2,394	1,430	1,196	2,416	1,450	1,208
1,000,000-1,499,999	3,796	2,278	1,898	3,830	2,298	1,916	3,864	2,318	1,932
1,500,000-1,999,999	4,272	2,584	2,136	4,310	2,586	2,156	4,348	2,608	2,174
2,000,000-2,499,999	4,746	2,848	2,374	4,788	2,872	2,394	4,830	2,898	2,416
2,500,000-2,999,999	5,222	3,134	2,612	5,266	3,160	2,634	5,314	3,188	2,656
3,000,000-3,499,999	6,644	3,986	3,322	6,704	4,022	3,352	6,762	4,058	3,382
3,500,000-3,999,999	7,120	4,272	3,560	7,182	4,310	3,592	7,246	4,348	3,622
4,000,000-4,999,999	8,542	5,126	4,272	8,618	5,170	4,310	8,694	5,216	4,348

Option (1) Burglary and robbery coverage in uniform amount.

Option (2) Robbery only coverage.

Option (3) Burglary only coverage.

The rate for option (4) consists of the sum of the rates for the selected amount of coverage under options (2) and (3).

NOTE.—Consult servicing company for rate information if gross receipts are in excess of \$5 million.

Premium			Alarm type	Premium			Alarm type	Premium			Alarm type
Code	Class	Description		Code	Class	Description		Code	Class	Description	
A1	2	All risks not otherwise classified	2	44	2	Gift stores—(costume jewelry \$25.00 wholesale limit)—retail/wholesale/mfg.	2	60	2	Stationery/books/printing/engraving/paper-plastic products—retail/wholesale/mfg.	2
02	3	Amusement enterprise	2								
81	2	Antique store	3	15	3	Golf and other sports professionals.	2	27	3	Tavern/bar/lounge	2
C1	3	Art gallery	3	16	3	Grocery stores/delicatessens/health food stores.	2	V1	3	Taxi/limousines (robbery only)	0
33	2	Art supplies—wholesale/retail/mfg.	2	17	3	Guns/ammunition—wholesale/retail/mfg.	1	28	3	Theatre	0
D1	2	Auto parts—no service—wholesale/retail/mfg.	1	46	2	Hardware/houseware—retail/wholesale/mfg.	2	29	3	Tobacco dealers—retail	1
03	2	Auto parts sales/service—wholesale/retail/mfg.	3	C2	3	Health clubs/spas/massage parlors.	3	C9	3	Tobacco—wholesale	1
47	2	Beach concession stands/supplies.	2	80	2	Hobby shops/toys/novelty—wholesale/mfg.	2	72	2	Used clothing/shoe repair/thrift shops.	2
32	2	Beauty/barber shops	2	48	2	Hotel/motel/rooming house/apartments.	2	W1	3	Variety stores/department stores.	1
41	2	Beauty and health supplies/cosmetic—wholesale/retail/mfg.	2	01	3	Industrial materials/iron and metal work—wholesale/retail/mfg.	2	X1	2	Vending machines—sales/rentals—mfg.	3
C6	3	Beer/wine with food—retail	1	18	3	Jewelry—retail/wholesale/mfg/storage.	1	Y1	3	Wig shops	2
F1	3	Beer/wine—wholesale	1	19	3	Laundries	2				
04	3	Billiard/pool parlors	2	52	2	Leather products—retail/wholesale/mfg.	2				
70	2	Boutiques	2	20	3	Liquor sales—retail	1				
05	2	Bowling lanes/centers/skating rinks.	0	P1	3	Liquor—wholesale	1				
34	2	Building contractors/material—retail/wholesale/mfg.	2	37	2	Marine/aircraft materials—sales/service—retail/wholesale/mfg.	2				
06	3	Cameras/photo supplies/film processing—wholesale/retail/mfg.	1	21	2	Meat/poultry/fish dealers	2				
43	2	Candy/nuts stores—retail/wholesale	2	54	2	Medical (doctors, dentist, etc.) supplies—wholesale/retail/mfg.	2				
G1	3	Check cashing agency/money exchange—collectors.	3	Q1	2	Motorbikes/bicycles/mopeds	3				
J1	1	Churches, charities, non-profit organizations and public properties.	0	56	2	Music stores/instruments/supplies—wholesale/retail/mfg.	2				
36	2	Clothing apparel/children 12 and under—retail/wholesale.	2	77	2	Nursing Homes/Convalescent	2				
11	3	Clothing manufacturer/tailoring	3	C3	2	Office supplies/business machines/equipment—retail/wholesale/mfg.	2				
22	3	Clothing/men's (age 12 and over)—wholesale/retail	1	58	2	Parking lots/rental cars/car wash/taxi offices.	2				
30	3	Clothing/women's (age 12 and over)—wholesale/retail	1	23	3	Pawn brokers	1				
07	3	Clubs (serving alcoholic beverages).	3	76	2	Pet stores/kennels—supplies	2				
K1	2	Coin/stamp shop	2	R1	2	Photographers studios	2				
08	3	Discos/dance halls/pavilions	3	S1	3	Precious metals/electroplating—storage.	1				
50	2	Distributors—variety/non-alcoholic beverages.	2	C8	3	Precious metals/electroplating—mfg/wholesale/retail.	1				
C5	2	Donut/pastry/coffee/ice cream/shop seated service.	0	74	2	Professional/specialized services (lawyers, accountants etc./couriers, housekeeping etc.).	2				
09	3	Drug stores and druggist's sundries.	1	24	3	Radio/TV/stereo/electronic equipment/computers—wholesale/retail/mfg.	1				
L1	3	Drugs wholesale	1	C4	2	Radio/TV/stereo/electronic equipment/computers—service only.	3				
10	3	Dry cleaners	2	62	2	Realty/insurance/travel/employment (agencies).	2				
38	2	Dry goods/textile/sewing material—retail/wholesale/mfg.	2	T1	3	Record shop	1				
11	3	Electrical appliances/apparatus/parts—wholesale/retail/mfg.	1	25	3	Restaurant/caterer	3				
E1	2	Fast food/bakery/donut/ice cream—carryout only.	0	26	3	Savings/loans/banks and other financial institutions excluding check cashing.	3				
39	2	Fine arts (porcelain, ivory, oriental rugs, paintings, etc.).	2	66	2	Schools (profit) day care centers/studios.	2				
78	2	Flea markets/auction houses	2	64	2	Security locksmiths/alarms—retail/wholesale/mfg.	2				
40	2	Florist—wholesale/retail	2	68	2	Shoe stores—retail/wholesale/mfg.	2				
M1	3	Food stuffs wholesale	1	H1	3	Specialized clothing (sportswear/lingerie/accessories, etc.)—wholesale/retail/mfg.	2				
N1	2	Fruit/vegetable/news paper stands.	0	U1	3	Sports goods—general—wholesale/retail/mfg.	3				
45	2	Funeral homes	2								
42	2	Furniture/home furnishings/floor covering/upholstery/new/used—retail/wholesale/mfg.	2								
12	3	Furriers—retail/wholesale/mfg/storage.	1								
13	3	Garages/auto repair/body shops.	2								
14	3	Gasoline service station/fuel dealers.	1								

14. A new section to be designated Section 83.24a entitled "Gross Receipts" is added.

§ 83.24a Gross Receipts.

The annual gross receipts figure of a business is used as a significant factor in calculating the annual premium and for determining the deductible applicable to any loss. It is therefore material to the issuance of a policy and must be correctly stated. Misstatement of gross receipts at the time of application or any subsequent renewal will cause the policy to be voided and any claim denied. Gross receipts must be verified at the time of adjustment of any loss. Renewal payment of a Commercial Crime Insurance Policy will not be accepted and the policy renewed unless the current gross receipts figure is submitted with the premium payment. Failure to submit the gross receipts figure may result in a lapse of coverage. The following guidelines are applicable in determining the correct annual gross receipts figure to be reported.

(a) The annual gross receipts figure should be taken from the most recent annual Federal Income Tax Return (or comparable tax return in Puerto Rico and Virgin Islands) filed prior to the date of the application or renewal date. The figure is applicable to the policy for a period of one year and the policy can be changed in term to reduce or increase the premium because of a reduction or increase in gross receipts provided there are no incurred claims.

(b) A new business that has not as yet filed an annual Federal Income Tax

Return (or *ventas netas* in Puerto Rico) shall insert an estimated projection of gross sales. However, an applicant is not considered to be a "new business" if any of the owners or officers of the business have been owners or officers of any similar business previously operated at the same address. In such a case the annual gross receipts figure as listed in the most recently filed income tax return of the former business should be used, if available. If such figure is not available, an estimate by the insured's accountant of the annual gross receipts reasonably anticipated during the first year of operation will be accepted.

(c) A non-profit or public entity that has no gross receipts (*ventas netas* in Puerto Rico) or whose annual operating budget exceeds the gross receipts shall report its operating budget rather than gross receipts.

(d) The gross receipts figure for a bank or other financial institution shall be the total income line of the tax return (*ventas netas* in Puerto Rico) as derived from dividends, interest, investment income, capital gains and other income. If several branches of one business are covered, the total income shall be divided equally among the branches insured.

(e) The gross receipts figure (*ventas netas* for Puerto Rico) for a real estate, property management or similar type of business shall be the "Total Income" line of the tax return as derived from interest, rents, capital gains, other, etc.

(f) A warehouse shall report the total gross receipts of the store it supplies. If a warehouse supplies more than one store, it shall report the sum of the gross receipts figures for all the stores it supplies. If more than one warehouse supplies one store, the gross receipts figure applicable to the store shall be apportioned among the warehouses according to the percentage the value of merchandise supplied by each warehouse bears to the total value of merchandise supplied.

(g) If an insured has multiple premises as defined in § 83.22, the gross receipts of the total business shall be divided among the various locations in accordance with the percentage of the total gross receipts generated by each location.

(h) If an insured premises is regularly utilized as a collection center for performing accounting or bookkeeping functions with respect to the receipts delivered from two or more other premises, resulting in the accumulation of the combined receipts from such other premises at one location, the gross receipts for such location shall be determined by using the sum of the

gross receipts amounts of all the other premises from which receipts are received. Further, if such insured premises is regularly utilized as a collection center at which there is accumulated money or property for distribution to one or more other insured premises, the gross receipts for such location shall be determined by using the sum of the gross receipt amounts of all the other insured premises to which distribution is made.

(i) Any questions regarding gross receipts should be referred to the servicing company listed in § 80.6 of this chapter.

15. Section 83.25 is revised to read as follows:

§ 83.25 Commercial crime insurance rates.

(a) Premium rates for Commercial Crime Insurance Policies for risks having annual gross receipts of less than \$5,000,000 shall be determined by reference to the rate charts contained in paragraph (f) of this section. The annual gross receipts shall be determined in accordance with Section 83.24(a).

(b) Option 1. An applicant may apply for insurance coverage under all of the Insuring Agreements I, II, III, IV, V, VI, and VII of the Commercial Crime Insurance Policy. Agreements I and II deal with Robbery and Observed Theft Inside and Outside the Premises. Agreement III and IV deal with Safe Burglary and Theft from a Night Depository. Agreements V deals with Burglary and Robbery of a Watchman and Agreement VI deals with Damage. Agreement VII limits coverage to losses occurring within the several states, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions and the Trust Territory of the Pacific Islands. This package provides a uniform limit of coverage for all Agreements and is referred to as Option 1.

(c) Option 2. An applicant may apply for insurance coverage under only Insuring Agreements I, II, VI, and VII of the Commercial Policy dealing with Robbery and Observed Theft inside and outside the premises and Damage resulting from losses under Insuring Agreements I and II only. Such coverage shall be referred to as Option 2.

(d) Option 3. An applicant may apply for insurance coverage under only Insuring Agreements III, IV, V, VI, and VII of the Commercial Policy dealing with Safe Burglary, Theft from Night Depository, and Burglary or Robbery of a Watchman, and Damage resulting from losses under Insuring Agreements III and V only. Such coverage shall be referred to as Option 3.

(e) Option 4. An applicant may apply for varying limits of insurance coverage under both Option 2 and Option 3 but only in the same policy. Both Options 2 and 3 must be applied for at the same time. If one of these options has already been selected the other option may be added upon a renewal or upon rewriting the original policy to add the new option.

(f) The following rate tables shall be used to determine rates for risks having annual gross receipts of less than \$5 million annually:

(g) The following procedure shall be used to determine the annual premium rates for commercial risks having annual gross receipts in excess of \$5 million. § 83.24(a) should be referred to for determination of gross receipts (*ventas netas* for Puerto Rico) or operating budget.

Coverage	\$5,000,000 plus
\$1,000	0.0005
\$2,000	0.00085
\$3,000	0.00135
\$4,000	0.0017
\$5,000	0.002
\$6,000	0.00225
\$7,000	0.00245
\$8,000	0.0026
\$9,000	0.0027
\$10,000	0.00275
\$11,000	0.002775
\$12,000	0.0028
\$13,000	0.002825
\$14,000	0.00285
\$15,000	0.002875

For Option 1: Gross Receipts $\times$ the Appropriate Factor.

For Option 2: Option 1 $\times$ 0.6 (Robbery).

For Option 3: Option 1 $\times$ 0.5 (Burglary).

For Option 4: Add Option 2 and Option 3.

PART 84—CLASSIFICATION OF TERRITORIES [REMOVED]

15. This part is deleted in its entirety.

(Title XII of the Housing and Urban Development Act of 1969 (Public Law 90-488, 88 Stat. 476); Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and Delegation of Authority to Federal Insurance Administrator (44 FR 20963))

Issued date: April 22, 1982.

Jeffrey S. Bragg,
Administrator, Federal Insurance
Administration.

[FR Doc. 82-12125 Filed 5-4-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 90

[PR Docket No. 79-335; FCC 82-132]

Private Land Mobile Radio Services; Amendment of the Commission's Rules Concerning Mobile Station, Control Point and Control Station Authorization Procedures for Common User Systems for a Certain MHz Frequency

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules and regulations in Part 90—Private Land Mobile Radio Service, by adopting a new temporary licensing procedure for special mobile radio systems (SMRS's) and multiple licensed mobile relay stations operating in the 806-821 and the 851-866 megahertz (MHz) bands. This new system of licensing will benefit radio users by enabling them to begin operations more quickly than in the past, and will not in any way lessen the ability of the Commission to determine whether an applicant is eligible and otherwise possesses the necessary qualifications to be permanently licensed to operate in these bands. This new system is a part of the Commission's on-going program for reviewing its rules and regulations and eliminating unnecessary burdens on licensees to facilitate the administration of the Private Land Mobile Radio Service.

DATES: Effective May 13, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Radio, Specialized Mobile Radio Systems (SMRS).

Adopted: March 18, 1982.

Released: April 6, 1982.

Report and Order

In the matter of amendment of § 90.397 of the Commission's rules concerning mobile station, control point and control station authorization procedures for 800 MHz common user systems.

Introduction

1. On January 11, 1980, the Commission released a Notice of Proposed Rule Making, PR Docket No. 79-335, FCC 79-856, proposing the option of "fleet licensing" for 800 MHz specialized mobile radio systems (SMRS's). This proposal was made as part of the Commission's on-going program for reviewing its rules and eliminating unnecessary burdens on licensees in order to facilitate its administration of the private land mobile radio services.

2. Under our existing licensing procedures, a person seeking to operate an SMRS facility must file an application for the base station facility. Thereafter, each user of the SMRS base station must file a separate application for his/her proposed facilities. (i.e., mobile stations and control stations or control points). This constitutes what has commonly been called a "two-tier" licensing format at 800 MHz; one tier being the license for the operation of an SMRS base facility, and the other tier being the licenses for end user systems associated with the SMRS base facility. This "two-tier" method of licensing has been used for both conventional and trunked SMRS facilities and end user systems since the 800 MHz spectrum became available.

3. For a conventional single channel SMRS facility, there may be ten or more end user systems for which ten or more sets of applications must be submitted. For a 20-channel trunked SMRS facility, having a capacity for up to 2,000 mobile units, we may require 200 or more applications.

4. Each person seeking to use an existing licensed SMRS facility must await the processing of his or her application before operation on the SMRS may commence. This docket proposed the alternative of "fleet licensing" to eliminate this built-in waiting period for the initiation of service.

5. "Fleet licensing" is a proposed option whereby the SMRS base station licensees would also be authorized for all associated mobile stations, control stations and control points. The Commission proposed to permit this option by amending §§ 90.359 and 90.397 (47 CFR Parts 359 and 397) of the rules to delete the requirement that users of 800 MHz commercial common user systems must be separately authorized for associated mobile stations, control stations and control points. Deletion of this requirement would allow the licensee of the SMRS facility to elect between the "two tier" licensing format, described above, or, alternatively, to

choose a system which shifts to the SMRS facility licensee all licensee responsibility for the SMRS's operation. This latter approach would impose on the SMRS licensee the obligation of insuring that all facilities are only used by entities which are eligible under our rules and would place on the SMRS licensee the burden of assuring that all uses of the system are in accordance with the requirements of Part 90 of the Commission's rules (47 CFR 90.1-90.560).

Comments

6. Bell Communications, Inc. (Bell), American Radio-Telephone Service, Inc. (ARTS), Advanced Mobile Radiotelephone Services, Inc. (Advanced), Cal-Ag Communications, Inc. (Cal-Ag), Mid-Valley Communications (Mid-Valley), Pentacom Corporation (Pentacom), Sunset Electronics (Sunset), R.C.S., Inc. (RCS), James E. Treatch (Treatch), Radio Broadcasting Company (RBC), Kokusai Electric Company of America (Kokusai), the California Mobile Radio Association (now the National Mobile Radio Association, hereinafter NMRA) and the General Electric Company (GE) have submitted comments in support of the rule amendments proposed in this docket.¹ Communications Systems Specialists, Inc. (CCS), Suburban Communications, Inc. (Suburban), Telocator Network of America (TNA), Communications Specialists, Inc. (CSI), Maximum Service Telecasters, Inc. (MST), the National Association of Business and Educational Radio, Inc. (NABER), Motorola, Inc. (Motorola), and General Communications, Inc. (GCI) have submitted comments opposing the rule amendments proposed in this docket.² The RCA Corporation (RCA) filed reply comments opposing the proposed rule amendments. GE, Motorola, NMRA and MST also filed reply comments. The docket also contains summaries of oral *ex parte* presentations.

7. Generally, comments supporting the proposed rule making stated:

(1) Speed of licensing service at 800 MHz would be increased by fleet licensing;

(2) Users at 800 MHz would be accommodated more quickly;

(3) Private Radio Bureau (PRB) personnel presently processing 800 MHz

¹ While generally in favor of the proposed rule amendments, ARTS and GE each raise a single particular concern. ARTS expressed concern about the realistic power of SMRS operators to enforce user compliance. GE expressed concern about the appropriate effective date.

² The comments of GCI, although filed untimely by one business day, are hereby accepted for filing.

user applications would be freed to reduce other backlogs;

(4) Additional paperwork and record keeping requirements for SMRS operators would be minimal;

(5) SMRS operators supporting this rule making stand ready to accept responsibility for proper operation of their radio "fleet," including the duty to insure that SMRS end users are eligible for SMRS service (viewing such a responsibility as entirely consistent with an SMRS licensee's financial interest in the system); and

(6) Adoption of these amendments promotes 800 MHz trunked system use and, concomitantly, promotes 800 MHz spectrum efficiency.

8. Generally, comments opposing the proposed rule making stated:

(1) Single-tier "fleet" licensing may be violative of the Communications Act of 1934, as amended, of the Commission's rules, or of the holding in *National Association of Regulatory Utility Commissioners v. F.C.C.*, 525 F.2d 630, 173 U.S. App. D.C. 413, cert. denied 425 U.S. 992, 96 S.Ct. 2203, 48 L. Ed. 2d 816 (1976) (*NARUC I*), because such a licensing structure may "convert" certain types of 800 MHz systems into common carriers;

(2) The proposed licensing structure improperly delegates Federal Communications Commission (F.C.C.) licensing and enforcement functions;

(3) An SMRS operator has no practical method of determining or enforcing user compliance with F.C.C. rules;

(4) Such a licensing system unfairly subjects SMRS operators to penalties for the acts of others (i.e., the SMRS users);

(5) "Point of sale licensing" results in expensive equipment stocking and financial burden to suppliers;

(6) Immediate user access "degrades" the 800 MHz services "to a level comparable to the Citizens Band Radio Service;"

(7) Such a system gives unscrupulous individuals a "go-ahead" for paper loading; and

(8) the benefits of the proposed rule changes are minimal.

9. In addition to the objections set forth in paragraph six, which were common to many comments opposing this rule making, some comments raised other issues. MST questioned whether less-than-rigorous examination of user eligibility by the FCC will result in frequency shortages due to ineligible users, suggesting, alternatively, that there be a thirty day user eligibility review period. GE believes any effective date must provide a six-month lead time to allow SMRS operators to convert to inventory stockpiling and to implement procedures to assure that licensed

stations are lawfully used. Both NABER and Motorola question whether "fleet" licensing is in keeping with the historic treatment of the Private Radio services. NABER raises two additional issues:

(1) Whether possible action in this proceeding is contrary to concern expressed in PR Docket 79-107 that all responsible parties in a Private Radio system be licensed for enforcement purposes³ and

(2) Whether the analogies of time brokering and cooperative use discussed in the NPRM have validity in this context.

TNA questions how processing time for 800 MHz applications can be decreased if the operator must still submit user information.

NMRA proposes, as an alternative to fleet licensing, temporary licensing, such as that adopted for multiple license facility "add-on" users in the Business Radio Service.⁴ NMRA suggests that within such a scheme the temporary licenses could automatically mature into permanent licenses or, instead the Commission could issue permanent licenses to replace temporary licenses.

10. Both TNA and Motorola question:

(1) Whether the contemplated rule changes require a change in § 90.355(c) of the Rules, and

(2) Whether the contemplated rule changes create confusion regarding the interconnection rules, particularly § 90.389.

Motorola raises additional concerns relative to particular rule and application requirements, should "fleet licensing" be adopted:

(1) Whether "fleet" licensees should be held responsible for the output power of user control station transmitters;

(2) Whether users' statements made to the SMRS and submitted to the Commission will be subject to the provisions of 18 U.S.C. § 1001;

(3) The equitability of applying §§ 90.359(b), 90.377(d) and 90.391(g) of the Rules, which impose loading criteria and which impose alternate channel assignment where such criteria are not met, to SMRS "fleet" operations;

(4) *Ashbacker* rights relating to channels reassigned for failure to meet loading criteria in instances of "fleet licensing" applications, cf. *Ashbacker Radio Corporation v. Federal Communications Commission*, 326 U.S. 327 (1945). See generally 47 CFR 90.363 and 90.377; and

³ Notice of Inquiry, FCC 79-283, PR Docket 79-107, 71 FCC 2d 1391 (1979).

⁴ Report and Order, FCC 80-887, PR Docket No. 79-338 (Sept. 4, 1980), aff'd *Telecom Network of America v. F.C.C. and United States of America* (D.C. Cir. Aug. 14, 1981), Docket No. 80-2182.

(5) Item 3(d) on Form 400-S, a question for applicants intending to use base station facilities furnished by another licensee on a commercial basis, would not be a relevant question to ask a "fleet" license applicant.

Discussion

Fleet Licensing—Legal Validity

11. When we adopted our regulatory approach at 800 MHz for private systems⁵ we concluded that SMRS's were not common carriers. The spectrum allocation proceeding was appealed on many grounds, including the theory that SMRS's as contemplated by the new allocation would be common carriers. In upholding our spectrum allocation, the Court in *NARUC I* held that if SMRS's were to operate as contemplated, they would be lacking one of the three elements essential to common carriage: undertaking indifferently to serve the public.⁶ The Court specifically listed which aspects of SMRS operation it viewed as distinguishing such operation from undertaking indifferently to serve the public. *NARUC I* held that the contemplated nature of the service provided by SMRS's involved "the establishment of medium-to-long-term contractual relations, whereby the SMRS's supply the needs of users for dispatch facilities for a period of time," and as such is not an indifferent holding out to the public because the clientele, in the long run, "might remain relatively stable, with terminations and new clients the exception rather than the rule." *National Association of Regulatory Commissioners v. F.C.C.* supra, at 643. While it appears that these distinguishing characteristics are sufficient to take SMRS service outside of the scope of an indifferent holding out

⁵ *Land Mobile Service*, Docket No. 18262 (Proceeding terminated) 55 FCC 2d 771 (July 16, 1975); *Land Mobile Radio Service*, Memorandum Opinion and Order, Docket No. 18262, 51 F.C.C. 2d 945 (March 19, 1975); *Land Mobile Radio Service*, Second Report and Order, Docket No. 18262, 46 F.C.C. 2d 752 (May 1, 1974); First Report and Order and Second Notice of Inquiry, 35 FR 8644 (May 21, 1970), Docket No. 18262; and Notice of Inquiry and Notice of Proposed Rule Making, *Land Mobile Use of 800-960 MHz Band*, Docket No. 18262, 14 F.C.C. 2d 311 (July 17, 1968).

⁶ For purposes of the Communications Act, a common carrier is "any person engaged as a common carrier for hire . . ." 47 U.S.C. 153(h). Our rules define a common carrier as "any person engaged in rendering communication service for hire to the public." 47 CFR 21.1. It is generally accepted that three elements are essential to classify an entity as a communications common carrier: (1) the entity must provide a communications service; (2) the service must be for hire; and (3) the entity must undertake indifferently to serve the public. *American Tel. and Tel. Co. v. F.C.C.* 572 F.2d 17 (2d Cir. 1978).

to the public, the Court listed additional indicia of service not constituting such a holding out:

(1) SMRS negotiation with and selection of future clients on a highly individualized basis;

(2) SMRS concerns about the personal and operational compatibility of a given applicant vis-a-vis the SMRS operation as a whole; and

(3) Use of methods of operation and use of time demands as criteria for accepting or rejecting an applicant.

12. It is clear that SMRS's adhering to the criteria laid out by the Court in *NARUC I* would not be common carriers. This is so whether or not an SMRS is fleet licensed.⁷ Thus, *NARUC I* clearly provides an SMRS operator with a standard by which the SMRS operator need not be a common carrier under the single tier licensing approach.⁸ And we again emphasize that we were not in our proposal mandating fleet licensing; we were merely considering making it available for those who wished to utilize it.

13. Some comments express concern that fleet licensing would improperly delegate our licensing and policing functions. Under fleet licensing the SMRS operator would be the licensee for the entire system and as such would be required to comply *inter alia* with the

requirements of § 90.403 of the rules. In a somewhat analogous situation licensees of cooperatively shared systems must assure that persons operating under their authorization must comply with all applicable rule requirements. See §§ 90.179, *et seq.* of the rules. There would be no unlawful delegation of our authority in making the licensee of a fleet licensed system responsible for its proper operation in conformity with our rules were we to adopt such a system.

Temporary Licensing—A Policy Alternative

14. Notwithstanding the legal validity of our fleet licensing proposal, we have considered the comments carefully and we are of the view that the alternative proposed by NMRA, *i.e.*, a system of temporary licensing for "add-on" users of SMRS's similar to the temporary licensing system recently adopted in the Business Radio Service, is a preferable alternative to fleet licensing because it not only would permit users of SMRS facilities to commence immediate operation pending formal consideration of their applications, it would also provide the same advantage of expeditious communications to add-on users of multiple licensed systems. Thus, the public benefits we sought to promote would be extended to a much broader class of private land mobile radio services eligibles. Therefore, we conclude the public interest is best served by adopting an approach which facilitates expedited service to would-be licensees on both SMRS's and multiple licensed facilities.

15. Under a system of temporary licensing at 800 MHz, an applicant would mail an application to the Commission for a radio station authorization on the usual application forms.⁹ At the same time, the applicant would be required to complete and keep a second form verifying:

—That the applicant is a subsequent user of an already licensed 800 MHz facility;

—That the applicant is eligible for licensing under 47 CFR 90.355 (a) or (b);¹⁰

⁹ FCC Forms 400 and 400-S; cf. 47 CFR 1.922 and 90.357.

¹⁰ 47 CFR 90.355 (a) and (b) provide:

The following persons are eligible for licensing in the 806–821 MHz and 851–866 MHz bands.

(a) Any person eligible for licensing under Subparts B, C, D or E of this part.

(b) Any person proposing to provide private dispatch service to any person eligible for licensing under Subpart B, C, D, or E of this part on a not-for-profit, cost-shared basis.

- That the applicant is not a representative of a foreign government;
- That a formal application has been completed and mailed or otherwise submitted to the Commission; and
- That the applicant is not the subject of any legal action concerning the operation of a radio station.

Once the regular application is mailed or otherwise submitted to the Commission, the second form would be retained as a permanent part of the applicant's station records and would constitute a valid temporary authorization. The applicant could then begin operating his or her radio station using a temporary call sign made up of the prefix plus the applicant's local seven digit business telephone number. This authority would continue until the Commission acts on the application or up to a maximum of 180 days, whichever period is shorter.

16. Such a temporary licensing proposal at 800 MHz has many distinct advantages over the fleet license proposal originally enunciated in this docket:

(a) Temporary licensing requires no increased responsibility for an SMRS operation, requires no change of the present SMRS licensing structure, yet also achieves the primary goal of this docket—to eliminate the unnecessary burden on applicants of awaiting Commission action on separate end user applications before commencing operation on existing SMRS systems.

(b) Fleet licensing is an option requiring an SMR operator to assume greater system responsibility. End-users of systems having SMRS operators unwilling to fleet license for this reason would not benefit from the add-on feature of a fleet licensed system. On the other hand, temporary licensing provides for prompt add-on of all SMRS end users.

(c) Temporary licensing provisions at 800 MHz permit extension of prompt add-on benefits to applicants for use of multiple licensed mobile relay stations (also known as "community repeaters") operating under Subpart M. Fleet licensing would not provide this benefit.

(d) The approach to temporary licensing proposed by NMRA is consistent with our previous actions implementing temporary licensing in the Business Radio Service, Report and Order, FCC 80–887, PR Docket No. 79–338 (Sept. 4, 1980), *aff'd* Telocator Network of America v. F.C.C. and United States of America (D.C. Cir. August 14, 1981), Docket No. 80–2182, and also with our previous actions implementing temporary licensing in the

⁷ An SMRS choosing not to comport with the test of *NARUC I* does so at its own risk and we specifically stated in Docket No. 18282 that we envisioned an individualized approach to dealing with customers. Land Mobile Radio Service—Memorandum Opinion and Order, Docket No. 18282, 51 FCC 2d 945 (1975) at 966, 970; See Land Mobile Radio Service, Second Report and Order, Docket No. 18282, 46 FCC 2d 752, 765 (1974). Our Rules prohibit SMRS's from rendering a communications common carrier service, 47 CFR 90.415. Opponents of "fleet licensing" contend that under two-tier licensing an SMRS may fail to meet *NARUC I* standards and yet not be a common carrier because it does not provide a communications service. These opponents contend that "fleet licensing" vests SMRS's with additional duties and responsibilities which may make the difference between providing (in the case of "fleet licensing") or not providing (in the case of two-tier licensing) a communications service. While the validity of such a "communications service" analysis is not directly before us in this proceeding, it would not be a basis for rejection of a "fleet licensing" option. SMRS's comporting with *NARUC I* standards avoid classification as common carriers by the nature of their offering—they fail to meet the third test of common carriage (the entity must undertake indifferently to serve the public). Whether they meet the other two tests of common carriage: (1) Providing a communications service (2) for hire, is a question that need not be reached.

⁸ TNA's claim that SMRS's are already common carriers, a position which both we and the Courts have rejected, is completely irrelevant to the question of the propriety of adoption of the proposed amendments. The validity and propriety of the proposed amendments is the concern of this rule-making—the validity of SMRS's themselves and prior rules relating to them is an established fact.

Personal and Marine Radio Services. See Order, 44 FR 5288 (Jan. 16, 1979) FCC 78-846 (1979), *Errata*, 44 FR 8878 (Feb. 1, 1979), and Order, FCC 76-320 (1976).

(e) The adoption of temporary licensing at 800 MHz renders moot the objections raised in the proceeding to the elimination of the two-tier licensing approach.

17. We recognize that temporary licensing might require somewhat more processing resources that fleet licensing would have required. However, even under fleet licensing, much of the information that would otherwise have been contained in an application would still have to be provided to the Commission and processed. Moreover, the number of SMRS's that would have been chosen to fleet license is uncertain.

18. With the addition of a system of temporary licensing at 800 MHz, any paper loading or eligibility misrepresentations can still be considered as they are now, prior to or subsequent to licensing. Because 800 MHz eligibility encompasses a broad cross-section of those otherwise eligible in the land mobile radio services, and in fact includes all local governmental and commercial entities, the risk of allowing an unqualified applicant to operate is minimal. Moreover, even with the addition of a procedure for temporary licensing at 800 MHz, we will continue to grant permanent authorizations only after evaluation of written applications, and only after the requisite public interest determinations have been made.

19. There is little or no likelihood that temporarily licensed add-on users of SMRS's or of multiple licensed mobile relay stations above 800 MHz will cause interference to other users. These temporary licensees merely increase mobile loading on channels using base stations already in operation at previously approved sites. Additionally, the antenna structures involved will already have received any required Federal Aviation Administration clearance—a critically important safety of life consideration.¹¹

Conclusion

20. In view of the foregoing, we conclude that the proposed "fleet licensing" rules set forth in the Notice of Proposed Rule Making should not be adopted. Instead, we conclude that

¹¹ This Report and Order does not make temporary licensing above 800 MHz available within 85 miles of the Mexican border. The Second Report and Order in PR Docket No. 79-191 will include rules governing use of 800 MHz frequencies in the Canadian border area.

adoption of a temporary licensing procedure for SMRS's and multiple licensed mobile relay stations operating in the 806-821 MHz and 851-866 MHz bands will serve the public interest, convenience and necessity and we are adopting the form and the rules set forth in Appendices A and B. This system of licensing will benefit radio users by enabling them to begin operations more quickly than heretofore, and will not in any way lessen our ability to determine whether an applicant is eligible and otherwise possesses the necessary qualifications to be permanently licensed under Subpart M.

21. The new form set forth in Appendix B¹² (FCC Form 577) will replace FCC Form 572, which is now used as a temporary permit to operate a station in the Business Radio Service. FCC Form 577, on the other hand, will be used as a temporary permit for any service for which such permit is available under Part 90. The new form is adopted subject to Office of Management and Budget clearance. Sufficient supplies of the form must be obtained to cover at least initial demand. Unless the public is advised to the contrary, the Rules we here adopt will be effective May 13, 1982.

22. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is ordered that effective May 13, 1982, Parts 1, 2 and 90 of the Commission's Rules are amended as set forth in Appendix A.

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

24. It is further ordered that the Secretary shall cause this Report and Order to be published in the Federal Register.

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

Federal Communications Commission.

William Tricarico,
Secretary.

Appendix A

Parts 1, 2 and 90 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. In § 1.922 a new FCC Form and Title are added to read as follows:

¹² Appendix B (FCC Form 577) was filed as a part of the original document and will not be included in the Code of Federal Regulations.

§ 1.922 Forms to be used.

FCC form	Title
577	Temporary Permit To Operate a Part 90 Radio Station.

2. In § 1.925 a new paragraph (h) is added to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, or interim amateur permit.

(h) An applicant for a Subpart M radio station license to utilize an already existing SMRS facility or to utilize an already licensed transmitter may operate the radio station for a period of up to 180 days, under a temporary permit evidenced by a properly executed certification of FCC Form 577 after the mailing of a formal application for station license, provided that the antenna(s) employed by the control station(s) is (are) a maximum of twenty feet above a man-made structure (other than an antenna tower) to which it (they) is (are) affixed.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. In § 2.302, a new class of station, composition of call sign, and call sign block are added to the table of call signs, to read as follows:

§ 2.302 Call signs.

Class of station	Composition of call sign	Call sign blocks
Part 90 temporary permit.	2 letters, 7 digits.	WT plus local telephone number.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

4. In § 90.357, the existing material is redesignated as paragraph (a), a new paragraph (b) is added to read as follows:

§ 90.357 Forms to be used.

(b) Form 577, Temporary Permit to Operate a Part 90 Radio Station, should be executed if an applicant eligible for a temporary license under Subpart M desires station operation pending

processing of Forms 400 and 400-S (See also § 90.399).

5. Subpart M of Part 90 is amended by the addition of new § 90.399 to read as follows:

§ 90.399 Temporary permit.

An applicant for a Subpart M radio station license to utilize an already existing SMRS facility or to utilize an already licensed transmitter may operate the radio station for a period of up to 180 days, under a temporary permit evidenced by a properly executed certification of FCC Form 577 after the mailing of a formal application for station license, provided that the antenna(s) employed by the control station(s) is (are) a maximum of twenty feet above ground or a maximum of twenty feet above a man-made structure other than an antenna tower to which it (they) is (are) affixed.

6. In Section 90.437 a new paragraph (d) is added to read as follows:

§ 90.437 Posting station licenses.

(d) An applicant operating under a temporary permit authorized in accordance with § 90.399 must retain an executed copy of FCC Form 577 as a permanent part of the station records.

[FR Doc. 82-8836 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 31

[CC Docket No. 79-105; FCC 82-155]

Accounting for Station Connections, Optional Payment Plan Revenues and Related Capital Costs, Customer Provided Equipment and Sale of Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Order on reconsideration and clarification of First Report and Order.

SUMMARY: This document sets forth the Commissions response to a petition for clarification and a petition for reconsideration of its First Report and Order, Commonly known as "Expensing of Station Connections". The First Report and Order, published in the Federal Register at 46 FR 19481, March 31, 1981, adopted changes to the Commissions Rules in Part 31 on uniform system of accounts for Class A and B telephone companies. Both petitioners raised the question of whether, and to what extent the adoption of the First Report and Order limits the discretion of the State commissions to follow different accounting and depreciation procedures

for purposes of computing revenue requirements for intrastate telecommunications services.

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

FOR FURTHER INFORMATION CONTACT: Carl D. Lawson, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 31

Communications common carriers, Telephone, Uniform system of accounts.

Adopted: April 1, 1982.

Released: April 27, 1982.

By the Commission: Commissioners Fogarty and Jones dissenting and issuing a joint statement. Commissioner Rivera dissenting.

1. We have before us a petition for clarification of our *First Report and Order* in this proceeding (85 FCC 2d 818 (1981)) filed by the National Association of Regulatory Utility Commissioners (NARUC) and a petition for reconsideration of that *Report and Order* filed by the People of the State of California and the Public Utilities Commission of the State of California (California). The *First Report and Order*, commonly known as "Expensing of Station Connections," adopted a number of changes in Part 31 of this Commission's Rules (Uniform System of Accounts for Class A and Class B Telephone Companies). The principal changes required that future costs of installing new inside wiring and similar costs be included as an expense in Account 605 (Repair of Station Equipment). Such costs have previously been capitalized in Account 232 (Station Connections). The *First Report and Order* also required that the present net investment in inside wiring and investment that will be added during a transition period be amortized over a period of 10 years. That requirement superseded existing depreciation prescriptions for such investment.

2. Both petitions raise the question of whether, and to what extent, the adoption of the *First Report and Order* limits the discretion of state commissions to follow different accounting and depreciation procedures for purposes of computing revenue requirements for intrastate telecommunications services. NARUC seeks a clarification of the *First Report and Order* declaring that it does not restrict the discretion of the state commissions and California seeks reconsideration of our decision to the extent that it purports to restrict the discretion of state commissions. GTE Service Corporation (GTE) and

American Telephone and Telegraph Company (AT&T) have filed oppositions to the petitions. Those companies contend that the *First Report and Order* does and should restrict the discretion of the state commissions.

3. We have concluded that the *First Report and Order* does not preclude state commissions from using other accounting or depreciation procedures for intrastate ratemaking proceedings. Thus, we are granting the NARUC petition insofar as it seeks such a clarification. In view of our conclusion that state commissions are not precluded from using their own accounting and depreciation procedures for intrastate ratemaking purpose, it is unnecessary to consider further the California petition and it will be dismissed as moot.

I. Nature of the First Report and Order

4. In our Phase II *Final Decision and Order* in Docket 19129, 64 FCC 2d 1, 54-56 (1977), we concluded that it would be desirable to place costs associated with station connections on the causative ratepayer. We accordingly ordered AT&T to submit a plan for changing the accounting treatment of station connection costs that would be consistent with that objective. *Id.* at 110. AT&T responded by filing a petition for rulemaking (RM-3017) that proposed amendments to Part 31 of our Rules. After reviewing that petition, we instituted this proceeding by inviting comments upon a somewhat different proposal to modify accounting for station connections.¹

5. After reviewing the comments, we concluded that any changes in the accounting or other regulatory treatment of station connections should not include drop or block lines and protectors. We also concluded that changes in accounting procedures would not be sufficient in and of themselves to place other station connection costs on the causative ratepayer. This is the case because costs associated with the provision of inside wiring necessarily must be apportioned between the federal and state jurisdictions as long as inside wiring is provided as a tariffed service subject to dual regulation. Complete unbundling cannot be achieved by expensing rather than capitalizing such costs because both the telephone operations investment and telephone operations expenses are apportioned for purposes of computing

¹ Notice of Proposed Rulemaking (CC Docket 79-105), 44 FR 48988 (August 14, 1979). We also invited comment upon some other proposed accounting changes that are closely related to station connections.

an interstate and an intrastate telecommunication service revenue requirement. Complete unbundling could be achieved by determining that the provision of inside wiring should be provided on a detariffed basis. We have, of course, made such a determination with respect to customer premises equipment and have adopted rules to separate that business from the telephone operations that are subject to tariff regulations.² We concluded that it would be premature to adopt such a fundamental change in the regulatory status of inside wiring without conducting further inquiry.

6. Nevertheless, we concluded that changes in accounting and depreciation procedures that would facilitate implementation of any decision to change the regulatory status of inside wiring would be desirable in the absence of such a change. We accordingly issued a *First Report and Order* adopting changes in accounting and depreciation rules and a separate *Further Notice of Inquiry* (86 FCC 2d 885 (1981)) inviting additional comments with respect to possible changes in the regulatory status of inside wiring. The *First Report and Order* does not produce any change in regulatory status. The interstate portion of the embedded net investment will be reflected in the return component of the interstate telecommunication service revenue requirement and the interstate portion of the annual amortization and the new installation expenses will be reflected in the expense component of that revenue requirement. Unless and until we determine that inside wiring should not be provided as part of a tariffed service, the new accounting rules will not have a greater or different effect than any other accounting rules we have prescribed for the purpose of computing the interstate telecommunication service revenue requirement.

7. Insofar as the petitions seek a determination with respect to this Commission's purpose and intent, we conclude that the *First Report and Order* was not intended to have any preemptive effect that does not arise by operation of law. The discussion of the effects of expensing upon intrastate rates and revenue requirements in that *Order* was based upon the assumption that all or most state commissions would choose to follow those rules for purposes of computing intrastate telecommunication service rates. Our

decision to permit carriers to accelerate the transition to expensing with the approval of state regulatory commissions was also based on the assumption that few, if any, of the state commissions would choose to prohibit expensing for intrastate ratemaking purposes. Such assumptions appeared reasonable because most state commissions have followed most accounting and depreciation procedures prescribed by this Commission in the past and the considerations that led us to conclude that expensing will benefit both carriers and consumers in the long run are equally applicable to intrastate ratemaking. No policy of this Commission would be furthered by requiring state commissions to adhere to the rules we have adopted for purposes of computing the interstate revenue requirement. If carriers adhere to our rules for purposes of computing the interstate revenue requirement, our purpose will be achieved.

8. The participants in this proceeding may not view the preemption issue as a question of intent, but rather as a matter of statutory interpretation. The petitioners may be contending that this Commission could not require state commissions to follow our accounting or depreciation rules for intrastate ratemaking purposes and AT&T and GTE apparently contend that section 220 of the Communications Act precludes state commissions from departing from any accounting or depreciation rule that has been prescribed by this Commission. To the extent this is the case, this controversy might more appropriately be characterized as a request for a declaratory ruling with respect to the meaning and effect of section 220 that is not limited to these particular rules. We do not propose to deny relief because the petitions or oppositions may not be properly labeled. We have concluded, for reasons explained in Part II, that section 220 does not preclude state commissions from departing from accounting or depreciation rules prescribed by this Commission for purposes of regulating intrastate telecommunication service rates.

II. Effect of Section 220

9. AT&T and GTE rely primarily upon subsection 220(g) to support their contention that Section 220 precludes the states from departing from our accounting and depreciation rules for purposes of computing intrastate telecommunication service revenue requirements. Subsection (g) provides:

(g) After the Commission has prescribed the forms and manner of keeping of accounts,

records, and memoranda to be kept by any person as herein provided, it shall be unlawful for such person to keep any other accounts, records, or memoranda than those so prescribed or such as may be approved by the Commission or to keep the accounts in any other manner than that prescribed or approved by the Commission. Notice of alterations by the Commission in the required manner or form of keeping accounts shall be given to such persons by the Commission at least six months before the same are to take effect. (Emphasis added)

10. Subsection (g) does not literally impose any restriction upon the power of the states to regulate intrastate rates or the methods state commissions use to determine whether a particular rate will be approved or prescribed. A state commission could theoretically adjust information derived from a carrier's system of accounts for purposes of its own ratemaking without creating any conflict with obligations that subsection (g) imposes upon carriers. Nevertheless, it would be extremely difficult as a practical matter for a state commission to perform such ratemaking computations without requiring a carrier to collect and compile some data in some form that might be described as "accounts, records or memoranda." Thus, AT&T and GTE may be contending that subsection (g) implicitly precludes the use of other accounting methods or systems for other regulatory purposes when this Commission has prescribed methods that must be used for interstate ratemaking purposes.

11. Subsection (a)-(g) of section 220 were in the main a reprint of provisions contained in section 20 of the Interstate Commerce Act.³ Although the Interstate Commerce Act was designed for the regulation of railroads, many of the provisions were extended to communications common carriers and the Interstate Commerce Commission was in the process of developing accounting and depreciation rules for telephone companies at the time the Communications Act was adopted. In the absence of statutory changes or indications to the contrary, it is assumed that whenever the legislature enacts or reenacts a provision in an existing statute it has in mind the previous statute relating to the same subject matter.⁴ Unless the context indicates

³ At the time of adoption of section 220(g) of the 1934 Communications Act, section 20(5) of the Interstate Commerce Act provided that " * * * it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed by the Commission * * * " 41 Stat. 493 (1920). See 49 U.S.C. 20(5).

⁴ Courts have attached great weight to interpretations of Interstate Commerce Act provisions in interpreting the Communications Act.

Continued

² See *Primary Instrument Concept (PIC)*, 68 FCC 2d 1157 (1978); *Second Computer Inquiry Final Decision*, 77 FCC 2d 384 (1980), *recon.*, 84 FCC 2d 50 (1980); *further recon.*, [FCC 81-481, released October 30, 1981].

otherwise, words and phrases in a provision that were used in a prior act pertaining to the same subject matter will be construed to be used in the same sense.⁵

12. The parallel section 20 language was added to the Interstate Commerce Act by the Hepburn Act of 1906, 34 Stat. 584. The legislative history of the Hepburn Act does not shed any light upon Congressional reasons for prohibiting railroads from maintaining accounts, records on memoranda other than those prescribed by the ICC. Congress may have wished to inhibit the railroads from defrauding investors through fraudulent or sloppy accounting practices or to prevent the railroads from concealing unlawful rebates. There is no indication in the legislative history of the Hepburn Act that the 1906 Congress wished to curb state regulation of railroads. That Act was apparently motivated solely by a desire to make railroad regulation more effective.

13. ICC accounting rules that were promulgated pursuant to section 20 of the Interstate Commerce Act were challenged in *Int. Com. Commission v. Goodrich Trans. Co.*, 224 U.S. 194 (1912) (hereinafter cited as *Goodrich*). The railroad contended that the ICC had exceeded its authority by prescribing the form of accounts for activities that were not subject to ICC rate regulation. The Supreme Court sustained the ICC accounting rules on the theory that the ICC needed information about such activities in order to regulate the activities that were subject to ICC rate regulation. The Court said (*id.* at 211):

If the Commission is to successfully perform its duties in respect to reasonable rates, undue discriminations and favoritism, it must be informed as to the business of the carriers by a system of accounting which will not permit the possible concealment of forbidden practices in accounts which it is not permitted to see and concerning which it can require no information. It is a mistake to suppose that the requiring of information concerning the business methods of such corporations, as shown in their accounts, is a regulation of business not within the jurisdiction of the Commission, as seems to be argued for the complainants. The object of requiring such accounts to be kept in a uniform way and to be open to the inspection of the Commission is not to enable it to regulate the affairs of the corporations not within its jurisdiction, but to be informed concerning the business methods of the corporations subject to the act that it may properly regulate such matters as are really within its jurisdiction.

See e.g., *American Telephone and Telegraph Company v. F.C.C.*, 487 F.2d 864, 873-874 (2d Cir. 1973).

⁵ See Sutherland, *Statutory Construction*, § 51.02 (C. Sands ed. 1972) and cases cited therein.

14. *Goodrich* is of limited relevance because that case did not raise any question with respect to the effect of ICC accounting rules upon the regulation of activities that were not subject to ICC rate regulation. Nevertheless, a construction of section 20 that would have limited the states' discretion to regulate intrastate rail rates would have been inconsistent with the Court's description of the nature and function of the accounting rules.

15. The adoption of an interpretation of section 20(5) of the Interstate Commerce Act or section 220(g) of the Commerce Act that restricts state accounting practices for purposes of intrastate ratemaking would also restrict other forms of state or federal regulation that might require accounting records or information that differ from data generated by the rules prescribed for interstate ratemaking. Indeed such an interpretation would appear to preclude carriers from using accelerated depreciation methods for purposes of computing their income taxes since such methods differ from the depreciation methods that have been prescribed for ratemaking purposes.

16. The question of the effect of ICC accounting requirements upon railroad tax accounting did arise before the Communications Act was enacted. The Interstate Commerce Commission had required a railroad to amortize the value of certain abandoned property over a period of 15 years and to charge the amortized amounts as an operating expense for accounting purposes. The railroad contended in *Kansas City Southern Ry. Co. v. Commissioner of Int. Rev.*, 52 F.2d 372 (8th Cir. 1931) that the Commissioner was required to accept the amortized expenses as a deduction from income because failure to do so would violate Section 20 of the Interstate Commerce Act. The Court summarily rejected that contention.

The Court said (*Id.* at 378):

The Commission did not purport in requiring the loss for abandonment to be charged to operating expenses to provide any standards for tax authorities to follow. This would be beyond its province. * * * Systems of accounting for railroads under the control of the Commission cannot interfere with the government's system of taxation. The Commission has no power to direct how the Revenue Laws of the United States shall be interpreted or by its orders provide standards to govern the taxing authorities.

17. AT&T apparently contends that providing standards for state regulators to follow was within the Interstate Commerce Commission's province and that the ICC had specifically rejected contentions that section 20 of the Interstate Commerce Act did not give it

that power. AT&T's reliance on *Depreciation Charges of Telephone Companies*, 118 I.C.C. 295 (1926), is misplaced. In the *Depreciation Charge* proceeding, NARUC had argued that the words "as soon as practicable" contained in section 20(5) gave the ICC latitude to refrain from prescribing depreciation requirements for the local telephone companies engaged only to an insignificant extent in interstate commerce. In rejecting NARUC's position, the ICC merely held that its obligation under section 20(5) to prescribe depreciation rates for telephone companies was mandatory, not discretionary.⁶ In dicta, the Commission additionally appeared to suggest that its authority under section 20(5) extended to all property "open for use in interstate commerce." Petitioners in CC Docket No. 79-105, however, do not appear to dispute the authority of the FCC, under section 220 of the Communications Act, to extend its accounting and depreciation prescriptions to cover assets used for primarily intrastate purposes. The ICC's 1926 telephone depreciation charge proceeding is silent on the issue of whether federal prescription of depreciation rates preempts the states from prescribing additional and distinct depreciation rates and classifications covering the same property for regulatory purposes.⁷

18. AT&T further cites *Accounting Rules For Telephone Companies*, 203 ICC 13 (1934), in support of its contention that state commissions lack jurisdiction over telephone company accounts insofar as intrastate service is concerned. Here, again, we disagree with AT&T's reading of this opinion. In *Accounting Rules For Telephone Companies* (an advisory opinion for the benefit of the newly created Federal Communications Commission) the ICC concluded, over the objections of the states, only that the federally-prescribed system of accounts should be uniform in its treatment of telephone companies operating among the several states.⁸ Indeed, far from preempting the states from independently prescribing separate additional accounts, the ICC expressly recognized that the states might have additional accounting needs and sought to assist the states in this respect by permitting state-prescribed sub-accounts

⁶ 118 I.C.C. at 332-33.

⁷ Indeed, the Supreme Court has placed this same construction on the ICC's order in the *Depreciation Charge* proceeding, *Smith v. Illinois Bell Tel. Co.*, 282 U.S. 133, 159 (1930).

⁸ See also, *Kansas City So. Ry. v. United States*, 231 U.S. 423 (1913); and *Int. Com. Comm. v. Goodrich Trans. Co.*, *supra*.

within the federally-required books of account. The ICC stated:

In the measures adopted with respect to the uniform system, we are acting in pursuance of the direction of Congress. Uniformity is the desired and important object. The nature of the undertaking necessarily precludes the incorporation of special provisions covering the requirements of the several State commissions.

We have, however, recognized the needs of the several State commissions in the intrastate regulation which is their duty and have, endeavored to help them in the securing of all necessary information by leaving it open to them to require subdivision of the accounts prescribed.

Since the ICC may not delegate any of its authority under the Interstate Commerce Act to the individual states,⁹ ICC acceptance of these state-prescribed sub-accounts may be construed as recognition of the power of the states to require accounts for this own regulatory purposes independent of the scope of the Commission's authority to prescribe accounts for federal purposes.¹⁰

19. That Commission's conclusion that states may supplement a uniform system would not preclude a conclusion that section 20 of the Interstate Commerce Act or section 220 of the Communications Act forecloses states from departing from a federally prescribed accounting system by adopting accounting methods that are inconsistent with the federal system. That ICC opinion does contain language that indicates that the ICC believed such departures from uniformity would be undesirable, but the ICC did not conclude that such departures are precluded by statute.

20. Supreme Court decisions relating to section 20 of the Interstate Commerce Act never squarely addressed the question of the extent of the states' power to prescribe accounting and depreciation rules that supplement or deviate from rules prescribed by the ICC. A telephone company did challenge certain state-prescribed depreciation requirements in *N.W. Bell Tel. Co. v. Ry. Comm'n*, 297 U.S. 471 (1936). The Court concluded that section 20 clearly did not preclude a state commission from adopting and enforcing depreciation

rules prior to the adoption of the ICC depreciation rules. The Court expressly declined to determine what effect the adoption of ICC depreciation rules would have upon the state commission's powers.

21. Inasmuch as section 20 had never been construed to restrict state commissions from requiring carriers to keep additional records for purposes of intrastate ratemaking and court decisions in analogous contexts did not adopt an expansive interpretation of that provision, the reenactment of that language should not be interpreted to restrict state commissions from keeping such additional records in the absence of clear evidence that the 1934 Congress intended to produce that result. AT&T and GTE would infer such an intent from that Congress failure to enact a proposed subsection 220(j) that would have provided:

Nothing in this section (1) limit the power of a State commission to prescribe, for the purposes of the exercise of its jurisdiction with respect to any carrier, the percentage rate of depreciation to be charged to any class of property of such carrier, or the composite depreciation rate, for the purpose of determining charges, accounts, records, or practices;

(2) relieve any carrier from keeping any accounts, records, or memoranda which may be required to be kept by any State commission in pursuance of authority granted under State Law.¹¹

22. This version of section 220(j) passed the House but was eliminated from the Senate bill. The revised Senate version of section 220(j) provided instead:

The Commission shall investigate and report to the Congress whether in its opinion legislation is desirable (1) authorizing the Commission to except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates; and (2) permitting the State commissions, in pursuance of authority granted under State Law, to prescribe their own percentage rates of depreciation or systems of accounts, records, or memoranda to be kept by carriers.¹²

23. The Conference Committee drafted a compromise that retained the House version of subsection 220(h) and substituted a new subsection 220(j) for both the House and Senate versions. The Conference Committee version of Section 220, which was enacted without further modification, also included a

subsection (i) that did not parallel Interstate Commerce Act language. Subsections (h)-(j) provided:

(h) The Commission may classify carrier subject to this Act and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, *except the carriers of any particular class or classes in any state from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section related.* (Emphasis added)

(i) The Commission, before prescribing any requirements as to accounts, records, or memoranda, shall notify each State commission having jurisdiction with respect to any carrier involved, and shall give reasonable opportunity to each such commission to present its views and recommendations.

(j) The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissions with respect to matters to which this section relates.

24. AT&T and GTE argue that statements by witnesses at the committee hearings both in favor of and in opposition of the original version of section 220(j) support the position that Congress intended in dropping this provision to preempt the states for all purposes. They contend that statements by witnesses from both sides were premised on the belief that absent a provision similar to original section 220(j) the states would be bound by federal accounting and depreciation prescriptions in their local regulation. We disagree.

25. The record of the Congressional hearings indicates little more than that the supporters of original section 220(j) believed that the provision was desirable to resolve a previous unsettled point of law under the predecessor provision of the Interstate Commerce Act. This desire on the part of the state commissions to have Congress explicitly recognize the authority of the states to prescribe accounts and depreciation rates for local regulatory purposes is reflected in the following statements of J. E. Benton, NARUC's general solicitor (emphasis added).

Section 220, which is the section giving the Commission jurisdiction to prescribe accounts and reports, also takes account of local conditions and safeguards the powers of State commissions in the matters of depreciation and of accounting regulations. *The State commissions are very solicitous that the act shall be so phrased that it cannot be construed as imposing any depreciation regulation promulgated by the Federal*

⁹ See, 49 U.S.C.A. section 17(2); and Davis, *Administrative Law Treatise*, Ch. 3 (1978).

¹⁰ Significantly, the FCC also has permitted state-prescribed sub-accounts in the USOA books. 47 CFR 31.01-2(f) provides the following:

Nothing contained in the part shall prohibit or excuse any carrier or receiver or operating trustee of any carrier from subdividing the accounts hereby prescribed in the manner ordered by any State commission having jurisdiction or to the extent necessary to secure the information required in the prescribed reports to such commission. (Emphasis added.)

¹¹ S. 2910, 73d Cong., 2d Sess. Section 220(j) (February 20, 1934); H.R. 8301, 73d Cong., 2d Sess. Section 220(j) (February 27, 1934).

¹² S. 3285, 73d Cong., 2d Sess. section 220(j) (March 28, 1934).

Commission upon the regulatory agencies of the States.

Ever since the power to fix depreciation rates was given to the Interstate Commerce Commission in 1920, the State commissions have been apprehensive that when an order finally came to be fixed by a Federal Commission it would be pointed to by the utilities as depriving the State commissions thereafter of going into the question of depreciation in rate cases . . .

[W]e do not ask for any particular form of words, but there should go into the act a provision which makes it clear that in the administration of their laws for the regulation of rates, the State commissions shall have the power in rate cases to determine what allowances shall be made for depreciation in the rates which are fixed.

[T]he State Commissions believe that it is not in the public interest that the act shall contain a mandate to the Federal commission to fix rates of depreciation unless it shall be made entirely clear in the act that such determination is for the use of the Federal commission only and is not to affect the State commissions in their regulatory work.

That section merely proposes to provide, in plain terms, that the control of intrastate telephone business as now exercised by the States, shall continue to be exercised by them without interference by the Federal Commission.¹²

26. Several witnesses opposed original section 220(j) on the various grounds that it would create the possibility of unreasonably burdening the carriers with the cost of multiple sets of books,¹⁴ that it would destroy the uniform system of accounts¹⁵ and that it would create conflicts in the exercise of federal and state jurisdiction.¹⁶ Only one opposing witness, however, specifically expressed the view that the then-current law prohibited the states from prescribing accounts and depreciation rates for their own purposes, and this statement was tentative.¹⁷

¹² Hearings on H.R. 8301, Before the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, 73d Cong., 2d Sess. (April 10, 1934), pp. 136-44 (Emphasis added.); see also, Hearings on S. 2910 Before the Committee on Interstate Commerce, United States Senate, 73 Cong., 2d Sess., (March 9-10, 13-15, 1934) pp. 178-84.

¹⁴ See, e.g., Hearings on S. 2910, p. 96; and Hearings on H.R. 8301, p. 191. (Statements of W. S. Gifford, President, AT&T.)

¹⁵ See, e.g., Hearings on S. 2910, p. 208; and Hearings on H.R. 8301, p. 96. (Letters of F. McManamy, Commissioner, ICC)

¹⁶ See, e.g., Hearings on H.R. 8301, p. 243 (Statement of F. B. MacKinnon, President, United States Independent Telephone Association). How this version of section 220(j) would undermine the uniformity of the federal accounting system or result in conflict between federal and state authorities was not explained.

¹⁷ Mr. Gifford. [Section 220(j)] throws the whole uniform accounting of the telephone industry out of line too, as I see it. It would make it necessary to

27. Even if all the witnesses who testified concerning original section 220(j) had consistently and clearly expressed the view that the states lacked authority to prescribe additional accounts and depreciation rates absent this provision, we could accord little weight to the statements given the silence contained in the Congressional reports.¹⁸ In striking the compromise which became the law, Congress was completely silent as to its intent in eliminating the House version of section 220(j).

28. H. Rep. No. 1918 describes the Conference provisions as follows (p. 47):

Section 220(j) of the Senate bill (accounts and depreciation charges) authorizes the Commission to investigate and report to Congress upon the desirability of legislation authorizing the Commission to except the carriers of any particular class or classes in any State from the requirements of the section and permitting State commissions to prescribe their own percentage rates of depreciation and systems of accounts for carriers. The House amendment (sec. 220(h)) specifically authorizes the Commission to except carriers of any particular class or classes in any State and provides (in sec. 220(j)) that the section shall not limit the power of the State commissions to prescribe percentage rates of depreciation or to require the keeping of accounts.

29. At most this legislative history indicates that the 1934 Congress was not sure whether reenactment of the

keep two sets of accounts, one for the Federal Commission and one for the State Commission, because each State may provide for a different system of accounting. The States will require one system of accounting, and we will also have to keep accounts for the Federal system of accounting. I do not think it is workable.

Mr. Mapes. Do the States now require you to keep accounts of any kind?

Mr. Gifford. No. The present law, the interstate commerce law, calls for accounts and that controls, as against the State laws.

Mr. Mapes. Exclusively.

Mr. Gifford. Exclusively, and has since 1913, I think, when the act was passed. I think the matter ought to be given very serious consideration before we go into that.

Hearings on H.R. 8301, pp. 191-92. (Emphasis added).

¹⁸ Generally, statements made by interested parties as to the nature and effect of a bill are accorded to little or no weight if not incorporated into a committee report. These statements are very weak evidence that the legislature adopted the assumed interpretation, in view of the possibility that the committee believed the changes were unnecessary because the assumed interpretation was erroneous. See, *Sutherland Statutory Construction*, Section 48.10, and cases cited therein.

Similarly, contrary to the contention of AT&T, the mere existence of provisions in the Natural Gas Act, 15 U.S.C.A. Section 717(g) and the Federal Power Act, 16 U.S.C.A. Section 825(a) specifically reserving to the states the right to prescribe additional accounting regulations does little to assist its cause in this case. See, e.g., *Keifer & Keifer v. Reconstruction Finance Corp.*, 306 U.S. 381 (1939).

Interstate Commerce Act language would or would not preempt state accounting and depreciation rules and did not choose to resolve the question at that time. One might infer that Congress believed subsection (g) did not preempt inconsistent state commission accounting and depreciation practices. If subsection (g) produced that effect, any further legislation to "harmonize" the powers of the regulatory commissions might be superfluous.

30. The carriers' contention that subsection (i) demonstrates that the 1934 Congress believed it had preempted State commission accounting and depreciation rules is not persuasive. Congress undoubtedly correctly anticipated that most State commissions would not choose to create a complete system of accounts and would be vitally interested in any rules developed by this Commission. The adoption of special notice and consultation requirements does not demonstrate that Congress assumed all states would be required to adhere to all federal accounting or depreciation rules.

31. Subsections (h)-(j) indicate that the 1934 Congress wished to achieve as much uniformity as possible without coercing any state commission to use ratemaking methods it found unacceptable. This Commission has proceeded in a manner that is consistent with that purpose for nearly four decades. We have always given special consideration to the needs and views of state commissions in developing accounting and depreciation rules and most State commissions have chosen to follow most accounting and depreciation rules prescribed by this Commission. Departures have nonetheless occurred from time to time.¹⁹

This Commission has never attempted to prevent any State commission from departing from our accounting and depreciation rules. Indeed we have expressly recognized that State commissions have a right to do so.

¹⁹ For example, our *Order on Reconsideration* (FCC 79-678, released November 6, 1979) with respect to our Docket 21230 decision adopting revised accounting rules for plant under construction noted that many states have adopted different accounting procedures for plant under construction. We expressly acknowledged in paragraph 9 of that order that our decision would not inhibit the discretion of the state commissions. We said:

As our *Final Order* in Docket 21230 make clear, we have in no way attempted to influence, or interfere with, the ratemaking prerogatives of the New York PSC or any other state commission. The states remain free to establish intrastate rates on whatever lawful basis they choose. The fact that separate accounting information will have to be retained to accomplish this and the fact that the gathering and retention of this information may

32. NARUC correctly notes that this Commission previously has recognized that states are not obligated to follow F.C.C. prescribed accounts in intrastate ratemaking proceedings. Thus, *In the Matter of Amendment of Part 31, Uniform Systems of Accounts for Class A and Class B Telephone Companies*, 68 F.C.C. 2d 902, 906-07 (1978), we stated:

It should be pointed out that we are not in any way attempting to influence the intrastate ratemaking decisions the several state commissions may make in this area. Of course, they are free to adopt the same ratemaking treatment for plant under construction and interest during construction as we adopted in Docket 19129, or they may prefer to follow a different treatment. We are familiar with at least one state that by statute must follow a different treatment. We do not believe, nor is it intended, that the accounting changes adopted in this proceeding impinge upon the ratemaking prerogatives of any state commission. Further, as everyone is aware, different treatment is already given to a number of items for intrastate vs. interstate ratemaking as well as among the several state commissions for intrastate ratemaking.

See also, *Notice of Proposed Rulemaking*, in CC Docket No. 79-105, at para. 7; and 47 CFR 31.01-2(f).

33. Telephone companies have rarely challenged past state commission departures from accounting or depreciation rules prescribed by this Commission. Such challenges have not been successful. Pacific Telephone did challenge a California Public Utility Commission rate order on the grounds that it was invalid because it was based upon depreciation methods that departed from methods prescribed by this Commission. The California Supreme Court rejected that contention in *Pacific Tel. and Tel. Co. v. California*, 401 P.2d 353, 372-73 (1965).²⁰

34. Thus, AT&T and GTE are asking us to repudiate nearly forty years of administrative practice and applicable state court precedents by adopting an interpretation of section 220 that would require an unwilling state commission to follow all accounting and depreciation methods prescribed by this Commission. A very compelling showing would be required to persuade us to follow such a course.

35. GTE appears to argue that the existence of such state accounting and

involve additional cost does not, in our view, involve any significant interference with state control over intrastate rates.

States have also departed from accounting practices we have prescribed in other situations. Florida requires full normalization of taxes, this Commission does not. Many states have authorized or required a deferral of expenses when we do not.

²⁰ The Florida Public Service Commission concluded that it is not required to use depreciation methods prescribed by this Commission. *Southern Bell Telephone and Telegraph Co.*, 66 PUR 3d 1, 57-58 (1966).

depreciation departures would make impossible a federal scheme of accounting and depreciation prescriptions. Past departures have not produced such an effect. If carriers maintain the records we require for purposes of interstate ratemaking, federal regulation will not be frustrated if carriers maintain additional records for other purposes.

36. Unlike GTE, AT&T appears to concede this point. AT&T argues, however, that the sanctioning of state accounting and depreciation departures from the prescriptions contained in the *First Report and Order* would permit the states to burden the carriers with the costs of maintaining multiple sets of records. We, of course, are not free to preempt the states on the theory that they otherwise may impose administrative costs on the carriers in the course of engaging in intrastate ratemaking.

37. Our analysis of section 220 is supported also by section 2(b) of the Act, 47 U.S.C. 152(b), which provides in pertinent part that "nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges * * * for or in connection with intrastate communication service by wire or radio of any carrier * * *". Section 2(b) does not prohibit preemption of state regulatory actions that might interfere with or tend to frustrate policies or rules we have adopted to carry out statutory objectives with respect to interstate and foreign communications. *North Carolina Utilities Commission v. FCC*, 552 F.2d 1036 (4th Cir. 1977), cert. denied 434 U.S. 874 (1977) [hereinafter cited as *NCUC II*]; *North Carolina Utilities Commission v. FCC*, 537 F.2d 787 (4th Cir. 1976), cert. denied 429 U.S. 1027 (1976); *Puerto Rico Telephone Co. v. FCC*, 553 F.2d 694 (1st Cir. 1977); *People of California v. FCC*, 185 U.S. App. D.C. 217, 567 F.2d 282 (1966), cert. denied 325 U.S. 837 (1966). But where state regulation is reconcilable with federal policies or rules, there is no occasion for us to override state agency actions in furtherance of legitimate state regulatory objectives. Section 2(b) makes clear that Congress did not intend this Commission to foreclose state ratemaking actions unless those actions imperiled "important interests of national communications policy * * *". *NCUC II*, 552 F.2d at 1047. We have found in this instance that federal regulation will not be frustrated if carriers maintain additional records for intrastate ratemaking purposes.

Ordering Clauses

38. Accordingly, it is hereby ordered that the petition for clarification of the National Association of Regulatory Utility Commissioners, filed April 30, 1981, is granted to the extent reflected herein.

39. It is further ordered that the petition for reconsideration of the People of the State of California and the Public Utilities Commission of the State of California, filed April 30, 1981, is dismissed as moot.

40. It is further ordered that the Secretary of the Federal Communications Commission shall cause this *Memorandum Opinion and Order* to be published in the Federal Register and in the Federal Communications Reports.

41. It is further ordered that the Secretary shall cause to be served on each party of record in CC Docket No. 79-105 and each state commission having jurisdiction over intrastate communication service a copy of this *Memorandum Opinion and Order*.

Federal Communications Commission.²¹

William J. Tricarico,

Secretary.

April 1, 1982.

Joint Dissenting Statement of Commissioners Joseph R. Fogarty and Anne P. Jones

In Re: Expensing of Station Connections (CC Docket No. 79-105)—Petitions for Clarification and Reconsideration.

We dissent from today's majority decision that the First Report and Order in this proceeding does not preempt State regulators from imposing accounting and depreciation rules for inside wiring which are inconsistent with those prescribed by this Commission.

In its *First Report and Order* the Commission required that account 232 of the Uniform System of Accounts be separated into two subclasses, "Station Connections-inside wiring" and "Station Connections-Other". We further required that the existing investment in Station Connections-inside wiring be amortized over a period of ten years, which represents an accelerated depreciation in contrast to past practices, and that all new investment for inside wiring be expensed rather than capitalized.

Because we wished to ameliorate the effect such an expensing plan could have upon local rates, the Commission required that expensing take place over a four-year period. In discussing this phase-in approach, the Commission stated that "... we want to allow all carriers and state regulatory agencies as much flexibility as possible in shifting from capitalization to expensing. Hence, for those carriers who feel that a flash-cut approach will not be too disruptive to their operations and who gain state

²¹ See attached joint dissenting statement of Commissioners Joseph R. Fogarty and Anne P. Jones.

regulatory approval, we will allow them to use a flash-cut approach".¹ It is clear from this discussion that the Commission intended its decision to be binding upon the States. Since only approximately one-quarter of inside wiring costs are apportioned to the interstate jurisdiction, a phase-in which embraced only these costs would result in about 6%, 12%, 18% and 25 percent of all new inside wiring costs being expensed instead of capitalized in each of the four years respectively. Surely this is not what the Commission intended. It would be nonsensical to order such a time- and resource-consuming process to achieve only such a limited effect.

We also intended the decision in our *First Report and Order* to be binding upon the States for the sound policy reason that telephone operating companies need to obtain a more rapid recovery of capital in order to modernize their plant to meet consumer needs and increased competition in the future.

Further, the FCC may ultimately order the complete detariffing and deregulation of inside wiring. The Commission anticipated this possibility in the *First Report and Order* when we said:

"... we believe that the final answer rests not with accounting changes but rather with the ultimate deregulation of this activity. This is nothing more than a logical extension of the recommendations made by parties, our decision in Docket 20828 and our overall regulatory scheme to introduce competition whenever technological and economic circumstances are conducive to such a change."²

As the Commission has seen in the deregulation of customer premises equipment, asset valuation is a very difficult problem. If inside wiring is similarly deregulated, asset valuation will be made more difficult if this account is not capped. Furthermore, if there are two sets of accounting books required (one Federal and one State), any eventual detariffing of the inside wiring account will be made all the more difficult, since inside wiring must be deregulated *in toto* or not deregulated at all (unless the Commission contemplates deregulating only the first one-fourth of the length of the wire between the protector block and the wall outlet).

Disregarding these important considerations of Federal policy, the majority has decided that the Commission did not intend to preempt inconsistent State accounting and ratemaking practices and procedures with respect to the Station Connections-inside wiring account. At the same time, the majority allows that the Federal Communications Act—and, in particular, section 2(b) thereof—"does not prohibit preemption of state regulatory actions that might interfere with or tend to frustrate policies or rules we have adopted to carry out statutory objectives with respect to interstate and foreign communications."³

The continued capitalization of inside wiring by State regulatory authorities will in fact imperil and frustrate "important interests of national communications policy * * * enhanced capital recovery and the effective implementation of any ultimate FCC decision on ordering the detariffing and deregulation of inside wiring".

We would not—and the majority should not—"defer to the States" on critical capital recovery issues affecting the continued viability and competitiveness of our Nation's telephone industry in providing increasingly essential interstate, as well as intrastate, facilities and services. This Commission has thrust the telephone industry into the brave new world of telecommunications competition and in doing so has overridden the strenuous and in many cases intransigent objections of many State commissions. It is therefore oddly inappropriate for this same Commission now to be so reticent about preempting the State jurisdictions from denying the industry the capital recovery necessary for its full and fair participation in this new competitive world. Here, the Commission curiously appears to have lost the courage of its pro-competitive convictions.

Because the majority's decision is inconsistent with the clear preemptive thrust and intent of the Commission's *First Report and Order* in this proceeding and, further, fails to recognize and support the integrity of our pro-competitive policies, we dissent.

[FR Doc. 82-12206 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 95

[FCC 82-177]

Citizens Radio Service; Requirements That Licensees in the Personal Radio Services Possess Current Copies of the Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends Part 95 of the Commission's Rules for the Personal Radio Services to eliminate the requirements that licensees maintain a current copy of the Rules. The Commission is eliminating these regulations because they are burdensome to the large number of licensees in the Personal Radio Services.

DATE: Effective May 6, 1982.

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

¹ *North Carolina Utilities Commission v. FCC*, 552 F.2d 1036, 1047 (4th Cir. 1977), cert. denied 434 U.S. 874 (1977).

² Several State commissions have already acted to deny the application of FCC policy on inside wiring and related depreciation at the State level, and others appear to be in the process of following suit. Alabama (Sept. 4, 1981), Nebraska (Sept. 1, 1981), South Dakota (Feb. 2, 1982), and Missouri (Nov. 27, 1981) have disapproved carrier filings seeking the expensing of inside wiring.

FOR FURTHER INFORMATION CONTACT:

Teresa C. Sutter, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 95

Radio.

In the matter of amendment of Part 95 of the Commission's Rules to delete requirements that licensees in the Personal Radio Services possess current copies of the Rules.

Adopted: April 14, 1982.

Released: April 22, 1982.

1. In an effort to eliminate rules which are not essential to the administration of the personal radio services, the Commission has under consideration amendment of § 95.105 of the General Mobile Radio Service rules, §§ 95.233 and 95.240(b) of the Radio Control Radio Service rules and § 95.401 of the Citizens Band Radio Service Rules (CB Rule 36 and 44(a)(5)). Those rule sections, contained in Part 95, Subparts A, C and D, respectively, require licensees to maintain a current copy of the Rules as part of their station records. The Commission finds this requirement to be unnecessarily burdensome to the large number of individual licensees in these services. Therefore, this Order will delete from Part 95 those rules which require personal radio services licensees to maintain a current copy of the rules. Licensees are still required to comply with the applicable personal radio service rules.

2. Since the amendment ordered herein is non-substantive in nature, the notice and comment provisions of section 553(b) of the Administrative Procedure Act are not applicable.

3. Accordingly, it is ordered, effective May 6, 1982, that Part 95 of the Commission's Rules is AMENDED as shown in the Appendix attached hereto. Authority for this action is found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

4. For information concerning this rule change, contact Teresa C. Sutter, (202) 632-4964.

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

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

PART 95—CITIZENS RADIO SERVICE

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

¹ *First Report and Order*, 85 FCC 2d 818, 829 (Emphasis added).

² *Ibid*, 827.

³ MO&O, para. 37 (Citations omitted).

§ 95.105 [Reserved]

1. Section 95.105 of the General Mobile Radio Service Rules is removed in its entirety, and that section is marked "Reserved". As amended, § 95.105 reads:

§ 95.233 (R/C Rule 33) [Reserved]

2. Section 95.233 (R/C Rule 33) of the Radio Control Radio Service Rules is removed in its entirety, and that section is marked "Reserved". As amended, § 95.233 (R/C Rule 33) reads:

§ 95.240 [Amended]

3. Paragraph (b) of § 95.240 (R/C Rule 40) of the Radio Control Radio Service Rules is removed in its entirety, and paragraphs (c), (d), (e), and (f) are redesignated as (b), (c), (d) and (e).

§ 95.401 CB Rule 36 [Reserved]

4. CB Rule 36 of § 95.401 of the Citizens Band Radio Service Rules is removed in its entirety. CB Rule 36 is marked "Reserved". As amended, CB Rule 36 reads:

CB Rule 36 [Reserved]

§ 95.401 [Amended]

5. Subparagraph (a)(5) of § 95.401 (CB Rule 44) of the Citizens Band Radio Service Rules is removed in its entirety, and subparagraphs (6) and (7) are redesignated as (5) and (6).

[FR Doc. 82-12234 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[FCC 82-176]

Amateur Radio Service; Novice License Exams

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Amateur Rules to extend the deadline for return of Novice license exams from

30 to 60 days. The Commission is extending the deadline to compensate for postal delays.

DATES: Effective May 6, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Teresa C. Sutter, Private Radio Bureau, Washington, DC 20554, (202) 632-4964—Room 5218.

SUPPLEMENTARY INFORMATION:**List of Subjects in 47 CFR Part 97**

Radio.

In the matter of amendment of § 97.28(b)(3) of the Commission's Amateur Radio Service Rules.

Adopted: April 14, 1982.

Released: April 22, 1982.

1. The Commission's Rules set forth the procedures to be followed with respect to written exam papers for the Novice Class operator license in the Amateur Radio Service. Section 97.28(b)(3) of the Amateur Radio Service Rules currently requires that the papers, either completed or unopened in the event the examination is not given, shall be returned by the examiner to the Commission no later than 30 days after the date the Commission mailed the exam papers.

2. The requirement that the exam papers be returned within a 30-day period was established to facilitate Commission record keeping and to control the dissemination of the Commission's examination materials. While the actual length of the return period is not considered to be a critical factor, due to postal delays it appears that the 30-day deadline has placed a burden on examiners and on the Commission's licensing staff as well.

3. In order to lessen that burden, while at the same time insuring that the exam papers are returned, the Commission is amending § 97.28(b)(3) to extend the return period from 30 to 60 days.

4. Since the amendment ordered herein is procedural in nature, the notice and comment provisions of section 553(b) of the Administrative Procedure Act are not applicable.

5. Accordingly, it is ordered, effective May 6, 1982, that Part 97 of the Commission's Rules is amended as shown in the Appendix attached hereto. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. For information on this rule change, contact Teresa C. Sutter, (202) 632-4964.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix**PART 97—AMATEUR RADIO SERVICE**

Part 97, Amateur Radio Service Rules, is amended, as follows: Subparagraph (b)(3) of § 97.28 is revised to read as follows:

§ 97.28 Manner of conducting examinations.

* * * * *

(b) * * *

(1) * * *

(3) The examination papers, either completed or unopened in the event the examination is not taken, shall be returned by the volunteer examiner to the Commission's office in Gettysburg, Pa., no later than 60 days after the date the papers are mailed by the Commission (the date of mailing is normally stamped by the Commission on the outside of the examination envelope).

* * * * *

[FR Doc. 82-12233 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 47, No. 87

Wednesday, May 5, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-78-110]

Energy Conservation Program for Consumer Products; Cancellation of Public Hearing

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Cancellation of public hearing.

SUMMARY: The Department of Energy is announcing cancellation of the public hearing regarding energy efficiency standards for appliances scheduled for May 11 and 12, 1982, in Chicago, Illinois, and the proposed rescheduling of this hearing at a date, time and place to be determined.

ADDRESSES: Requests for rescheduling the Chicago, Illinois, public hearing are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Energy Efficiency Program for Consumer Product, Docket No. CAS-RM-78-110, Mail Station 6B-025, Room 5F-078, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Building Energy Research and Development, Test and Evaluation Branch, Mail Station CE-113, Room GH-068, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9127.

Eugene Margolis, Esq., U.S. Department

of Energy, Office of General Counsel, Mail Station GC-33, Room 6B-128, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION:

Background

The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires that the Department of Energy prescribe an energy efficiency standard for each of certain major household appliances, unless it determines, by rule, that a standard will not result in significant conservation of energy, is not technologically feasible, or is not economically justified.

On April 2, 1982, (47 FR 14424), the Department of Energy (DOE) published a proposed rule regarding energy efficiency standards for refrigerators and refrigerator-freezers, clothes dryers, water heaters, room air conditioners, kitchen ranges, and ovens, central air conditioners and furnaces. In this proposed rule, DOE gave notice that public hearings would be held in Chicago, Illinois, on May 11 and 12, 1982, and in Washington, D.C., on May 18-21, 1982. Interested parties were given until 4:00 p.m., April 20, 1982, to submit requests to speak at Chicago, Illinois. Two requests to speak were received after the deadline. Since each requester has agreed to speak at the hearing to be held in Washington, D.C., the hearing scheduled for May 11 and 12, 1982, in Chicago, Illinois, is hereby cancelled.

However, in order to give interested persons the fullest opportunity to participate in the rulemaking process, the DOE is willing to consider the rescheduling of these cancelled hearings. Persons requesting the Chicago, Illinois, hearing be rescheduled should submit this request to the address indicated at the beginning of the notice.

Issued in Washington, D.C., April 28, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-12131 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Requirements for Chain Saws and Their Components and Their Replacement Parts; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Based on available data, the Commission preliminarily believes that certain chain saws and their components and replacement parts present an unreasonable risk of injury to consumers from kickback. Kickback occurs when the moving chain at the tip of the guide bar contacts an object or when the moving chain is pinched in the cut, leading to the operator being struck by the moving chain. While this notice commences a proceeding to regulate the chain saw products, the Commission also discusses alternative ways to address the risk, including by a voluntary standard, and solicits public comments on those alternatives. Finally, the Commission in this notice specifically invites any person to submit (1) an existing standard that addresses the chain saw product kickback risk or (2) a statement of intention to develop such a standard, along with a plan to do so.

DATE: Comments and submissions are due no later than July 6, 1982.

Address: Comments and submissions should be sent, preferably in five copies, to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Mr. Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has been considering for a number of years the risk presented to consumers by kickback of chain saws. After evaluating that risk preliminarily, the Commission issued a notice of proceeding to develop a proposed consumer product safety

standard in May 1981. 46 FR 26262 (May 11, 1981).

Before and since the notice of proceeding, the chain saw industry has worked on a voluntary safety standard to address the kickback risk, under the leadership of the Chain Saw Manufacturers Association (CSMA). The Commission staff has worked with this CSMA voluntary standard effort and monitored its progress. In addition, the staff independently has developed technical data for chain saw products.

In December 1981 CSMA submitted a voluntary standard to the Commission and to the American National Standards Institute (ANSI). ANSI is now reviewing the CSMA standard for consideration as an amendment to its own chain saw voluntary standard. The Commission has directed its staff to participate in that review process. In addition, the Commission staff has evaluated the CSMA standard preliminarily and found that it might, with modifications, prove effective in reducing kickback injuries.

By issuing this advance notice of proposed rulemaking, the Commission is initiating the three-stage rulemaking process that is now required by recent amendments to the Consumer Product Safety Act, 15 U.S.C. 2056, as amended in August 1981 (Pub. L. 97-35). This advance notice for chain saws, therefore, supersedes the notice of proceeding issued in May 1981 and that notice is hereby withdrawn.

Throughout the discussion below there are citations to documents in the record of this regulatory proceeding. The citations are numbers placed in parentheses, and they refer to the numbered documents listed at the end of this notice. All listed documents are available from the Office of the Secretary.

B. The product

A chain saw is a common type of power saw. It consists of a number of cutting elements linked into a chain that is driven around the outer edge of a guide bar by a powerhead, and it incorporates a gasoline engine or electric motor.

Chain saws and their components and their replacement parts are all included within the scope of this advance notice. The reason for this is that the Commission may decide to regulate certain components or aftermarket replacement parts of chain saws, such as the chains, as well as the saws themselves. For convenience, however, "chain saws" or "chain saw products" will be used throughout this notice to refer to the saws, components, and replacement parts.

The Commission staff has estimated that about 18-20 million chain saws are in use in 1982 (1). The Commission knows of about ten major chain saw manufacturers with production facilities in the United States, and about 16-18 companies that import saws from outside the country (1). In 1981, the five largest manufacturers of gasoline-powered saws accounted for over 80 percent of that type sold, and the four largest manufacturers of electric saws accounted for 80 percent of that type sold (1). The Commission's staff has estimated that 15 percent of chain saws in use are electrically-powered and that the remainder are gasoline-powered (2).

The average life of chain saws in consumer use is believed to be about six years (2), and a major manufacturer has estimated that one in every 5.5 households in the United States owns a chain saw (3). Approximately ten to fifteen percent of chain saws are sold for commercial purposes, but consumer use predominates in any particular category of chain saws with engine displacements of 3.8 cubic inches or less (4). It is possible that chain saws with greater engine displacement than 3.8 cubic inches would not be within the scope of a mandatory standard.

In 1980 the Commission asked nine companies in the chain saw industry for certain production and marketing information about the product. Four companies supplied information voluntarily and five companies did not. The Commission has recently decided to issue special orders to the five latter companies to obtain the information. During the course of the rulemaking proceeding commenced by this advance notice, the Commission will be making evaluations and findings about chain saw products on the market, the kickback risk they present, and the costs and benefits of various regulatory alternatives. The Commission will use the information sought by the special orders during the rulemaking process.

C. Risk of injury

The Commission knows of 86 deaths related to chain saws for the years from 1976 through 1980 (reports for 1980 are still being received) (5). Twenty-two of these deaths were reported as involving kickback, and another 23 deaths were probably caused by the same hazard (5).

During 1981, an estimated 123,000 people required medical attention from injuries associated with chain saws (6). This includes injuries treated in hospital emergency rooms and those treated in doctors' offices. The estimated number of injuries involving chain saws almost doubled between 1976 and 1981 (6).

Based on 1978 data, 23 percent of the reported injuries were believed to be associated with kickbacks (7).

Kickback is the sudden and potentially violent rearward and/or upward movement of the chain saw. It can be caused by interference with the movement of the chain, and it can propel the moving saw chain into contact with the operator. Sudden interference with the movement of the chain can be caused by the chain striking the wood or other object on the top quadrant of the tip of the chain guide bar (nose tip kickback) or by the chain on the top of the bar binding in the cut or hitting an obstruction in the wood (pinch kickback).

The interference with the movement of the chain transfers the energy that is driving the chain into a movement of the entire saw, causing the saw (in the case of nose tip kickback) to move back and/or up so far and so fast that the operator may be struck by the moving chain, in the face, neck, or throat area. The great majority of kickback incidents are believed to be the "nose tip" type, caused by a tendency for parts of the chain to catch or "hang up" in the wood as the links travel around the radius at the end of the bar.

D. Alternatives for addressing risk

An advance notice of proposed rulemaking is the first step of a rulemaking proceeding that could lead to a mandatory safety standard for chain saws. The second step is the issuance of a proposed rule, and the third step is the issuance of a final rule. If the Commission decides to proceed with a mandatory standard, its staff could develop a proposed rule for public comment. Instead, a mandatory standard could result from the proposal of an existing standard, followed by public comment. In either case, the Commission would proceed with a proposed and a final rule, under the second and third rulemaking steps.

However, the Commission may not reach the second and third steps. In accordance with the Consumer Product Safety Act and with its own policies, the Commission will not issue a mandatory regulation unless the alternative approaches for addressing the unreasonable risk of injury presented by chain saws are not adequate. If the Commission determines that an alternative approach would be effective, it will terminate this rulemaking proceeding and not issue a mandatory safety standard for chain saws. Specifically, the Commission could find that an existing voluntary standard or a voluntary standard that will be

developed would eliminate or adequately reduce the risk of injury associated with chain saw kickback.

Because this alternative of a voluntary approach is under consideration, the Commission, in this section, will identify, discuss, and evaluate known existing and developing chain saw standards:

1. *ANSI and UL standards.* The American National Standards Institute (ANSI) currently has a voluntary standard that contains provisions addressing chain saw kickback (8). Safety Specification for Gasoline Powered Chain Saws, ANSI B-175.1. Without listing all of the possible devices, this standard states that all gasoline chain saws "shall be equipped with a device intended to reduce the hazards associated with kickback." If a chain brake is used for this purpose, there are more specific requirements for chain brake actuation devices and for chain stopping times. In addition, the ANSI standard contains provisions for adjusting chain tensioning since a saw with a loose chain may have a greater kickback tendency. ANSI is now developing a voluntary standard for electric chain saws and, as discussed in **BACKGROUND**, is considering the CSMA standard as a possible amendment.

Underwriters Laboratory has a standard (UL 45) that applies to electric chain saws the ANSI provisions that address the kickback risk (9). Like the ANSI standard, UL 45 follows a design approach by requiring that at least one safety feature be present.

The Commission does not believe that the existing ANSI or UL voluntary standards would adequately reduce the kickback risk. One serious weakness is that the standards can be met by use of any one of a range of design features that may not be effective. The standards contain no technical rationale showing that any particular feature will address the kickback risk. In any case, requiring an unspecified "device intended to reduce * * * kickback," without providing any performance criteria or detailed design specifications for the devices (with the possible exception of chain brakes) is a completely inadequate regulatory provision. For example, a removable nose guard could be used by compliance with the ANSI and UL standards. If it is removed by the consumers (or, in the case of a separately packaged nose guard, never attached), there is no protection from kickback.

The Commission is quite familiar with the various design features that could be used to comply with the ANSI and UL standards. In February 1980 the Commission engineering staff evaluated

nose guards; low kickback saw chains; low kickback guide bars; designs combining a low kick chain and guide bar; hand guards; and manual or automatic chain brakes (10). After fully evaluating the effectiveness, advantages, and disadvantages of each, the staff concluded that none of those approaches by itself yields the most effective reduction in kickback injuries (10). Based on that staff evaluation and on other available information concerning chain saw safety features, the Commission presently believes that the ANSI and UL standards do not eliminate or adequately reduce the kickback risk of injury. In effect, they merely require manufacturers to incorporate at least one safety feature of their own choosing, and the feature selected may not be effective (8, 9).

2. *Washington State standard.* The State of Washington has proposed safety requirements for chain saws used commercially within that state (11). They essentially require chain brakes or tip guards or establish maximum allowable energy levels of kickback for different categories of chain saws. The major drawback to these requirements is that they lack a supporting rationale that justifies the particular requirements. Absent such a rationale, the Commission cannot evaluate the adequacy of the requirements.

3. *Foreign standards.* A number of foreign countries have issued or are developing anti-kickback standards for chain saws (12, 13, 14, 15, 16, 17, 18). These countries include Sweden, Finland, France, Canada, England, Australia, and Germany. Taking these standards together, many contain requirements for chain brake actuation force, limitations on the kickback angle of a chain and bar combination (tested separately from the powerhead), and specific chain designs. Some of them require hand guards, chain brakes, and/or low kick chains. As a separate project, the International Standards Organization is developing a chain saw standard (19).

The Commission knows of no foreign standard that can be found at this time to be adequate to address the kickback risk of injury. In some cases, the requirements are not sufficiently developed, and in other cases there are insufficient explanations for the particular criteria. For example, a Swedish standard recommends as a goal a 120-degree limit on the angle produced by the chain and bar, when tested without the powerhead (18, 20). However, while this 120-degree goal is an indicator of kickback energy, it does not predict the path of the entire saw during kickback. As another example, a

French standard under development may have an angle limitation, but does not yet specify any test method (14, 21).

4. *CSMA proposed standard.* In December 1981 the Chain Saw Manufacturers Association submitted a proposed standard to the Commission and to ANSI (it is proposed as an amendment to the ANSI chain saw standard) (22). Although the CSMA proposal is not currently used within the industry as a standard, and is therefore not an "existing" standard under amended section 9(a)(3) of the Consumer Product Safety Act, the Commission staff has evaluated it preliminarily.

This section will discuss the CSMA proposal and the staff's preliminary evaluation of it. The CSMA proposal includes a number of provisions:

(a) All chain saws must have a hand guard and all chain saws, replacement guide bars, and replacement chains must be accompanied by certain labeling and safety instructions. No other requirements apply to bow-type chain saws, those that use for a guide bar a narrow rail structure with a large center opening.

(b) Chain saws (other than bow saws) smaller than 3.8 cubic inch displacement (CID) must also comply with at least one of the following five requirements:

1. The saw has specified maximum rotational energy for each of three CID classes of saws, when a saw is tested in a kickback machine according to a specified protocol.

2. The saw has a calculated kickback angle of 60 degrees or less, when data from the kickback test is fed into a specified computer simulation model.

3. The saw has a guard at the tip of the bar. This guard can be either permanent or removeable and, if removable, could be packaged with the saw without being installed.

4. The saw has a chain brake complying with the provisions of the present ANSI standard for chain brakes.

5. The saw is equipped with a device that will prevent a moving chain from striking the operator (e.g., a guard along the top of the chain).

(c) Chain saws larger than 3.8 CID must also be equipped with at least one device intended to reduce the kickback hazard, such as a low-kickback chain or guide bar, bar tip guard, or chain brake.

The Commission's technical staff has performed preliminary analyses of the potential of the CSMA proposed standard to reduce kickback injuries:

(a) *Engineering.* According to the Commission's engineering staff, the classification of chain saws by engine size (CID) appears to be technically

sound. A final assessment of the classifications, however, would require analysis of data from kickback tests in which the saw is actually held by an operator.

The engineering staff does not support all of the CSMA procedures for measuring both maximum rotational kickback energy and total kickback energy, but the procedures and the test equipment appear to be basically sound. The staff has some substantive reservations, but they might be able to be resolved.

The CSMA "KICKBACK" computer program contained in the proposal is an improvement over an earlier version, accordingly to the engineering staff. The program was developed from an expanded data base and it contains (1) a straightforward modular approach to represent the effect of the chain saw operator on the saw during kickback and (2) a means to account for the effect on the saw path of the actuation of a chain brake during kickback. Further work will be necessary to determine the validity of the new computer program in predicting the path a chain saw will follow during kickback.

The CSMA proposal calls for round robin tests to determine the "within" (repeatability) and "between" (reproducibility) laboratory variability in a test methodology. Such tests determine the degree to which tests conducted at the same laboratory or different laboratories yield results that are sufficiently consistent to determine the conformance of a product with the standard. The data from two rounds of round robin tests that have been conducted thus far are insufficient to evaluate the adequacy of the proposed methodology. The Commission's engineering staff agrees with CSMA that another round robin test will be necessary.

(b) *Human factors.* The Commission's human factors staff has considered the relationship of kickback energy to kickback angle and the potential effectiveness of removable nose tip guards or chain brakes on the kickback risk. There are currently insufficient data available for the human factors staff to evaluate the potential effectiveness of the CSMA proposed design options to address the kickback, but Commission studies that are underway are likely to provide the necessary data to do so. The human factors staff is continuing to evaluate the correlation between proposed kickback energy criteria and resultant kickback angle for each class of chain saws in the CSMA proposal.

(c) *Economics.* The Commission's economics staff has reported on the

percentage of chain saws in use for each class of saw in the CSMA proposal. Based on 1978 data, an estimated 59 percent of the saws are either electric saws rated at less than 15 amperes or gasoline saws of 2.5 CID or less; an estimated 14 percent were either electric saws rated at 15 amperes or more or gasoline saws with CID's greater than 2.5 but less than 3.0; an estimated 19 percent were gasoline saws with CID's of 3.0 to 3.7; and an estimated six percent were gasoline saws of 3.8 CID or greater. Approximately two percent of the chain saws were bow saws.

(d) *Epidemiology.* The Commission's epidemiology staff utilized data from a 1978-1979 special study to assess preliminarily the potential effectiveness of the CSMA proposal. That assessment was limited to electric saws and to gasoline saws with a CID of 3.7 or less, the saws that were involved in 83 percent of the chain saw injuries and that represented 91 percent of the saws in use in 1978. The Commission staff has estimated that if all gasoline saws of 3.7 CID or less in use in 1978 had complied with the 60 degree angle criterion (one of the five tests), the kickback injuries in that year would have been reduced, but only by 50 percent.

Overall, the Commission staff concluded that the CSMA proposal would have to be modified, perhaps substantially, before it could be effective in reducing kickback injuries. Since this assessment is based on preliminary information, more tests will be necessary before any final staff conclusions can be drawn. This testing effort will investigate variables involved in kickback energy determinations such as parameter ranges, test schedules and test procedures. Evaluation of the computer program will require: (1) a detailed examination of CSMA's hand-held testing data, (2) a detailed study of the chain brake treatment, (3) an investigation into kickback energy components, (4) determination of sensitivity to input data, (5) a definition of kickback angle and (6) a detailed review of operator reaction equation formulations. All the above work will be guided by the results of planned additional hand-held kickback tests.

E. Solicitation of public input

This advance notice of proposed rulemaking is the first stage in a three-stage rulemaking process. As discussed above, the Commission may decide to terminate the proceeding and pursue other alternatives for addressing the chain saw kickback risk. Before making any decision, the Commission wants to be as informed as possible about each alternative. Therefore, the Commission

is specifically soliciting from all members of the public:

1. comments on the risk of kickback presented by chain saws;
2. comments on the alternatives for addressing the risk (as discussed in section D above), including a mandatory standard, a voluntary standard, and the dissemination of comparative safety information;
3. suggestions about any other alternative not discussed in this notice that the Commission might consider to address the risk;
4. submission of any existing standard or portion of a standard that addresses the kickback risk presented by chain saws;
5. submission of any statement of intention to develop or modify an existing standard that addresses the chain saw kickback risk, along with a plan to do so.

Any plan submitted with a statement of intention (item 5) should include, to the extent possible, a description of how interested groups and people will be notified that a voluntary standard project is underway; a description of how the views of interested groups and people will be incorporated into the project; a detailed discussion of how the project will proceed; a realistic estimate of the length of time that the project will take; a detailed schedule for various stages of the project; a list of the people expected to participate in the project, along with some description of their backgrounds and experience; and a description of any facilities or equipment that will be used during the project.

If the CSMA voluntary standard setting effort is submitted as a plan, as it likely will be, the Commission will of course take into account that much of the plan has already been implemented. The Commission will evaluate what has been completed and what remains to be done. Specifically, the Commission will continue with its evaluation of the CSMA proposed standard and its participation in the ANSI review process, as discussed in section A above. The evaluation of the CSMA proposal will not be suspended during the public comment period on this advance notice.

All comments and submissions should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 no later than July 6, 1982.

List of Subjects in 16 CFR Chapter II

Consumer protection, saws, chain saws, safety.
(15 U.S.C. 2058(a))

Dated: April 30, 1982.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

List of Documents in Record

- (1) Economics memo from W. Zamula; April 13, 1982.
- (2) Economics memo from W. Zamula; October 16, 1980.
- (3) Article in *Chain Saw Age* entitled "Forecasting Helps Oregon Prepare for Tomorrow;" November 1980.
- (4) EPA study entitled "Cost Analysis and Economic Impact of Labeling and Noise Regulations for Chain Saws," Contract No. 68-01-3894; February 26, 1980.
- (5) Epidemiological document entitled "Overview of Chain Saw Related Injuries" by R. Newman; August 1981; page 5.
- (6) Epidemiological memo from R. Newman; April 13, 1982.
- (7) Epidemiological document entitled "Hazard Analysis: Chain Saw Related Injuries in 1977-1978" by William D. Barr; June 1979; page 12.
- (8) ANSI B-175.1 (1979) Safety Specification for Gasoline Powered Chain Saws.
- (9) Underwriters Laboratories Standard UL 45.
- (10) Staff briefing package to Commission from D. Parrish containing document entitled "Assessment of Generic Approaches to Addressing Chain Saw Kickback"; February 15, 1980 (package transmitted in April 1980); Tab H, Attachment 2.
- (11) Article in *Chain Saw Age*; July 1980; page 28.
- (12) Code of Chain Saw Standard required for Use in Forest Areas of S.E. South Australia and S.W. Victoria Controlled by Woods and Forest Department. Softwood Holdings Ltd, Southern Australian Perpetual Forests and Forests Commissioner of Victoria; amended 17 October 1974.
- (13) National Standard of Canada CAN-Z62.1-M77.
- (14) Proposal of Methods for Testing Safety Devices for Chain Saws for the Purpose of Ratification (French).
- (15) The Finnish Code of Regulations on Chain Saws and Related Materials.
- (16) Woodworking Machines—Handheld Bar Type Chain Saw Machines for One Man Operation, Safety Technology Requirements DIN 38822 (German).
- (17) Forestry Safety Council FSC 10-14, 1977; FSC 15; 1978 (British).
- (18) Petrol Driven Power Chain Saws—Directions No. 48, 1977 Memorandum 1978; Report 2043 (Swedish).
- (19) Machinery for Forestry—Portable Chain Saws—Technical Data Draft International Standard; ISO/D15 6532—1981 and ISO/D15 6531—1981.
- (20) Staff briefing package to Commission from D. Parrish (see document 10); Tab H, Attachment 1.
- (21) Engineering memorandum from H. Lucas; December 10, 1980.
- (22) Letter from CSMA to Carl Blechschmidt; December 15, 1981.

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BILLING CODE 6355-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Semiannual Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Semiannual agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's semiannual agenda of regulations it tentatively expects to issue in proposed or final form during the next six months. The agenda indicates whether or not the regulations are "major" under the criteria set forth in Executive Order 12291, and whether or not the regulations are subject to the Regulatory Flexibility Act.

ADDRESS: Office of the General Counsel (210), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Melanie Franco Nussdorf, Special Counsel, Office of the General Counsel, 202-254-6476. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193 (the "Executive Order"), each agency is required to publish in April and October an agenda of regulations it has issued or expects to issue, including an agency contact person for each item on the agenda. For each regulation designated as "major" under the criteria contained in the Executive Order, the agenda must include a summary, the objectives and legal basis for the rule, and a schedule for completing action on the rule if a notice of proposed rulemaking has already been issued. To better inform the public, the agenda set forth below includes a summary, the objectives, and the legal basis for all items listed.

The Executive Order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive Order. This agenda includes one regulation that is under review pursuant to the Executive Order—item 5, Rules Relating to Reporting and Notification Requirements for Reportable Events.

The Regulatory Flexibility Act, 5 U.S.C. 601, Pub. L. 96-354, 94 Stat. 1164

(the "Act"), has a similar agenda requirement. Under that law, the agenda must list any regulation subject to the Act that is likely to have a significant economic impact on a substantial number of small entities. The Act applies to any regulation for which a notice of proposed rulemaking is issued on or after January 1, 1981. In the interest of clarity, the agenda below indicates those regulations that are not subject to the Act. For those regulations covered by the Act, the agenda indicates whether or not the rule is likely to have a significant economic impact on a substantial number of small entities.

Unless otherwise stated with respect to a particular regulation, the items listed in this agenda are those with respect to which the Pension Benefit Guaranty Corporation ("PBGC") hopes to issue a proposed or final regulation within the next six months, provided that higher priority demands on PBGC's limited resources do not develop.

The first 4 items listed in the agenda pertain to the single-employer insurance program; the next 3 items pertain to both the single-employer and multiemployer insurance programs; the remaining items apply only to the multiemployer program.

Finally, unless otherwise indicated, all citations in the agenda are to sections of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("the Multiemployer Act"), Pub. L. No. 96-364, 94 Stat. 1208 ("ERISA").

1. Rules for Filing a Notice of Intent To Terminate

Summary. This rule involves the issuance of a joint form (Form 5310) by the PBGC and the Internal Revenue Service ("IRS") and amendments to the PGCC's Notice of Intent To Terminate regulation, 29 CFR Part 2616. PBGC and IRS staff are reviewing the form, a portion of which would serve as the Notice required under the regulation. The amendments to the regulation are being reviewed by other government agencies for purposes of coordination. This regulation applies to single-employer plans. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation is necessary to provide plan administrators with simplified procedures for notifying the PBGC of plan terminations and to eliminate duplicative filing requirements of the PBGC and IRS.

Legal Basis. ERISA sections 4002, 4041, and 4043.

Regulatory Flexibility. Not subject to the Act.

PBGC Contact. Mr. William Seals, Deputy Assistant General Counsel, Office of the General Counsel, 202-254-4895.

2. Rules for Valuing Group Insurance Contracts (Amendment to the Valuation of Plan Assets Regulation)

Summary. An amendment to the existing PBGC regulation on valuing plan assets, 29 CFR Part 2620, setting forth rules for valuing group insurance contracts as plan assets, has been drafted and is being reviewed within the PBGC. This regulation applies to single-employer plans. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This rule is necessary to provide uniform standards for plan administrators and employers to use in valuing insurance contracts.

Legal Basis. ERISA sections 4002(b)(3), 4041, 4044, and 4062(b)(1).

Regulatory Flexibility. Not subject to the Act.

PBGC Contact. Ms. Joan Segal, Attorney, Office of the General Counsel, 202-254-3010.

3. Rules for Recovery of Benefit Overpayments and Early Benefit Reduction

Summary. The PBGC is developing a proposed regulation to set forth rules designed: (a) to reduce benefit overpayments made to plan participants after the date of plan termination by requiring plan administrators to reduce benefit payments to the estimated level of Title IV benefits payable; (b) to define the circumstances under which the PBGC will recover overpayments from plan participants; and (c) to describe the method(s) by which the PBGC will recover overpayments. The proposed regulation, which applies only to single-employer plans, has been drafted and is being reviewed within the PBGC. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation is needed to establish rules and procedures for the prompt reduction of benefits after the date of plan termination in order to minimize overpayments to participants and to establish a formal procedure for PBGC recovery of overpayments to participants. This regulation will provide guidance to plan administrators and participants and minimize costs to the insurance system.

Legal Basis. ERISA sections 4002(b)(3), 4022, 4041, 4042, 4044, and 4061.

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. Terence Craig, Attorney, Office of the General Counsel, 202-254-4873.

4. Rules Relating to Plan ERISAfication (Proposed Amendments to the Guaranteed Benefits and Limitation on Guaranteed Benefits Regulations)

Summary. The Multiemployer Act requires the PBGC to guarantee those benefits that are provided under the terms of a plan or that are required by law. Under the Multiemployer Act, all plans that terminate on or after September 26, 1980, are to be treated as though the essential requirements of Title I of ERISA were added to the plan as of the effective date under Section 211 of ERISA with respect to each plan. Accordingly, the PBGC proposes to amend its Guaranteed Benefits regulation, 29 CFR Part 2613, and its Limitation on Guaranteed Benefits regulation, 29 CFR Part 2621, to set forth the essential provisions that will be read into such plans. These amendments now being considered apply only to single-employer plans. The amendments have been drafted and are being reviewed by other clearance agencies within the government. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation is needed in order to ensure that participants and beneficiaries in terminating single-employer plans receive the retirement benefit protection mandated by Congress.

Legal Basis. ERISA sections 4001(a), 4002(b)(3), 4022, and 4022B.

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Ms. Renae Hubbard, Special Counsel, Office of the General Counsel, 202-254-4895.

5. Rules Relating to Reporting and Notification Requirements for Reportable Events

Summary. Section 4043 of ERISA sets forth several types of events of which plan administrators must notify the PBGC and authorizes the PBGC to waive the thirty-day notification requirements for any of those events. The Multiemployer Act amended Section 4065 of ERISA to authorize PBGC to waive the requirement that a list of

reportable events be included in the Annual Report filed with the PBGC. In addition, the Multiemployer Act established separate reporting and notification requirements for multiemployer plans. Accordingly, the PBGC is amending its reportable events regulation, 29 CFR Part 2615, which modifies certain of the statutory requirements, to further delete unnecessary reporting requirements for both single-employer and multiemployer plans. The amendment is being reviewed within the PBGC. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. The regulation will reduce the reporting and notification requirements to which plan administrators are subject.

Legal Basis. ERISA sections 4002(b)(3), 4043, and 4065.

Regulatory Flexibility. Not subject to the Act.

PBGC Contact. Mr. Mark Blank, Attorney, Office of the General Counsel, 202-254-3010.

6. Rule on Administrative Review of Agency Decisions.

Summary. This proposed regulation, 29 CFR Part 2606, applies to both multiemployer and single-employer plans. It would amend the procedures governing PBGC's internal review of administrative decisions and modify certain of the review procedures and the membership of the BGC Appeals Board. In addition, the amendment would add certain determinations relating to multiemployer plans that will be subject to administrative review. This regulation is being reviewed within the PBGC. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. The rule is necessary to simplify the PBGC's administrative review procedures and to conform the regulation to the Multiemployer Act.

Legal Basis. ERISA section 4002(b)(3).

Regulatory Flexibility. Not subject to the Act.

PBGC Contact. Ms. Deborah West, Attorney, Office of the General Counsel, 202-254-3010.

7. Rule on Payment of Premiums

Summary. This regulation, 29 CFR Part 2610, applies to both multiemployer and single-employer plans. The amendment notifies the public of a change in the interest rate charged on the late payment of premiums to PBGC. The amendment was published in final form in the Federal Register and was

effective on February 25, 1982, 47 FR 8174.

PBGC Contact. Ms. Lonie Hassel, Attorney, Office of the General Counsel, 202-254-3010.

8. Rules Governing the Arbitration of Disputes Concerning Employer Liability

Summary. Section 4221 of ERISA provides that any dispute between an employer and the sponsor of a multiemployer plan regarding the determination of the employer's withdrawal liability to the plan shall be resolved through arbitration. Section 4221(a)(2) of ERISA provides that an arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures prescribed by the PBGC. The regulation will set forth those procedures. This proposed regulation is being reviewed within the government. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation is needed to provide the rules of procedure under which an arbitration proceeding will be conducted.

Legal Basis. ERISA sections 4002(b)(3) and 4221(a)(2).

Regulatory Flexibility. The PBGC has determined that this rule not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Ms. Renae Hubbard, Special Counsel, Office of the General Counsel, 202-254-4895.

9. Rules Establishing Interest on Withdrawal Liability Payments

Summary. Section 4129(c)(6) of ERISA provides that the interest rate charged by a multiemployer plan in the event of delinquency or default in the payment of withdrawal liability shall be based on prevailing market rates for comparable obligations, in accordance with PBGC regulations. A proposed regulation implementing this section is being reviewed within the PBGC. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation will enable employers and plan sponsors to determine the interest charges on withdrawal liability payments.

Legal Basis. ERISA sections 4002(b)(2) and 4219(c)(6).

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. David Weingarten, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

10. Rules Governing the Duties of Sponsors of Plans That Have Terminated by Mass Withdrawal

Summary. Section 4281 of ERISA contains rules relating to the administration and payment of benefits under multiemployer plans that have terminated by mass withdrawal. Under certain circumstances, the sponsor of an insolvent terminated plan is required to suspend payment of any benefits that are in excess of those guaranteed under Section 4022A of ERISA. The PBGC is directed to prescribe rules that ensure that plan participants and beneficiaries receive adequate notice of benefit suspensions. A draft of this final regulation is being reviewed within the PBGC. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation will help protect participants and beneficiaries under plans that terminate by mass withdrawal.

Legal Basis. ERISA sections 4002(b)(2) and 4281(d)(3).

Regulatory Flexibility. Not subject to the Act.

PBGC Contact. Mr. David Weingarten, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

11. Rules Varying the Standards Governing the Sale of Assets

Summary. Section 4204 of ERISA provides that the sale of assets by an employer who contributes to a multiemployer plan which would normally constitute a withdrawal will not be considered a withdrawal if certain requirements are met. This regulation would provide exemptions or variances from the purchaser's bond/escrow requirement and the sale-contract requirement of section 4204(a)(1) (B) and (C) of ERISA under certain conditions. The proposed regulation is being reviewed within the PBGC. PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation will provide relief to certain employers who sold their businesses between April 28, 1980 and shortly after enactment of the Multiemployer Act and who incurred withdrawal liability, as well as to certain other employers who want sales of assets to be covered by Section 4204 of ERISA.

Legal Basis. ERISA sections 4002(b)(2) and 4204(c).

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. James M. Graham, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

12. Rules Governing the Notice of Insolvency

Summary. Section 4245(e) of ERISA requires a multiemployer plan sponsor, upon determining that the plan may become insolvent, to give notice of that fact to the PBGC. In addition, the plan sponsor must inform employees and affected employee organizations of the possible insolvency. Section 4245(e)(4) of ERISA requires that the notice be given in accordance with regulations prescribed by the PBGC. A draft of this regulation is being received within the PBGC. PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation is needed so that plan sponsors can comply with this statutory obligation. In addition, this notice is important to PBGC for program and financial planning.

Legal Basis. ERISA sections 4002(b)(3) and 4245(e)(4).

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. J. R. Goldstein, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

13. Rules Governing the Notice of a Merger or Transfer of Assets Between Multiemployer Plans

Summary. Section 4231(b)(1) of ERISA requires the plan sponsor of a multiemployer plan to notify PBGC, in accordance with regulations prescribed by PBGC, of a merger or transfer of assets or liabilities to another multiemployer plan. A proposed regulation was published in the Federal Register on December 22, 1981, 46 FR 62087. The public comment period ended on February 22, 1982. Drafting of the final regulation will begin shortly. PBGC expects that the regulation will be issued in approximately six months. PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This regulation will provide a procedure for plan sponsors to notify PBGC of mergers or transfers of assets or liabilities between multiemployer plans.

Legal Basis. ERISA sections 4002(b)(3) and 4231(b).

Regulatory Flexibility. The PBGC has determined that this rule will not have a

significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. James M. Graham, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

14. Rules Allowing Plans to Adopt Special Withdrawal Liability Rules

Summary. This regulation prescribes the procedures under which a multiemployer plan may seek PBGC's approval of special withdrawal rules similar to those applicable to the building and construction industry and the entertainment industry. The regulation was published in the *Federal Register* as a final rule and was effective on March 24, 1982, 47 FR 12622.

PBGC Contact. Mr. James M. Graham, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

15. Rules Establishing a Supplemental Guarantee Program

Summary. Section 4022A(g)(2) of ERISA requires PBGC to issue regulations establishing a supplemental program to guarantee benefits under multiemployer plans that would otherwise be guaranteed but for the limitations in section 4022A(c) of ERISA. Participation by plans in this supplemental program is optional. Proposed regulations implementing this program should be published shortly in the *Federal Register*. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. This supplemental guarantee program will enable covered plans to obtain a greater benefit guarantee for participants.

Legal Basis. ERISA sections 4002(b)(2) and 4022A(g)(2).

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. David Weingarten, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

16. Rules Defining the "Building and Construction Industry"

Summary. Section 4203(a) of ERISA defines the circumstances under which an employer will have withdrawn from a multiemployer plan. Section 4203(b) of ERISA contains special withdrawal rules for the building and construction industry. ERISA does not, however, contain a definition of the term "building and construction industry"; nor does it define two other terms critical to the special rules, "primarily

and "substantially." This regulation would provide those definitions. PBGC expects to begin drafting this regulation shortly. Because of the difficulty in developing appropriate definitions of these terms and the significant public interest in this regulation, PBGC expects to issue an advance notice of proposed rulemaking on this matter. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. By defining the "building and construction industry", this regulation will provide the scope of the special withdrawal rule contained in section 4203(b) of ERISA.

Legal Basis. ERISA sections 4001(b) and 4002(b)(3).

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. James M. Graham, Attorney, Office of the Executive Director, Policy and Planning, 202-254-4862.

17. Rules Relating to the Reduction or Waiver of Complete Withdrawal Liability

Summary. Section 4207(a) of ERISA requires the PBGC to provide rules for reducing or waiving the liability of an employer who has completely withdrawn from a multiemployer plan and subsequently resumes covered operations or renews the obligation to contribute under the plan. Under section 4207(b) of ERISA, PBGC must also establish a procedure under which plans may adopt their own rules for reduction or waiver of complete withdrawal liability. Drafting of this proposed regulation will begin shortly. The PBGC has determined that this regulation is not a major rule within the meaning of the Executive Order.

Objective. The regulation will identify those situations in which relief under section 4207 of ERISA is appropriate and provide a method for calculating the amount of the reduction or waiver. The regulation also will provide for necessary adjustments to the allocation of unfunded vested benefits under section 4211 of ERISA when the employer returns to the plan.

Legal Basis. ERISA sections 4002(b)(3) and 4207.

Regulatory Flexibility. The PBGC has determined that this rule will not have a significant economic impact on a substantial number of small entities.

PBGC Contact. Mr. David Weingarten, Attorney, Office of the Executive

Director, Policy and Planning, 202-254-4862.

Robert E. Nagle,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-12172 Filed 5-4-82; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2645

Extension of Special Withdrawal Liability Rules

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking presents for public comment various issues relating to possible regulatory standards for the Pension Benefit Guaranty Corporation's approval of plan amendments adopting special withdrawal liability rules similar to those applicable to the construction and entertainment industries. Under the Employee Retirement Income Security Act of 1974, as amended, the PBGC may permit a plan to establish special withdrawal liability rules. The PBGC may approve the rules if it determines that they apply to an industry that has the characteristics that would make use of the special rules appropriate, and that the rules would not pose a significant risk to the PBGC insurance system. The effect of this advance notice of proposed rulemaking is to obtain the views of the public with respect to the rules and standards for making those determinations.

DATE: Comments should be received on or before July 6, 1982.

ADDRESSES: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Introduction

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Multiemployer Act"), became law on September 26, 1980 and

amended the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (The Act as amended is hereinafter referred to as "ERISA".) As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Under section 4203(a) of ERISA, a complete withdrawal is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, partial withdrawal generally occurs when an employer reduces covered operations by seventy percent, or removes a continuing facility or bargaining unit from the plan while continuing to do such previously covered work in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that cessation of the obligation to contribute by an employer in certain industries does not normally weaken the plan's contribution base unless the employer continues the same work in the same area. The construction and entertainment industries were identified as industries in which employer entries and withdrawals typically do not adversely affect the plan. In these industries, work is generally on a project-by-project basis, an employer's covered employment may fluctuate drastically, and when a project ends an employer's workers will normally remain in the labor pool available for employment by other contributing employers. Because of these factors, Congress established special withdrawal rules for the construction and entertainment industries.

The special construction rule applies if (1) the plan primarily covers employees in the building and construction industry, and (2) substantially all of the employees with respect to whom an employer has an obligation to contribute under the plan perform work in the building and construction industry (ERISA section 4203(b)(1)). (For plans that do not cover primarily employees in the building and construction industry, the special construction rule applies only if a plan amendment is adopted which extends the rule to employers in that industry

(ERISA section 4203(b)(1)(B)(ii).) The special entertainment rule applies if (1) the plan primarily covers employees in the entertainment industry, and (2) an employer's obligation to contribute for work in the entertainment industry is primarily on a temporary or project-by-project basis (ERISA section 4203(c)(1)).

Under the definition in section 4203(b)(2) of ERISA, a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent area is the area of the plan rather than the area of the collective bargaining agreement. In contrast, the general definition of complete withdrawal imposes liability regardless of the continued activities of the withdrawal employer.

Congress also modified the partial withdrawal liability rules for the construction and entertainment industries. In construction, a partial withdrawal occurs "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required" (ERISA section 4208(d)(1)). The entertainment industry is exempt from partial withdrawal liability "except under the conditions and to the extent prescribed by the corporation by regulation" (ERISA section 4208(d)(2)).

During Congress' deliberations on the Multiemployer Act, other industries requested that the special construction and entertainment rules be extended to their plans. However, there were unresolved questions concerning the risks that special rules might impose on the plans and the insurance system. There were also uncertainties as to the precise rule that should apply in other industries. For these reasons, Congress gave PBGC the authority to extend special withdrawal rules to other appropriate industries on a case-by-case basis.

Section 4203(f) of ERISA provides that the PBGC may authorize plans in other industries to adopt special complete withdrawal liability rules. A special rule adopted pursuant to section 4203(f) need only be similar—not identical—to the

rules established in section 4203 (b) and (c) of ERISA. The PBGC has interpreted the term "similar rules" to include rules adopted by a plan that permit certain cessations of operations within the jurisdiction of the plan or the collective bargaining agreement not to constitute withdrawals. The special withdrawal rules established by Congress for the construction and entertainment industries are illustrative of the kinds of rules plans might adopt. Section 4203(f) further provides that PBGC may permit use of special rules (1) only in industries (or portions thereof) which the PBGC determines have appropriate characteristics, and (2) only if the PBGC determines in each instance that use of such rules will not pose a significant risk to the insurance system.

Under section 4208(e)(3) of ERISA, PBGC may authorize plans to adopt special partial withdrawal liability rules, subject to approval by the PBGC upon a finding that the rules are consistent with the purposes of Title IV of ERISA. Under that authority, PBGC will permit plans to establish special partial withdrawal liability rules that are consistent with the complete withdrawal rules established by a plan pursuant to section 4203(f) of ERISA.

PBGC has previously issued a regulation prescribing procedures whereby a multiemployer plan can, pursuant to sections 4203(f) and 4208(e)(3) of ERISA, request the PBGC to approve a plan amendment which establishes special complete and partial withdrawal liability rules (47 FR 12622 (March 24, 1982)). The purpose of this advance notice of proposed rulemaking is to solicit public comment on possible rules and standards for determining whether plans should be permitted to establish special withdrawal rules. Development of specific rules and standards would provide direction to plan sponsors on the following general matters:

- What are the industry characteristics that would make use of the special rules appropriate?
- What standards should be used for determining whether use of special rules in a particular situation would pose a significant risk to the insurance system?

After reviewing the comments received pursuant to this notice, PBGC may issue a proposed regulation containing specific rules applying the statutory standards.

Standards for Determining Appropriateness of the Industry

Section 4203(f) of ERISA requires that in order for a plan to establish special withdrawal rules, PBGC must find that the rules will apply to an industry that has appropriate characteristics. The legislative history of the Multiemployer Act provides guidance on the circumstances in which special withdrawal rules might be appropriate for a given industry and the factors to be considered by PBGC in making that determination. The Senate Labor and Finance Committees' Joint Explanation indicates the basic rationale for the establishment of special withdrawal liability rules:

"The Committees believe that this special definition is warranted because, in view of the nature of [the construction] industry, it provides substantial protection for the affected plans. For instance, an employer's leaving the jurisdiction of the plan or going out of business does not typically reduce the plan's contribution base. Rather, an employer reduces the plan's contribution base only if it continues to do what would have been covered work but does not have an obligation to contribute to the plan for that work. In order to protect the plan, that continuation of work without contributions is treated as a withdrawal * * * Other characteristics of the [industry], including the mobility of both employers and employees and the intermittent nature of employment, also persuade the Committees that this special rule is needed." (Senate Labor and Finance Committees' Joint Explanation, *Congressional Record*, p. S10116 (July 29, 1980).)

A similar expression of Congressional intent is found in the House Education and Labor Committee report:

"In the construction industry, the funding base of the plan is the construction projects in the area covered by the collective bargaining agreements through which the plan is maintained. An individual employee will typically work for tens or even hundreds of different employers over his or her working career, and the volume of work for a given employer will often fluctuate greatly from year to year. These normal events do not pose an undue threat to a plan as long as contributions are made for whatever work is done in the area." (H.R. Rep. No. 869, Pt. I, 96th Cong., 2d Sess. 75 (1980).)

Finally, according to the House floor explanation, PBGC is authorized to extend special rules—

"* * * to similar industries if the characteristics that would make the use of such rules appropriate are clearly shown * * * In exercising that authority, it is our intention that, in addition to considering the effects of withdrawals on the plan's contribution base, an important element in the corporation's analysis as to whether it will extend the special rules to a requesting industry will be the project-by-project or temporary nature of the employer's

participation in the plan, and the existence or non-existence of a consistent pattern of entry and withdrawal by various employers." (House Floor Explanation, *Congressional Record*, p. H7900 (August 26, 1980).)

The legislative history indicates that the basic consideration in determining the appropriateness of special rules is the impact that the cessation of contributions by an individual employer will have on a plan's contribution base. Therefore, whether the use of a special rule is appropriate may be established by showing the existence of certain industry characteristics which, in the normal course of events, indicate that withdrawals in a given industry would not adversely affect a plan's contribution base. That necessarily involves information on the mobility of employees and employers, as well as on the basic nature of work within that industry.

What characteristics are indicative of an industry in which withdrawals typically would not have a weakening effect on a plan's contribution base? The legislative history of the Multiemployer Act suggests some of those characteristics. They include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

The legislative history suggests that extension of special rules to industries that evidence these characteristics would be appropriate, because in such industries employer "withdrawals" as normally defined would not ordinarily adversely affect a plan's contribution base. In such situations, the volume of covered work generally would be fixed, and cessation of operations by one covered employer would not, by itself, result in a reduction in such work. In addition, if an employer's participation in a plan is only temporary, such participation may very well enrich the plan, since the contributions made by the employer may exceed the vested benefits earned by its employees.

Are there other characteristics that identify industries in which employer withdrawals typically do not have an adverse impact on the plan's contribution base? In addition, how many of these characteristics should it be necessary to demonstrate in order to establish the appropriateness of an industry for a special withdrawal rule? For example, should it be required that a plan show that work is both tied to a specific area and performed on a project-by-project basis? Should any of

these factors be dispositive standing alone?

The next level of inquiry is how are these various industry characteristics to be established? It may be relevant to determine that work is tied to a specific area. In that connection, should it be necessary to find that the product can only be produced in the area, or that the demand for goods and services can only be satisfied by employers who operate in the area? To cite another example, how should the term "project" be defined in order to determine the "project-by-project" nature of work? Should it be defined in terms of an end product, such as a building or a play; or in terms of the nature of employment that goes into producing the product, *i.e.*, is employment usually of a brief or intermittent nature? What number and frequency of employer entries and withdrawals would demonstrate "a consistent pattern of entry and withdrawal by employers"?

Risk to the Insurance System

After determining whether an industry is appropriate, the PBGC must determine whether the use of a specific withdrawal rule by a particular plan will pose a significant risk to the insurance system. This second general test involves a focused inquiry into the nature of the particular plan and the ways in which that plan may be affected by the operation of the special rule it wishes to adopt.

The Nature of the Plan

There may be situations where an industry in general is appropriate, but where a special rule should not be permitted because of the particular characteristics of the plan. For example a special rule may be inadvisable where a plan has been suffering declines in its contribution base, or where the plan is in severe financial trouble.

How should plan suitability be determined? The stability of the plan's contribution base over a period of years would appear to be a good measure of the financial vitality of a plan. A stable or growing base would indicate a plan that might not be adversely affected by withdrawals, and thus a special rule for that plan might not pose a significant risk to the insurance system. However, if the contribution base has declined substantially, such special rules may create a significant risk. Are there other ways of measuring plan stability? Is it relevant to consider the scope of a plan (*i.e.* local, regional, national) in considering plan stability? Is it relevant to consider the percentage of a plan's

contribution base attributable to a single employer or a small group of employers?

A related question is to what extent should a plan's financial condition be taken into account? What financial or actuarial criteria should be used for determining risk to the insurance system?

Scope and Content of the Rules

The second part of this inquiry is whether, given the nature of a particular plan, the specific rule it proposes will pose a significant risk to the insurance system. It would appear that this inquiry requires an examination of the scope and content of the rule, and the ways in which the rule addresses related questions such as partial withdrawals.

For example, should plans have the flexibility to apply the special rules to an entire industry or just to a segment of an industry, or, in the case of a multi-industry plan, to employers in more than one industry? If so, it may be necessary to place some limits on this flexibility. Clearly plans may apply the special rule to employers doing the type of work that qualifies for the rule. Are there circumstances where plans might be permitted to extend the rule to other employers, even though they do not perform the appropriate work? If so, should there be a requirement that the plan be composed of a certain percentage of employers doing the appropriate-type work? In addition, if a special rule is to apply only to employers doing the appropriate work, when employers do more than one kind of work, how much appropriate-type work must an employer do in order to qualify for the special rule? For the construction industry, the requirement is that "substantially all" of the employees work in the appropriate industry (ERISA section 4203(b)(1)(A)). For the entertainment industry, an employer's covered work must be "primarily" on a temporary or project-by-project basis (ERISA section 4203(c)(1)). What is the appropriate standard, and how should it be defined?

As previously mentioned, the Multiemployer Act provides only general guidance on the specific content of special withdrawal rules. Complete withdrawal liability rules under section 4203(f) need only be similar to the withdrawal rules Congress established for the construction and entertainment industries. The precise rules for those industries may not be suitable for use in other industries.

There are a large number of ways in which plan rules may differ from the construction and entertainment rules. Should PBGC identify the variations that plans might adopt, or allow plans

flexibility? What kinds of limits might be imposed? For example, how much flexibility should plans be given in imposing other requirements in lieu of withdrawal liability (e.g., requiring a bond or escrow for a period of time following an employer's cessation of contributions), or in limiting the amount of withdrawal liability (e.g., limiting it to directly attributable unfunded vested benefits)?

Certain types of manufacturing industries illustrate the need for tailoring the withdrawal rules to a specific situation. (While it appears, based on the factors discussed above, that manufacturing generally would not be appropriate for special rules under section 4203(f), there are some types of manufacturing that may have characteristics appropriate for the use of such special rules.) One example is manufacturing that functions primarily or exclusively in a service capacity to other businesses. These employers process material owned by other businesses into intermediate or finished products for those other businesses. While such work does not have to be performed in a specific geographic area, it does have many similarities to construction: the volume of work is outside the control of the employer, employers compete among themselves for a fixed volume of work, and the work is project-by-project. Another example may be an industry that operates primarily or exclusively on a special order basis.

In both these examples, the construction rule *per se* is arguably not a proper rule, because employers would be able to re-locate operations without giving up the work, thereby diminishing the plan's contribution base. However, a modified rule that would exempt from withdrawal liability only those employers who cease doing work of the type for which contributions were previously required might not pose a significant risk to the insurance system, and thus might be used for such industries.

Another issue is the need for special partial withdrawal rules. Such rules may be necessary so that plans that establish special complete withdrawal rules do not continue to be subject to the potentially conflicting general partial withdrawal rules of section 4205. That would result in an anomalous situation: the general statutory rules would impose partial withdrawal liability for an employer's diminished participation under a plan, whereas under a special rule a total cessation might not constitute a complete withdrawal (e.g., a 75 percent reduction in contributions would be a partial withdrawal, but a 100

percent reduction would not be a complete withdrawal).

Special partial withdrawal rules would need to be consistent with the rules adopted on complete withdrawal, but are there any special limitations that should be placed on the kind of partial withdrawal rules a plan might adopt? The options for partial withdrawal rules range from rules like the general statutory rules contained in section 4205¹ to no rule at all, as provided for the entertainment industry in section 4208(d)(2). Should PBGC establish minimum requirements for special partial withdrawal rules? Are there circumstances in which the no-partial-withdrawal rule would be appropriate?

In developing special withdrawal rules, plan rules might well need to address the effect of the rules not only under section 4201 of ERISA, but under other Title IV provisions as well, such as the mass withdrawal and sale of assets provisions. Unless these related areas are addressed, the use of special rules may pose a significant risk to the insurance system. One example of this is the possibility of mass withdrawal.

The possibility exists that an industry can disappear in an area. Absent specific "mass withdrawal" provisions in the plan's special rules, no employer would be liable and the total burden would be shifted to PBGC. How might plan rules be structured to eliminate this risk? Or, would it be advisable for the regulation to require that the special withdrawal liability rule not apply to employers who cease to be obligated to contribute to the plan or cease covered operations within a certain number of years prior to the date that all employers withdraw from a plan?

Sales of assets may also present significant risks to the insurance system under plans that have adopted special rules. If the employer sells its business to a non-contributing employer in the same area, there may be potential harm. Thus, it may be necessary to require that the special rules address what happens

¹ Under ERISA section 4205, several events result in a partial withdrawal for plans other than construction and entertainment industry plans. First, a partial withdrawal occurs if there is a "70 percent contribution decline" in an employers contribution base units. In addition, a partial withdrawal occurs if there is a "partial cessation of the employer's contribution obligation." Under ERISA section 4205(b)(2)(A), such a partial cessation occurs if the employer permanently ceases to have an obligation to contribute—under one or more (but not all) collective bargaining agreements; or with respect to one or more (but not all) of its facilities. Further a partial withdrawal for a partial cessation occurs only if the employer continues to perform work of the type for which contributions were previously required without having an obligation to contribute for such work.

when an employer ceases to have an obligation to contribute as a result of a sale of assets. For example, in the situation posited above, should the sale be treated as a withdrawal unless the purchaser assumes the obligation to contribute for the operations purchased, and assumes the amount of unfunded vested benefits allocable to the seller as of the date of the sale? Should all sales of assets be treated alike?

Requests for Comments and Suggestions

PBGC invites comments on the issues and proposals discussed in this notice, including specific suggestions on how a regulation might address these issues.

List of Subjects in 29 CFR Part 2645

Employee benefit plans, Pensions.

Issued at Washington, D.C. on this 29th day of April, 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-12227 Filed 5-4-82; 8:45 am]

BILLING CODE 7708-01

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Surviving Spouse's Delimiting Date, Approval Requirements for Nonaccredited Courses

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The following regulations propose to implement provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect persons receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code. These amendments liberalize the method for determining the last date a surviving spouse may receive dependents' educational assistance, and liberalize the approval requirements for nonaccredited courses.

DATES: Comments must be received on or before June 1, 1982.

In keeping with Pub. L. 97-66, the Veterans Administration proposes to make these regulations effective on October 17, 1981.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for

public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays), until June 11, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.3046 is amended to implement the portion of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which provides a new method for determining a surviving spouse's delimiting period. This policy change is required by law.

Sections 21.4254 and 21.4255 are amended to permit nonaccredited colleges and universities to obtain a waiver of one of the requirements they ordinarily would have to meet in order to have their courses approved for veterans' training. This policy change is also required by law.

The Veterans Administration has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than \$100 million. The proposals will not result in any major increases in cost or prices for anyone. They will have no 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 Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not 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. These regulations are exempt under 5 U.S.C. 605(B) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. There are several reasons for this certification.

The amendment to § 21.3046 will regulate recipients of dependents'

educational assistance. It will have no significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

There are 26 publicly supported, degree-granting colleges and universities which are candidates for accreditation by a regional accrediting association. They may possibly be affected by the amendments to §§ 21.4254 and 21.4255. Of these only one is supported by a governmental jurisdiction small enough to be a small entity according to the RFA. This is not a substantial number. The amendments to these sections will have no significant direct impact on other types of small entities such as small businesses and small private and nonprofit organizations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance numbers for the programs affected by these proposed regulations are 64.111, 64.117 and 64.120)

Approved: April 15, 1982.

Robert P. Nimmo,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is proposing to amend 38 CFR Part 21 as follows:

1. In § 21.3046, paragraph (b) is revised to read as follows:

§ 21.3046 Periods of eligibility; spouses and surviving spouses.

(b) *Surviving spouses.* (1) If the Veterans Administration determines before December 1, 1968 that the veteran died of a service-connected disability, the beginning date of the 10-year period is December 1, 1968.

(2) If the veteran's death occurred before December 1, 1968, but the Veterans Administration does not determine that the veteran died of a service-connected disability until after November 30, 1968, the beginning date of the 10-year period is the date on which the Veterans Administration determines that the veteran died of a service-connected disability.

(3) If the veteran's death occurred before December 1, 1968 while a total, service-connected disability evaluated as permanent in nature was in

existence, the beginning date of the 10-year period is December 1, 1968.

(4) If the veteran's death occurred after November 30, 1968, the beginning date of the 10-year period is:

(i) The date of death of the veteran who dies while a total, service-connected disability evaluated as permanent in nature was in existence, or

(ii) The date on which the Veterans Administration determines that the veteran died of a service-connected disability. (38 U.S.C. 1712(b); Pub. L. 97-66, 95 Stat. 1026)

* * *

2. In § 21.4254, paragraph (c)(13) is revised as follows:

§ 21.4254 Nonaccredited courses.

* * *

(c) Approval criteria. * * *

(13) The school either: (i) Has and maintains a policy for the pro rata refund of the unused portion of tuition, fees and charges if the veteran or eligible person fails to enter the course or withdraws or is discontinued from it before completion, or

(ii) Has obtained a waiver of this requirement. See § 21.4255. (38 U.S.C. 1776; Pub. L. 97-66, 95 Stat. 1026)

* * *

3. Section 21.4255 is revised as follows:

§ 21.4255 Refund policy; nonaccredited courses.

(a) *Acceptable refund policy.* A refund policy meets the requirements of § 21.4254(c)(13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length. The school may make provision for refund within the following limitations:

(1) *Registration fee.* An established registration fee in an amount not to exceed \$10 need not be subject to proration. Where the established registration fee is more than \$10, the amount in excess of \$10 will be subject to proration.

(2) *Breakage fee.* Where the school has a breakage fee, it may provide for the retention of only the exact amount of the breakage, with the remaining part, if any, to be refunded.

(3) *Consumable instructional supplies.* Where the school makes a separate charge for consumable instructional supplies, as distinguished from laboratory fees, the exact amount of the charges for supplies consumed may be

retained but any remaining part must be refunded.

(4) *Books, supplies and equipment.* (i) A veteran or eligible person may retain or dispose of books, supplies and equipment at his or her discretion when:

(A) He or she purchased them from a bookstore or other source, and

(B) Their cost is separate and independent from the charge made by the school for tuition and fees.

(ii) The school will make a refund in full for the amount of the charge for unissued books, supplies and equipment when:

(A) The school furnishes the books, supplies and equipment.

(B) The school includes their cost in the total charge payable to the school for the course.

(C) The veteran or eligible person withdraws or is discontinued before completing the course.

(iii) The veteran or eligible person may dispose of issued items at his or her discretion even if they were included in the total charges payable to the school for the course.

(5) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this paragraph, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata portion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(6) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this paragraph.

(b) *Waiver.* (1) An educational institution may apply to the Director of the VA field station of jurisdiction for a waiver of the requirements of paragraph (a) of this section as they apply to a veteran or eligible person. The Director

shall grant a waiver when he or she finds that the educational institution:

(i) Is a college, university, or similar institution offering post-secondary level academic instruction leading to an associate or higher degree;

(ii) Is operated by an agency of a State or a unit of local government;

(iii) If operated by an agency of a State, is located within that State;

(iv) If operated by a unit of local government, is located within the boundaries of the area over which that unit has taxing jurisdiction;

(v) Is a candidate for accreditation by a regional accrediting agency; and

(vi) Charges the veteran or eligible person no more than \$120 per quarter, \$180 per semester or \$360 per school year in tuition, fees and other charges for the course.

(2) If an educational institution disagrees with a decision of a Director of a VA field station, it may ask that the Director, Education Service review the decision. In reviewing the decision the Director must consider the evidence of record. He or she may not grant a waiver unless all the criteria of paragraph (b)(1) of this section are met. (38 U.S.C. 1776(d); Pub. L. 97-66, 95 Stat. 1026)

[FR Doc. 82-12247 Filed 5-4-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124 and 146

[W-4-FRL-2118-1]

Mississippi Department of Natural Resources; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The public hearing on the Mississippi Department of Natural Resources, Underground Injection Control Primacy Application, scheduled for May 10, 1982 has been cancelled. The public hearing had been announced in the Wednesday, April 8, 1982 Federal Register (47 FR 15147).

Inasmuch as EPA has received only minimal response from the public, the Region has determined that insufficient public interest was generated and is cancelling the public hearing.

FOR FURTHER INFORMATION CONTACT: Curtis F. Fehn, Groundwater Section, Environmental Protection Agency,

Region IV, 345 Courtland Street, NE.,
Atlanta, Georgia 30365; (404) 881-3866.

Dated: April 27, 1982.
Charles R. Jeter,
Regional Administrator.

[FR Doc. 82-12231 Filed 5-4-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 123

[W-4-FRL-2118-2]

State Oil and Gas Board of Mississippi; Underground Injection Control Primacy Application

AGENCY: Environmental Protection
Agency.

ACTION: Notice of cancellation of public
hearing.

SUMMARY: The public hearing on the
State Oil and Gas Board of Mississippi
Underground Injection Control Primacy
Application, scheduled for May 11, 1982
has been cancelled. The public hearing
had been announced in the Thursday,
April 7, 1982 Federal Register (47 FR
14925). No requests for a public hearing
have been received.

FOR FURTHER INFORMATION CONTACT:
Curtis F. Fehn, Groundwater Section,
Environmental Protection Agency,
Region IV, 345 Courtland Street, NE.,
Atlanta, Georgia 30365, (404) 881-3866.

Dated: April 27, 1982.
Charles R. Jeter,
Regional Administrator.

[FR Doc. 82-12232 Filed 5-4-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300059; PH-FRL 2112-7]

Seven Rare Earth Chlorides; Proposed Exemptions From the Requirement of a Tolerance

Correction

In FR Doc. 82-11524, appearing at
page 18155, in the issue of Wednesday,
April 28, 1982, make the following
change:

On page 18157, in the first column,
after the "Dated" line, add the following
signature:

Frederick Eidness, Jr.,
Assistant Administrator for Water.

BILLING CODE 1505-01-M

40 CFR Part 180

[PH FRL 2113-7; PP OE2388/P221]

O,O-Diethyl O-(2-Isopropyl-6-Methyl-4- Pyrimidinyl) Phosphorothioate; Proposed Tolerances

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule

SUMMARY: This notice proposes that
tolerances be established for residues of
the insecticide O,O-diethyl O-(2-
isopropyl-6-methyl-4-pyrimidinyl)
phosphorothioate in or on the raw
agricultural commodities wheat forage,
grain, and straw. This proposal to
establish a maximum permissible level
for residues of the insecticide in or on
the commodities was submitted by the
Interregional Research Project No. 4 (IR-
4).

DATE: Comments must be received on or
before June 4, 1982.

ADDRESS: Written comments to: Donald
R. Stubbs, Emergency Response Section,
Registration Division (TS-767C),
Environmental Protection Agency, 401 M
St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Donald Stubbs (703-557-7700).

SUPPLEMENTARY INFORMATION: The
Interregional Research Project No. 4 (IR-
4), New Jersey Agricultural Experiment
Station, P.O. Box 231, Rutgers
University, New Brunswick, NJ 08903,
has submitted pesticide petition number
OE2388 to EPA on behalf of the IR-4
Technical Committee and the
Agricultural Experiment Stations of
California, Illinois, Kansas, Oklahoma,
Texas, and Washington.

This petition requested that the
Administrator, pursuant to section
408(e) of the Federal Food, Drug, and
Cosmetic Act, propose the
establishment of tolerances for residues
of the insecticide O,O-diethyl O-(2-
isopropyl-6-methyl-4-pyrimidinyl)
phosphorothioate in or on the raw
agricultural commodities wheat forage,
wheat grain, and wheat straw at 0.05
part per million (ppm).

The data submitted in the petition and
all other relevant material have been
evaluated. The pesticide is considered
useful for the purpose for which the
tolerance is sought. The toxicological
data considered in support of the
proposed tolerance included: an NCI
bioassay (based on 2-year oncogenicity
studies) which was negative for
oncogenicity in rats and mice; a multi-
generation rat reproduction study with a
no-observed-effect level (NOEL) of 0.4
mg/kg/day; a 106-week monkey feeding
study with a cholinesterase (ChE) NOEL

of 1.0 ppm; a 90-day rat feeding study
with a ChE NOEL of 0.025 mg/kg/day; a
90-day dog feeding study with a ChE
NOEL of 0.02 mg/kg/day; a two-year rat
feeding study with a ChE NOEL not
demonstrated at 10 ppm (lowest dose
tested); a 2-year dog feeding study with a
ChE NOEL not demonstrated at 160 ppm
(lowest dose tested); a rabbit teratology
study negative for teratogenic and
fetotoxic effects at 100 mg/kg (highest
level fed) during days 6 to 18 of
gestation; a hen demyelination study
which was negative at 100 mg/kg.

The acceptable daily intake (ADI),
based on the 90-day dog feeding study
(NOEL of 0.02 mg/kg/day) and using a
10-fold safety factor, is calculated to be
0.002 mg/kg of body weight (bw)/day.
The maximum permitted intake (MPI)
for a 60-kg human is calculated to be
0.12 mg/day. The theoretical maximum
residue contribution (TMRC) from
existing tolerances for a 1.5 kg daily diet
is calculated to be 0.4137 mg/day; the
current action will increase the TMRC
by 0.0078 mg/day or approximately 1.8
percent. The current action will utilize
6.48 percent of the ADI.

The nature of the residues is
adequately understood and an adequate
analytical method (gas chromatography
with a flame photometric detector) is
available for enforcement purposes. No
secondary residues are expected in
meat, milk, poultry, or eggs from the
proposed use. There are presently no
actions pending against the continued
registration of this chemical.

Based on the above information
considered by the Agency, the
tolerances established by amending 40
CFR Part 180 would protect the public
health. It is proposed, therefore, that the
tolerances be established as set forth
below.

Any person who has registered or
submitted an application for registration
of a pesticide, under the Federal
Insecticide, Fungicide, and Rodenticide
Act (FIFRA) as amended, which
contains any of the ingredients listed
herein, may request on or before June 4,
1982, that this rulemaking proposal be
referred to an Advisory Committee in
accordance with section 408(e) of the
Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to
submit written comments on the
proposed regulation. Comments must
bear a notation indicating the document
control number, "[PP OE2388/P221]". All
written comments filed in response to
this petition will be available for public
inspection in the office of Donald Stubbs
from 8:00 a.m. to 4:00 p.m., Monday
through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: April 21, 1982.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.153 be amended by adding and alphabetically inserting the raw agricultural commodities wheat forage, wheat grain, and wheat straw to read as follows:

§ 180.153 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Commodities	Parts per million
Wheat, forage	0.05
Wheat, grain	0.05
Wheat, straw	0.05

[FR Doc. 82-11822 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6286]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (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, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency 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 own, 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 Associate Director, 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 it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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	Nevada County (Unincorporated Areas)	Squirrel Creek	50 feet upstream from center of Clover Road	*1,410
		Squirrel Creek Tributary 1	500 feet upstream from confluence with Squirrel Creek	*1,358
		Squirrel Creek Tributary 2	30 feet upstream from center of Penn Valley Drive	*1,384

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Squirrel Creek Tributary 2-1.....	50 feet upstream from center of Devonshire Circle.....	*1,411
		Clear Creek.....	75 feet upstream from center of Penn Valley Drive.....	*1,408
		Wolf Creek.....	60 feet southwest from center of intersection of Sutton Way and Idaho-Maryland Road.	*2,528
		South Fork Wolf Creek.....	500 feet upstream from center of Colfax Highway.....	*2,436
		Little Wolf Creek.....	Intersection of Grass Valley corporate limits and creek..	*2,447
		Deer Creek.....	150 feet southwest from center of intersection of Willow Valley Road and Grove Street.	*2,511
		Truckee River.....	Intersection of Truckee River and center of Old U.S. Highway 40.	*5,640
			25 feet upstream from center of Bridge Street.....	*5,793
		Donner Creek.....	30 feet upstream from center of State Highway 89.....	*5,880
		Summit Creek.....	25 feet upstream from center of Summit Creek Drive.....	*5,954
		Trout Creek.....	100 feet upstream from center of East Main Street.....	*5,822
		Donner Lake.....	300 feet north from intersection of Dogwood Street with South Shore Drive.	*5,942

Maps available for inspection at Department of Planning, HEW Building, 10433 Willow Valley Road, Nevada City, California.

Send comments to the Honorable Eric Rood, Nevada County Courthouse, Nevada City, California 95959.

Florida.....	Gainesville (City) Alachua County.....	Hogtown Creek.....	At the center of Northwest 8th Avenue crossing.....	*89
		Hogtown Creek Tributary 1.....	75 feet upstream from center of Northwest 34th Street..	*107
		Hogtown Creek Tributary 2.....	50 feet upstream from center of Northwest 43rd Avenue.	*166
		Little Hatchet Creek.....	30 feet upstream from center of Airport Service Road....	*110
		Sweetwater Branch.....	40 feet upstream from center of Southeast 4th Street....	*113
		Tumblin Creek.....	At the center of corporate limit crossing.....	*68
		Newmans Lake Tributary 1.....	500 feet south from the intersection of Southeast 26th Street and Southeast 26th Terrace.	*121

Maps available for inspection at Public Works Department, Thomas Center, 306 NE 6th Avenue, Room 319, Gainesville, Florida.

Send comments to the Honorable Courland Collier, P.O. Box 490, Gainesville, Florida 32602.

Florida.....	Marion County (Unincorporated Areas).....	Withlacoochee River.....	At the center of State Highway 200 crossing.....	*41
		Blue Run.....	At the City of Dunnellon corporate limit crossing.....	*33
		Lake Kerr and Little Lake Kerr.....	At Petes Island.....	*27
		Lake Weir and Little Lake Weir.....	900 feet south from center of intersection of seaboard coast line and Alternate U.S. Highways 27 and 441.	*60
		Mill Dam Lake.....	500 feet north from center of intersection of State Highway 40 and Levee Hammock Road.	*54
		Halfmoon Lake.....	900 feet southeast from center of intersection of State Highway 40 and Levee Hammock Road.	*55
		Lake Bryant.....	3000 feet south from center of intersection of State Highway 40 and Levee Hammock Road.	*55

Maps available for inspection at Engineering Department, County Office Building, 19 NW Pine Avenue, Ocala, Florida.

Send comments to the Honorable Bruce Bartlett, 19 NW Pine Avenue, Ocala, Florida 32670.

Georgia.....	City of Porterdale, Newton County.....	Yellow River.....	Just upstream of Highway 81.....	*622
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Maps available for inspection at City Hall, Broad Street, Covington, Georgia 30270.

Send comments to Mayor Smallwood or Mr. Archie Patterson, City Councilman, City Hall, P.O. Box 657, Porterdale, Georgia 30270.

Georgia.....	City of West Point, Troup County.....	Chattahoochee River.....	Just upstream of U.S. Highway 29.....	*574
		Long Cane Creek.....	Just upstream of Interstate Highway 85 southbound.....	*572
			Just upstream of State Highway 18 westbound.....	*573
		Long Cane Creek Tributary.....	Just upstream of Interstate Highway 85 northbound.....	*577

Maps available for inspection at City Clerk's office, City Hall, Second Avenue, West Point, Georgia 31833.

Send comments to the Mayor John Brown or Mr. John Meadors, City Administrator, City Hall, P.O. Box 487, West Point, Georgia 31833.

Hawaii.....	City and County of Honolulu.....	Manoa Palolo Drainage Canal.....	Approximately 700' upstream of confluence with Alawai Canal.	*7
			Date Street (upstream).....	*13
			Downstream of Wai'alae Avenue.....	*30
		Manoa Stream.....	King Stream upstream.....	*29
			Confluence of Palolo Stream.....	*35
			Dole Street upstream.....	*62
			Lowrey Avenue upstream.....	*167
			Approximately 400' upstream Pawaina Street.....	*242
			Approximately 150' upstream of confluence with Luahalea Stream.	*286
		Palolo Stream.....	Upstream of concrete channel.....	*53
			3rd Avenue (upstream).....	*76
			Downstream of 2nd concrete culvert.....	*96
		Ala Wai Canal.....	From approximately 100' upstream of Seaside Avenue extended to Ainakea Way.	6

Maps available for inspection at the City Hall, Department of Land Utilization, 7th Floor, 650 South King Street, Honolulu, Hawaii.

Send comments to Honorable Eileen Anderson, Mayor of the City and County of Honolulu, City Hall, 650 South King Street, Honolulu, Hawaii 96813.

Illinois.....	(C)Cuba, Fulton County.....	Shallow Flooding (ponding due to rainfall).	At the intersection of Douglas Street and 9th Avenue.....	#1
			About 700 feet northeast of the intersection of Toledo Peoria and Western Railroad and 3rd Avenue.	#1

Maps available for inspection at the City Hall, 403 Jefferson Street, Cuba, Illinois.

Send comments to Honorable Gilbert Lemon, Mayor, City of Cuba, City Hall, 403 Jefferson Street, Cuba, Illinois 61427.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V)Lakemoor, McHenry County	Lily Lake Shallow Flooding (ponding from rainfall).	Shoreline Intersection of Rose Dale Drive and Sherry Side Road	*750 *752

Maps available for inspection at the Village Hall, 234 West Rand Road, McHenry, Illinois.

Send comments to the Honorable Richard Hyatt, Village President, Village of Lakemoor, Village Hall, 234 West Rand Road, McHenry, Illinois 60050.

Kansas	(C)McPherson, McPherson County	Dry Turkey Creek	Just upstream of State Route 61 Just upstream of East Avenue A Just upstream of East Kansas Avenue Just upstream of Atchison, Topeka and Santa Fe Railway. Just downstream of County Road A At confluence with Dry Turkey Creek Just upstream of South Frontage Street Just upstream of Chicago, Rock Island and Pacific Railroad. Just downstream of Atchison, Topeka, and Santa Fe Railway.	*1,473 *1,480 *1,483 *1,486 *1,494 *1,475 *1,488 *1,492 *1,494
		East Branch Dry Turkey Creek	At confluence with Dry Turkey Creek	*1,486
		Dry Turkey Creek Tributary No. 3	At confluence with Dry Turkey Creek	*1,490
		Bull Creek	At confluence with Dry Turkey Creek Just upstream of South Main Street Just upstream of West Kansas Avenue Just upstream of West Northview Road Just downstream of County Road A At confluence with Bull Creek Just upstream of Atchison, Topeka and Santa Fe Railway. Just downstream of West First Street	*1,476 *1,483 *1,487 *1,491 *1,494 *1,484 *1,488 *1,492
		Bull Creek Tributary No. 2	At confluence with Bull Creek	*1,484

Maps available for inspection at the City Hall, 400 East Kansas, McPherson, Kansas.

Send comments to Honorable Delbert E. Crabb, Mayor, City of McPherson, City Hall, 400 East Kansas, McPherson, Kansas 67460.

Kansas	(Uninc.) McPherson County	Black Kettle Creek	About 0.8 mile downstream of Old U.S. Highway 81 Bypass. Just upstream of Old U.S. Highway 81 Bypass Just upstream of Missouri Pacific Railroad About 0.96 mile upstream of Durst Street At confluence with Black Kettle Creek About 1,150 feet upstream of confluence with Black Kettle Creek. About 1,650 feet upstream of confluence with Black Kettle Creek.	*1,463 *1,469 *1,473 *1,477 *1,475 *1,475 *1,477
		Black Kettle Creek Tributary No. 1	At confluence with Black Kettle Creek	*1,475
		Galva Drain	About 530 feet downstream of City of Galva corporate limit. At City of Galva corporate limit	*1,533 *1,535
		Smoky Hill River	About 1.2 miles downstream of Washington Street Just upstream of Washington Street About 0.7 mile upstream of Washington Street About 100 feet downstream of Fifth Street Just upstream of Missouri Pacific Railroad (upstream crossing). About 100 feet downstream of State Highway 4	*1,373 *1,377 *1,379 *1,388 *1,392 *1,408
		Smoky Hill River Tributary No. 1	Just upstream of Missouri Pacific Railroad (upstream crossing).	*1,392

Maps available for inspection at the County Courthouse, Box 945, McPherson, Kansas.

Send comments to Honorable Carl Oakleaf, Chairman of the Board of Commissioners, McPherson County, County Courthouse, Box 945, McPherson, Kansas 67460.

Kentucky	Unincorporated Areas of Greenup County	Ohio River	At confluence of Tygarts Creek	*536
		Pond Run	Just upstream of Greenup Locks and Dam Just upstream of Private Road (located approximately 5,500 feet downstream of City of Raceland corporate limits).	*541 *560
		Chinns Branch	Approximately 3,000 feet south of the intersection of U.S. Highway 23 and Chinns Branch Road.	*559
		Coal Branch	Just upstream of Duck Puddle Road	*559
		Smith Branch	Just upstream of Right Fork Smith Branch Road	*548
		Lower White Oak	Just upstream of John Road Just upstream of Bellevue Drive	*588 *602

Maps available for inspection at Greenup County Judge's Office or County Clerk's Office, Greenup County Courthouse, Greenup, Kentucky 41144.

Send comments to Mr. James Claxon, Greenup County Judge Executive, Greenup County Courthouse, P.O. Box 318, Greenup, Kentucky 41144, or Mr. Sam Santell, Community Planner, FIVCC Area Development District, P.O. Box 636, Catlettsburg, Kentucky 41129.

Kentucky	Unincorporated Areas of Rowan County	Triplett Creek	Just downstream of Round street Just downstream of State Highway 32 Just upstream of Private Road located at Alec Hall Branch.	*680 *748 *796
		Mill Branch	Just upstream of McBrager Road	*723
		Morgan Fork	Just upstream of State Highway 519 crossing Morehead and North Fork Railroad. Just upstream of State Highway 519 located approximately 250 feet upstream of Warren Branch.	*750 *830
		Dry Creek	Just upstream of State Highway 519	*718

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Christy Creek	Just downstream of County Road located approximately 300 feet upstream of Timber Branch.	*789
			Just upstream of Private Road located at Patties Lick Branch.	*813
		North Fork Triplett Creek	Just downstream of Private Road located approximately 500 feet upstream of Kidd Branch.	*850
			Just downstream of State Highway 32	*699
			Just upstream of Private Road located approximately 200 feet downstream of confluence of Big Brush Creek.	*714
		Big Brush Creek	Just downstream of Private Road located approximately 800 feet downstream of Harvey Branch.	*742
			Just downstream of State Highway 377	*715
			Just downstream of Old Sport Arena Road located approximately 1,500 feet downstream of State Highway 785.	*799
			Just upstream of Middle Prong Brush Creek Road	*845

Maps available for inspection at Rowan County Judge Executive's Office, County Courthouse, Morehead, Kentucky 40351.

Send comments to Mr. Jim Nickell, Rowan County Judge Executive or Mr. Vernon Gross, County Disaster and Emergency Operations Coordinator, Rowan County Courthouse, Morehead, Kentucky 40351.

Kentucky	City of Russell, Greenup County	Ohio River	At the border of Boyd County line	*547
		White Oak Creek	Just upstream of State Highway 693 (Deidrick Boulevard).	*557
			Just upstream of Verna Drive	*569

Maps available for inspection at City Clerk's Office, City Hall, Russell Kentucky 41169.

Send comments to Mayor Wood or Mr. Gary Boyd, City Administrator, City Hall, P.O. Box 394, Russell, Kentucky 41169.

Maine	Kennebunk, Town, York County	Kennebunk River	Approximately 600' upstream of mouth	*9
			Upstream of U.S. Route 1	*45
			Approximately 2,700' upstream of U.S. Route 1	*58
		Day Brook	At confluence with Mousam River	*46
			Approximately 9,500' upstream of Cat Mousam Road	*67
		Atlantic Ocean	From Corporate limits to confluence of Mousam River	*14
			From approximately 320' east of confluence of Mousam River to Access Road extended.	*21
			From approximately 130' east of Access Road extended to Great Hill Road extended.	*18
			From approximately 160' west of Lords Point Road extended to approximately 700' east of Lords Point Road extended.	*19
			From approximately 400' east of Bruen Place extended to Woodland Avenue extended.	*16
			Tidal flooding affecting Little River and Branch Brook	*9
		Mousam River	At State Route 9	*9
			Approximately 2,960' upstream of Boston and Maine Railroad.	*10
			Downstream U.S. Route 1	*28
			Upstream of Mousam River Spillway	*44
			At Interstate Route 95	*49
			Downstream of Twine Mills Dam	*55
			Upstream of Twine Mills Dam	*74
			Upstream Dane Perkins Dam	*89

Maps available for inspection at the Town Manager's Office, Kennebunk Town Hall, 1 Summer Street, Kennebunk, Maine 04043.

Send comments to the Honorable James Nedeau, First Selectman of the Town of Kennebunk, Town Hall, 1 Summer Street, Kennebunk, Maine 04043.

Massachusetts	Uxbridge, Town Worcester County	Blackstone River	Downstream corporate limits	*216
			Downstream South Maine Street	*224
			At confluence of West River	*226
			Upstream of Mendon Street	*229
			Downstream Hartford Avenue	*233
			Upstream corporate limits	*241
		Mumford River	Confluence with Blackstone River	*227
			Upstream of Caprons Pond Dam	*236
			Downstream of Factory Dam	*247
			Upstream corporate limits (first crossing)	*259
			Upstream corporate limits (second crossing)	*318
			Upstream corporate limits	*321
		West River	Confluence with Blackstone River	*226
			Upstream of Mendon Street	*236
			Upstream of Hartford Avenue	*238
			Upstream West Hill Dam	*241

Maps available for inspection at the Office of the Selectman, Uxbridge Town Hall, Uxbridge, Massachusetts.

Send comments to the Honorable Alfred E. Brooks, Chairman of the Town of Uxbridge Board of Selectman, Town Hall, Uxbridge, Massachusetts 01569.

Michigan	(Twp) Kochville Saginaw County	Kochville Drain	About 2.5 miles above mouth at Saginaw River	*585
			At confluence of North Branch Kochville Drain	*587
		South Branch Kochville Drain	Just upstream of Michigan Road	*588
			Just downstream of State Highway 84	*599
		North Branch Kochville Drain	Just upstream of Davis Road	*589
			Just downstream of State Highway 84	*596
		Shallow Flooding	West of Venoy Road and south of Interstate 675	*585

Maps available for inspection at Mr. Trautners' Home, 4510 Pierce Road, Saginaw, Michigan.

Send comments to Honorable Albert Trautner, Supervisor, Township of Kochville, 6150 Bay Road, Saginaw, Michigan 48604

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.) Thomas Saginaw County	Tittabawassee River	Just upstream of Conrain	*597
			Just downstream of Tittabawassee Road	*603
		Swan Creek	About 3,600 feet downstream of State Highway 46	*593
			Just downstream of Dice Road	*600
		Hatch Run	At confluence with Swan Creek	*598
			About 2,840 feet upstream of Dice Road	*604
Maps available for inspection at the Township Offices, 249 North Miller Road Saginaw, Michigan.				
Send comments to Honorable Norman Bell, Supervisor, Township of Thomas, Township Offices, 249 North Miller Road, Saginaw, Michigan 48603.				
Minnesota	(C) Winona, Winona County	Mississippi River	About 1.3 miles downstream of Burlington Northern Railroad.	*658
			About 2.7 miles upstream of State Route 43	*662
		Gilmore Creek	About 150 feet downstream of U.S. Route 14	*670
			Just upstream of St. Mary's College Bridge	*699
			At upstream corporate limits	*703
		Burns Valley Creek	About 150 feet downstream of County Highway 17	*667
			About 1,100 feet upstream of Sugar Loaf Road	*678
			About 5,800 feet upstream of Sugar Loaf Road	*691
		Pleasant Valley Creek	Just upstream of County Highway 15	*662
			About 1,300 feet upstream of Holler Hill Road	*665
		Crooked Slough	Shoreline	*654
		Shallow Flooding	North of intersection of Goodview Road and U.S. Route 14.	*662
			East of intersection of Goodview Road and U.S. Route 14.	*671
			South of intersection of Goodview Road and U.S. Route 14.	*671
Maps available for inspection at the Director of Public Works' Office, City Hall, 207 Lafayette Street, Winona, Minnesota.				
Send comments to Honorable Robert J. Bollant, Director of Public Works, City of Winona, City Hall, 207 Lafayette Street, Winona, Minnesota 55931.				
Missouri	(C) Fayette, Howard County	Adams Fork	About 200 feet downstream of abandoned Missouri-Kansas-Texas Railroad.	*636
			About 800 feet upstream of County Highway E	*658
		Bonne Femme Creek	About 1,500 feet downstream of State Highway 240	*629
			About 3,600 feet upstream of State Highway 240	*635
		West Branch Bonne Femme Creek	About 1,900 feet upstream of mouth	*634
			Just downstream of Reynolds street	*654
Maps available for inspection at the City Hall, 117 South Main, Fayette, Missouri.				
Send comments to Honorable Larry Smith, Mayor, City of Fayette, City Hall, 117 South Main, Fayette, Missouri 65246.				
Missouri	(C) Franklin Howard County	Cottonwood Creek	At mouth	*601
			At northern corporate limits	*601
		Missouri River	About 0.46 mile downstream of Missouri-Kansas-Texas Railroad.	*600
			About 0.15 mile upstream of Missouri-Kansas-Texas Railroad.	*601
		Suffer Creek	About 950 feet downstream of Missouri-Kansas-Texas Railroad.	*600
			About 1,600 feet upstream of Crews Avenue	*601
Maps available for inspection at City Hall, Franklin, Missouri.				
Send comments to Honorable Norman Grindstaff, Mayor, City of Franklin, City Hall, Franklin, Missouri 65250.				
Missouri	(T) New Franklin, Howard County	Bonne Femme Creek	At southeastern corporate limits	*599
			At northern corporate limits	*600
		Missouri River	About 0.9 mile downstream of Highway 40	*599
			About 0.17 mile upstream of U.S. Highway 40	*600
Maps available for inspection at City Hall, New Franklin, Missouri.				
Send comments to Honorable Donald E. Lang, Mayor, Town of New Franklin, City Hall, New Franklin, Missouri 65274.				
Missouri	(C) Orrick Ray County	Missouri River	About 0.34 mile downstream of Atchison, Topeka and Santa Fe Railway.	*718
			About 1.67 miles upstream of Atchison, Topeka and Santa Fe Railway.	*721
		Keeney Creek	About 2,900 feet downstream of Fleenor Street	*718
			About 280 feet downstream of State Highway 210	*720
Maps available for inspection at the City Hall, Orrick, Missouri.				
Send comments to Honorable Lloyd Smith, Mayor, City of Orrick, City Hall, Orrick, Missouri 64077.				
Missouri	(Uninc.) Ray County	Missouri River	At downstream county boundary	*692
			Just upstream of State Highway 13	*703
			About 0.75 mile upstream of county boundary	*723
		Fishing River	At mouth	*714
			About 0.1 mile downstream of Norfolk and Western Railway.	*722
			At upstream county boundary	*731
		East Fork Fishing River	About 0.9 mile downstream of County Road	*789
			About 0.3 mile upstream of County Road	*813
		Crooked River	Mouth at Missouri River	*696
			Just downstream of Burlington Northern Railroad	*722

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of County Highway D.....	*795
			About 5.4 miles upstream of County Highway D.....	*834
		East Fork Crooked River.....	At confluence with Crooked River.....	*704
			Just upstream of Burlington Northern Railroad.....	*721
			Just upstream of County Road K.....	*747
			About 1.5 miles upstream of County Highway.....	*782
		West Fork Crooked River.....	At mouth.....	*711
			Just upstream of State Highway 13.....	*733
			Just upstream of State Route 10.....	*788
		Keeney Creek.....	At mouth.....	*714
			About 0.05 mile downstream of State Highway 210.....	*720
			Just downstream of Burlington Northern Railroad.....	*743
		West Fork Crooked River Tributary No. 1.....	At mouth.....	*752
			Just downstream of Swarwick Road.....	*770
		Cockereel Creek.....	At mouth.....	*809
			About 0.1 mile upstream of County Highway 88.....	*820
		Tributary A.....	At mouth.....	*752
			Just downstream of County Highway B.....	*773
		Tributary B.....	At mouth.....	*764
			Just downstream of County Highway V.....	*817
			About 0.3 mile upstream of County Highway V.....	*824
		Rocky Fork Crooked River.....	At mouth.....	*756
			Just upstream of County Highway FF.....	*770
		Fire Branch Crooked River.....	At confluence with Crooked River.....	*771
			About 0.1 mile downstream of County Highway HH.....	*806
			About 0.05 mile upstream of County Road D.....	*898
		Davis Branch Crooked River.....	At mouth.....	*785
			Just upstream of County Highway.....	*787
		Kings Branch Crooked River.....	At confluence with Crooked River.....	*791
			About 0.9 mile upstream of confluence with Crooked River.....	*793

Maps available for inspection at the Ray County Courthouse, Richmond, Missouri.

Send comments to Honorable Monroe Fields, Presiding Judge, Ray County, Ray County Courthouse, Richmond, Missouri

Nebraska	(Uninc.) Saunders County	Platte River (Riverward of Levee).....	At south county boundary 1.1 miles downstream of U.S. Highway 6.....	*1,059
			Just 500 feet upstream of State Highway 92.....	*1,123
			Just downstream of City of Fremont Extraterritorial jurisdiction about 1.5 miles downstream of U.S. Highway 77.....	*1,189
			Just downstream of Chicago and North Western Railroad.....	*1,224
			At west county boundary 7.16 miles upstream of State Highway 79.....	*1,306
		Platte River (Landward of Levee).....	About 1.0 mile downstream of the confluence of Elkhorn River.....	*1,075
			About 1.5 miles downstream of State Highway 92.....	*1,114
			About 1.7 miles upstream of State Highway 92.....	*1,130
			About 400 feet upstream of the Union Pacific Railroad.....	*1,146
			About 800 feet upstream of State Highway 64.....	*1,156
			About 1.0 mile upstream of State Highway 64.....	*1,161
			About 5.9 miles upstream of State Highway 64.....	*1,183
			Just upstream of State Highway 79.....	*1,272
			About 1.7 miles upstream of State Highway 79.....	*1,280
		Clear Creek.....	Just upstream of County Road 29.....	*1,077
			Just downstream of County Road 37.....	*1,079
		Johnson Creek.....	At mouth.....	*1,078
			Just downstream of County Road 37.....	*1,079
		Cottonwood Creek.....	Just upstream of County Road 77.....	*1,312
			Just downstream of County Road 85.....	*1,358
		Tributary to Cottonwood Creek.....	At mouth.....	*1,330
			Just upstream of County Road 18.....	*1,351
		Salt Creek.....	About 0.6 mile downstream of U.S. Highway 6.....	*1,059
			Just downstream of County Road 110.....	*1,085
		Wahoo Creek.....	At mouth.....	*1,068
			Just upstream of Burlington Northern Railroad.....	*1,070
		Shallow Flooding (overflow from Platte River.....	About 1.6 miles upstream of Old State Highway 63.....	*1,073
			West of Burlington Northern Railroad (from County Road 45 south to County Road 21).....	*1

Maps available for inspection at the Zoning Administrator's Office, County Courthouse, Wahoo, Nebraska.

Send comments to the Honorable Archie Hightshoe, Chairman of the County Board of Supervisors, Saunders County, County Courthouse, Wahoo, Nebraska 68066.

New Jersey	Cape May City, City Cape May County	Atlantic Ocean.....	Intersection of Beach and Wilmington Avenues.....	*14
			Beach Avenue at its intersection with Reading Avenue.....	*14
			Patterson Avenue extended 100 feet seaward from its intersection with Beach Avenue.....	*12
			350 feet east along Mt. Vernon Street from its intersection with 2nd Avenue.....	*10
			Intersection of Brooklyn and New Jersey Avenues.....	*10
			Intersection of Maryland and Madison Avenues.....	*10
			Intersection of Park Boulevard and Grant Avenue.....	*10
			Intersection of Wilmington and Delaware Avenues.....	*10
			Intersection of Washington and Texas Avenues.....	*10

Maps available for inspection at the Office of the City Clerk, City Hall, 643 Washington Street, Cape May City, New Jersey.

Send comments to Honorable Arthur Blomqvist, Mayor, City of Cape May City, City Hall, 643 Washington Street, Cape May City, New Jersey 08204.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Cape May Point, Borough, Cape May County	Atlantic Ocean	Brainard Avenue extended 400 feet seaward from its intersection with Pearl Avenue.	*14
			Lake Drive extended 200 feet seaward from its intersection with Harvard Avenue.	*14
			Intersection of Lighthouse and Lincoln Avenues	*14
			Intersection of Alexander and Pearl Avenues	*10
			Intersection of Oak Avenue and Lake Drive	*10
			Intersection of Lincoln and Lehigh Avenues	*10
			Intersection of Princeton and Ocean Avenues	*10
Maps available for inspection at the Office of the Borough Clerk, Municipal Building, Yale and Lighthouse Avenues, Cape May Point, New Jersey.				
Send comments to Honorable Frank Rutherford, Mayor, Borough of Cape May Point, 406 Cedar Avenue, Cape May Point, New Jersey 08212.				
New Jersey	Linwood, City, Atlantic County	Patcong Creek	Upstream corporate limits	*12
			From downstream corporate limits to spillway at Central Avenue.	*9
		Scully Bay	Entire shoreline within community	*9
		Isaac's Creek	Entire shoreline within community	*9
		Mulberry Thorofare	Entire shoreline within community	*9
		Steelman Bay	Entire shoreline within community	*9
		Sod Thorofare	Entire shoreline within community	*9
Maps available for inspection at the Municipal Building, 400 Poplar Avenue, Linwood, New Jersey.				
Send comments to Honorable Donald B. Vass, Mayor of Linwood, 400 Poplar Avenue, Linwood, New Jersey 08221.				
New Jersey	Northfield, City, Atlantic County	Patcong Creek	Downstream corporate limits	*12
			Confluence of Maple Run	*12
		Maple Run	Confluence with Patcong Creek	*12
			Mill Road upstream side	*14
			Upstream corporate limits	*14
		Great Egg Harbor Bay	Tidal flooding affecting Isaac's Creek and the eastern portion of the community.	*9
Maps available for inspection at the Municipal Building, 1600 Shore Road, Northfield, New Jersey.				
Send comments to Honorable Arthur Faden, Mayor of Northfield, 1600 Shore Road, Northfield, New Jersey 08225.				
New Jersey	North Wildwood, City Cape May County	Atlantic Ocean	12th Avenue extended 100 feet seaward from its intersection with Beach Drive.	*14
			Intersection of Beach Drive and 2nd Avenue	*14
			Intersection of New Jersey and Spruce Avenues along Hereford Inlet.	*14
			Maryland Avenue extended 50 feet northeast of its intersection with Anglesea Drive.	*14
			Northeast of State Route 585 in the vicinity of the confluence of Beach Creek with the Hereford Inlet.	*12
			The seaward limit of 23rd Avenue, 100 feet northwest of the Boardwalk.	*11
			Intersection of 8th Avenue and Beach Drive	*11
			Intersection of Surf and 2nd Avenues	*11
			Intersection of Anglesea and Taylor Avenues	*11
			Intersection of Virginia and Oak Avenues	*11
			Intersection of Allen Drive and Seaspray Court	*11
			Intersection of Surf and 21st Avenues	*10
			Intersection of Maryland and 16th Avenues	*10
			Intersection of Central and 9th Avenues	*10
			Intersection of Delaware Avenue and Walnut Street	*10
Maps available for inspection at the Office of the City Clerk, 9th and Atlantic Avenues, North Wildwood, New Jersey.				
Send comments to Honorable Anthony T. Catanoso, Mayor, City of North Wildwood, 9th and Atlantic Avenues, North Wildwood, New Jersey 08260.				
New Jersey	Pleasantville, City, Atlantic County	Lakes Bay	Entire shoreline within community	*9
		Absecon Bay	In the vicinity of the northeast portion of the community.	*9
Maps available for inspection at the Municipal Building, 18 North Front Street, Pleasantville, New Jersey.				
Send comments to Honorable George Dix, Mayor of Pleasantville, Municipal Building, 18 North Front Street, Pleasantville, New Jersey 08232.				
New Jersey	Sea Isle City, City, Cape May County	Atlantic Ocean	22nd Street extended 250 feet seaward from its intersection with Landis Avenue.	*14
			34th Street extended 200 feet seaward beyond the Promenade, from its intersection with Pleasure Avenue.	*14
			46th Street extended 75 feet seaward from its intersection with the Promenade.	*14
			66th Street extended 100 feet seaward from its intersection with Pleasure Avenue.	*14
			Portion of 88th Street extending seaward beyond its intersection with Pleasure Avenue.	*14
			Intersection of 23rd Street and Landis Avenue	*12
			Vicinity of the confluence of Swimming Creek with Ludlam Bay.	*12
			Intersection of 32nd Street and Central Avenue	*11
			Intersection of 40th Street and Pleasure Avenue	*11
			Intersection of 58th Street and Landis Avenue	*11
			Intersection of 68th Street and Central Avenue	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, Elevation in feet (NGVD)
			Intersection of 91st Street and Pleasure Avenue.....	*11
			Intersection of 84th Street and Central Avenue.....	*10
			Intersection of Roberts and 77th Streets.....	*10
			Intersection of Central Avenue and 71st Street.....	*10
			Intersection of 54th Street and Central Avenue.....	*10
			Intersection of 44th Street and Venician Road.....	*10
			Intersection of Central Avenue and 36th Street.....	*10

Maps available for inspection at the Office of the City Clerk, City Hall, 4416 Landis Avenue, Sea Isle City, New Jersey.

Send comments to Honorable Dominic C. Raffa, Mayor, City of Sea Isle City, City Hall, 4416 Landis Avenue, Sea Isle City, New Jersey 08243.

New Jersey.....	Wildwood City, Cape May County.....	Atlantic Ocean.....	Hand Avenue extended 50 feet seaward from its intersection with the Boardwalk.....	*14
			Spencer Avenue extended 50 feet seaward from its intersection with the Boardwalk.....	*14
			Popular Avenue extended 50 feet seaward from its intersection with the Boardwalk.....	*14
			Intersection of Andrews Avenue and the Boardwalk.....	*11
			Intersection of Ocean and Wildwood Avenue.....	*11
			Intersection of Bennett and Atlantic Avenues.....	*10
			Intersection and Mediterranean Avenues.....	*10
			Intersection of Ocean and Magnolia Avenues.....	*10
			Intersection of Park Boulevard and Pine Avenue.....	*10

Maps available for inspection at the office of the City Clerk, City Hall, 4400 New Jersey Avenue, Wildwood, New Jersey.

Send comments to Honorable Guy S. Muziani, Mayor, City of Wildwood, City Hall, 4400 New Jersey Avenue, Wildwood, New Jersey 08262.

New Jersey.....	Wildwood Crest, Borough, Cape May County.....	Atlantic Ocean.....	St. Louis Avenue extended 400 feet seaward from its intersection with Atlantic Avenue.....	*14
			Intersection of Beach Avenue and Rosemary Road.....	*14
			Heather Avenue extended 400 feet seaward from its intersection with Ocean Avenue.....	*14
			Intersection of Ocean Avenue and Primrose Road.....	*11
			Intersection of Beach Avenue and Lavender Road.....	*11
			Intersection of Charleston and Pacific Avenues.....	*10
			Intersection of Ocean Avenue and Orchid Road.....	*10
			Intersection of Lake and Morning Glory Roads.....	*10

Maps available for inspection at the office of the Borough Clerk, Borough Hall, 6101 Pacific Avenue, Wildwood Crest, New Jersey.

Send comments to Honorable John J. Pantalone, Mayor, Borough of Wildwood Crest, Borough Hall, 6101 Pacific Avenue, Wildwood Crest, New Jersey 08260.

New York.....	Hastings, Town, Oswego County.....	Oneida River.....	Downstream corporate limits.....	*372
		Oneida Lake.....	Approximately 19,000' upstream of corporate limits.....	*372
			Entire shoreline within community.....	*373

Maps available for inspection at the Town Hall, Route 11, Hastings, New York.

Send comments to Honorable Robert Apgar, Supervisor of Hasting, P.O. Box 71, Central Square, New York 13036.

New York.....	Kensington, Village, Nassau County.....	Manhasset Bay.....	Entire shoreline within Kensington.....	*15
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Maps available for inspection at the Village Hall, 2 Nassau Drive, Great Neck, New York.

Send comments to Honorable Seymour Cohen, Mayor of Kensington, Village Hall, 2 Nassau Drive, Great Neck, New York 11022.

New York.....	Madison, Town, Madison County.....	Oriskany Creek.....	Downstream corporate limits.....	*1,000
			Approximately 3,000' upstream of corporate limits.....	*1,025
			Approximately 10,500' upstream of corporate limits.....	*1,066
			Upstream of Water Street.....	*1,086
			Approximately 2,700' upstream of Dam.....	*1,126
		Payne Brook.....	Downstream corporate limits.....	*1,125
			Downstream of Spillway Road.....	*1,165

Maps available for inspection at the Town Hall, Route 20, Madison, New York.

Send comments to Honorable Richard W. Lamb, Town Supervisor of Madison, Town Hall, Route 20, Madison, New York 13402.

New York.....	Minden, Town, Montgomery County.....	Mohawk River.....	Downstream corporate limits.....	*307
			Upstream of Bridge Street.....	*314
			Upstream corporate limits.....	*320
		Qtsuago.....	Downstream corporate limits.....	*353
			Upstream of State Route 80.....	*368
			Upstream of Spring Street.....	*410
			At Hoffman Road (extended).....	*422
			Salt Springville Road.....	*522

Maps available for inspection at the Minden Town Office, Route 80, R. D. 3, Fort Plain, New York.

Send comments to Honorable Betty H. Alter, Town Supervisor of Minden, 120 Reid Street, Fort Plain, New York 13339.

New York.....	Oriskany Falls, Village, Oneida County.....	Oriskany Creek.....	Downstream corporate limits.....	*927
			Upstream of Cassidy Street.....	*963
			Upstream of Madison Street.....	*985
			Upstream corporate limits.....	*995
		Lindsley Brook.....	Confluence with Oriskany Creek.....	*945
			Upstream corporate limits.....	*945

Maps available for inspection at the Village Hall, 185 Main Street, Oriskany Falls, New York.

Send comments to Honorable William Toumbacaris, Mayor of Oriskany Falls, Village Hall, 185 Main Street, Oriskany Falls, New York 13425.

New York.....	St. Johnsville, Town, Montgomery County.....	Mohawk River.....	Downstream corporate limits.....	*311
			Upstream corporate limits.....	*321

Maps available for inspection at the Office of the Town Clerk, 108 West Main Street, St. Johnsville, New York.

Send comments to Honorable William Dockey, Town Supervisor of St. Johnsville, 58 North Division Street, St. Johnsville, New York 13452.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Tully, Village, Onondaga County	West Branch Tioughnioga River	Downstream corporate limits	*1,229
			Downstream of Clinton Street	*1,246
		Tributary A	Upstream corporate limits	*1,275
			Confluence with West Branch Tioughnioga River	*1,235
			Upstream of Grove Street	*1,236

Maps available for inspection at the Municipal Building, One Railroad Avenue, Tully, New York.

Send comments to Honorable Jack McHerron, Mayor of Tully, Municipal Building, One Railroad Avenue, Tully, New York 13159.

North Carolina	City of Monroe, Union County	Bearskin Creek	Just downstream of Morgan Mill Road	*524
			Just downstream of U.S. Highways 74 and 601	*561
		Richardson Creek	Just downstream of Charlotte Avenue	*573
			Just upstream of Walker Avenue	*486
		Bearskin Creek Tributary	Just upstream of U.S. Highway 601	*495
			Just upstream of Seaboard Coast Line Railroad	*579
		Richardson Creek Tributary	Just downstream of Franklin Street	*588
			Just downstream of Quarry Road	*544
		Still Branch	Just downstream of the confluence of Still Branch Tributary	*530
			Just downstream of Crescent Street	*574
		Still Branch Tributary	Just upstream of Parker Street	*533
			Just upstream of Hayne Street	*554

Maps available for inspection at City Hall, 300 West Crowell Street, Monroe, North Carolina 28110.

Send comments to Mayor Fred C. Long or Mr. C. F. Boyd, Director of Community Development, City Hall, P.O. Box 961, Monroe, North Carolina 28110.

Ohio	(Uninc.) Miami County	Great Miami River	About 1.68 miles downstream of Conrail	*813
			Just upstream of Eldean Road	*842
			Just upstream of U.S. Highway 36	*863
			About 0.27 mile upstream of county boundary	*883
		Great Miami River Bypass	At confluence with Great Miami River	*824
			At City of Troy corporate limits	*825
		Stillwater	About 0.71 mile downstream of Sugar Grove Road	*871
			Just upstream of Falknor Road	*879
		Garbry Creek	At Village of Covington corporate limits (about 0.57 mile upstream of Conrail)	*895
			At Village of Piqua corporate limits	*903
			Just upstream of Looney Road	*924
			Just downstream of Troy Sidney Road	*976
		Greenville Creek	At mouth at Stillwater River	*889
			About 0.24 mile upstream of Rangeline Road	*924
		Honey Creek	Just upstream of Croft Mill Road	*946
			Just downstream of State Route 721	*961
			About 1.11 miles downstream of State Route 201	*814
			Just upstream of Dayton-Brandt Road	*842
		Shawnee Creek	At county boundary	*860
			At Confluence with Rush Creek	*864
		Spring Creek	Just upstream of Industry Road	*901
			About 0.29 mile upstream of Industry Road	*906
		Rush Creek	At mouth at Great Miami River	*838
			Just upstream of Piqua-Troy Road	*846
		Island No. 3 Tributary	About 2.48 miles upstream of Piqua-Troy Road	*899
			At mouth at Great Miami River	*864
		Eldean Tributary	Just upstream of Hetzler Road	*886
			Just downstream of Interstate 75	*916
			About 0.41 mile downstream of Chessie System	*813
			Just downstream of Interstate 75	*863
		Swailes Road Tributary	Just upstream of Barnhart Road	*880
			Just upstream of McKaig Road	*902
		Staunton Tributary	Just upstream of Stanfield Road	*922
			Just upstream of Washington Road	*936
		Jones Run	About 0.71 mile upstream of Washington Road	*945
			At mouth at Great Miami River	*839
		Eldean Tributary	Just upstream of Chessie System	*843
			Just downstream of Eldean Road	*868
		Swailes Road Tributary	At confluence with Island No. 3 Tributary	*817
			Just downstream of Peters Road	*835
		Staunton Tributary	At mouth at Great Miami River	*822
			Just upstream of Staunton Road	*835
		Jones Run	Just upstream of Piqua-Troy Road	*846
			Just upstream of Deweese Road	*881
		Jones Run	About 150 feet downstream of Polecat Road	*917
			About 0.1 mile downstream of State Highway 48	*902
		Jones Run	Just upstream of Jay Road	*959
			About 0.78 mile upstream of Jay Road	*991

Maps available for inspection at the County Engineer's Office, 201 West Main Street, Troy, Ohio.

Send comments to Honorable Richard Graef, President of the County Commission, Miami County, 201 West Main Street, Troy, Ohio 45373.

Rhode Island	East Greenwich, Town, Kent County	Frenchtown Brook	Downstream Davisville Road	*47
			Upstream State Route 4	*66
			Upstream South County Trail	*91
			Upstream of Adirondack Drive	*119
			Upstream of Dam between Adirondack Drive and confluence of Mawney Brook	*162

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 of Tillinghast Road.....	*187
			Downstream High Hawk Road.....	*204
			Upstream Trail Road.....	*264
			Upstream Carrs Pond Road.....	*285
			Approximately 575 feet upstream of Carrs Pond Road.....	*300
		Mawney Brook.....	Upstream of Dam at Tillinghast Road.....	*189
			Upstream of Dam located approximately 2,150 feet downstream of Middle Road.....	*236
			Upstream Middle Road.....	*246
			Upstream of Dam at the Access Road between Middle Road and Division Road.....	*273
			Division Road upstream side.....	*285
		Pierce Road Brook.....	Boston Post Road upstream side.....	*43
			Maplewood Drive upstream side.....	*47
			Middle Road upstream side.....	*80
			Kent Road upstream side.....	*93
		Maskerchugg River.....	Confluence with Greenwich Cove.....	*14
			Upstream of downstream dam.....	*34
			Kenyon Avenue upstream side.....	*40
			Sylvan Drive upstream side.....	*60
			Division Street upstream side.....	*70
		East Branch Maskerchugg River.....	Confluence with Maskerchugg River.....	*42
			Division Street upstream side.....	*68
		West Branch Maskerchugg River.....	At confluence of Maskerchugg River.....	*40
			Balsam Drive downstream side.....	*68
			Howland Drive upstream side.....	*83

Maps available for inspection at the Town Hall, East Greenwich, Rhode Island.

Send comments to Honorable Marion L. Fry, President of the East Greenwich Town Council, Town Hall, P.O. Box 111, East Greenwich, Rhode Island 02818.

South Carolina.....	Unincorporated Areas of Lancaster County.....	Camp Creek (South).....	Just downstream of County Road 179.....	*455
			Just upstream of County Road 179.....	*459
			Just downstream of County Road 19.....	*497
		Cane Creek.....	Just upstream of County Road 56 (University Drive).....	*444
			Approximately 800 feet downstream of U.S. Highway 521.....	*462
		Rum Creek.....	Just downstream of State Highway 200.....	*473
			Just downstream of Rum Road.....	*490
			Just downstream of County Road 449.....	*506
			Just upstream of County Road 449.....	*511
		Bear Creek.....	Just upstream of County Road 19 (Lynwood Drive).....	*461
			Just downstream of U.S. Highway 521.....	*471
			Just upstream of County Road 172.....	*524
		Gills Creek.....	Just downstream of County Road 360.....	*462
			Just upstream of County Road 51.....	*473
			Just upstream of SCS Dam No. 18A.....	*518
		Hannahs Creek.....	Just downstream of County Road 51.....	*476
			Approximately 240 feet upstream of South Carolina State Highway 9.....	*482
		Turkey Quarter Creek.....	Just downstream of County Road 407.....	*512
			Just upstream of County Road 149.....	*535
			Just upstream of County Road 71.....	*570
		Little Turkey Creek.....	Just downstream of Cauthen Road.....	*508
			Approximately 260 feet downstream of County Road 521.....	*517
			Just downstream of County Road 38.....	*537
		Camp Creek.....	Approximately 200 feet upstream of U.S. Highway 521.....	*454
			Just upstream of County Road 185 (Craig Drive).....	*463
			Just downstream of State Highway 200.....	*468
		Twelvemile Creek.....	Approximately 500 feet upstream of U.S. Highway 521.....	*486
			Just upstream of County Road 92.....	*499
		Sixmile Creek.....	Just downstream of County Road 66.....	*503
			Just upstream of County Road 65.....	*526
			Just downstream of County Road 126.....	*530
			Just downstream of County Road 54.....	*563
			Just upstream of County Road 54.....	*568
		Sugar Creek.....	Approximately 100 feet downstream of Dobys Bridge Road (State Road 36).....	*491
			Approximately 200 feet upstream of Dobys Bridge Road (State Road 36).....	*492
			Approximately 200 feet downstream of State Road 160.....	*512
			Approximately 200 feet upstream of the confluence of McAlpine Creek.....	*520
			Approximately 100 feet upstream of the Southern Railway.....	*536

Maps available for inspection at the County Planning Director's Office, County Office Building, 116 West Dunlap Street, Lancaster, South Carolina 29720.

Send comments to Mr. Carroll Huffman, County Administrator or Mr. Richard Kesler, County Planning Director, County Office Building, P.O. Box 730, Lancaster, South Carolina 29720.

Tennessee.....	City of Lebanon, Wilson County.....	Sinking Creek.....	Just upstream of U.S. Highway 70N Bypass.....	*523
			Just upstream of Spring Street.....	*532
			Just upstream of U.S. Highway 231.....	*544
		Bartons Creek.....	Just upstream of U.S. Highway 70N Bypass.....	*515
			Just upstream of West Main Street.....	*521

Maps available for inspection at City-County Planning Office, Room 5, Wilson County Courthouse, Lebanon, Tennessee 37087.

Send comments to Mayor Willis Maddox, City Hall, 119 South College Street, or Mr. Sam Edwards, Director of Planning, City-County Planning Office, Wilson County Courthouse, Lebanon, Tennessee 37087.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Washington	Aberdeen (City), Grays Harbor County	Grays Harbor	Intersection of S. Washington Street and W. Heron Street	*10
		Wilson Creek	Intersection of Bay Avenue and N. Conger Street	*10
		Wishkah River	Intersection of Fairfield Street and Summit Street	*12
			Intersection of Thomas Street and Sheridan Street	*10
Maps available for inspection at Engineering Department, 200 E. Market Street, 2nd Floor, Aberdeen, Washington.				
Send comments to the Honorable Jack Durney, 200 E. Market Street, Aberdeen, Washington 98520.				
Washington	Naches, Town, Yakima County	Naches River	Approximately 2,700 feet downstream of South Naches Road	*1,440
			Approximately 2,300 feet upstream of South Naches Road	*1,470
Maps available for inspection at the Town Hall, Naches, Washington.				
Send comments to Honorable Mary E. Tenney, Mayor of Naches, P.O. Box 95, Naches, Washington 98937.				
Wisconsin	(C) Delavan, Walworth County	Turtle Creek	At northwestern corporate limits	*878
			Just downstream of dam at Cornus Lake	*885
		Swan Creek	at mouth	*881
			Just upstream of dam near Walworth Street	*890
			Just upstream of Washington Street	*900
			At southern corporate limits	*912
		Cornus Lake	Shoreline	*891
Maps available for inspection at Director of Public Works' Office, Municipal Building, Delavan, Wisconsin.				
Send comments to Honorable A. A. Lagg, Mayor, City of Delavan, Municipal Building, Delavan, Wisconsin 53115.				

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

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11991 Filed 5-4-82; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register

Vol. 47, No. 87

Wednesday, May 5, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Rate of Interest on Delinquent Debts

ACTION: Notice of rate of interest on delinquent debts.

SUMMARY: This notice sets forth the rate of interest which the Commodity Credit Corporation (CCC) is charging on delinquent debts. Publication of this interest rate in the Federal Register by CCC is in accordance with the regulations found at 7 CFR Part 1403, Interest on Delinquent Debts. In the absence of a different rule prescribed by statute, contract or regulation, it has been determined that the applicable rate which is to be charged by CCC on delinquent debts is 16.25 percent per annum.

EFFECTIVE DATE: May 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Brown, Claims Specialist, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6614.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the provisions of this notice will not result in: (1) An annual effect on the economy of \$100 million or more; (2) Major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

This action will not have a major 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 the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101-105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951-953). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ 161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued the regulations at 7 CFR Part 1403, Interest on Delinquent Debts (see 46 FR 71442), to provide that CCC will charge interest on delinquent debts. These regulations provide at 7 CFR 1403.5 that CCC will publish a rate of interest to be charged on delinquent debts as a notice in the Federal Register.

Notice

Accordingly, the rate of interest which will be charged by Commodity Credit Corporation (on or after May 4, 1982 with respect to delinquent debts shall be 16.25 percent per annum.

Signed at Washington, D.C. on April 28, 1982.

Everett Rank,

Executive Vice President Commodity Credit Corporation.

[FR Doc. 82-12161 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-01-M

Office of the Secretary

Animal Health-Beef and Dairy Respiratory Diseases Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of the 5 U.S.C. 552b(c), Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Animal Health-Beef and Dairy Respiratory Diseases—June 2, 3, and 4, 1982—9:00 a.m. to 5:30 p.m.

John R. Block,

Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12246 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Swine and Sheep Diseases Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Swine and Sheep Diseases. June 15, 16, and 17, 1982—8:30 a.m. to 5:00 p.m.

John R. Block,

Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12237 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Antidecertification Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held

for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Antidecertification. May 26, and 27, 1982—9:00 a.m. to 5:30 p.m.

John R. Block,

Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12238 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Aquaculture Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and

personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of the 5 U.S.C. 552b(c), Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Aquaculture June 7, 8, and 9, 1982—9:00 a.m. to 5:30 p.m.

John R. Block,

Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12239 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Beef and Dairy Cattle Enteric and Digestive Diseases, Mastitis and Other Diseases and Parasites Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which

are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Beef and Dairy Cattle Enteric and Digestive Diseases, Mastitis and Other Diseases and Parasites.

June 9, 10, and 11, 1982—8:30 a.m. to 5:00 p.m.

John R. Block,
Secretary of Agriculture.

April 30, 1982.
[FR Doc. 82-12245 Filed 5-4-82; 8:45 am]
BILLING CODE 3410-22-M

Beef and Dairy Cattle Reproductive Diseases Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee for Beef and Dairy Cattle Reproductive Diseases June 2, 3, and 4, 1982—8:30 a.m. to 4:30 p.m. daily
John R. Block,
Secretary of Agriculture.

April 30, 1982.
[FR Doc. 82-12244 Filed 5-4-82 8:45 am]
BILLING CODE 3410-22-M

Energy Research Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of

grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Energy Research, June 1, 2, and 3, 1982—9:00 a.m. to 5:30 p.m.

John R. Block,
Secretary of Agriculture.

April 30, 1982.
[FR Doc. 82-12241 Filed 5-4-82; 8:45 am]
BILLING CODE 3410-22-M

Food Quality and Safety Research Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that: (1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Food Quality and Safety Research May 24, 25, and 26, 1982—9:00 am to 5:30 pm

John R. Block,
Secretary of Agriculture.

April 30, 1982.
[FR Doc. 82-12240 Filed 5-4-82; 8:45 am]
BILLING CODE 3410-22-M

Poultry and Horse Diseases Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory groups meetings held for the specific purpose of considering grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Poultry and Horse Diseases. June 22, 23, and 24, 1982—8:30 a.m. to 5:00 p.m.

John R. Block,
Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12242 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Soybeans Research Subcommittee; Determination To Close an Advisory Group Meeting

It is the policy of the Department of Agriculture to make fullest possible disclosure of its activities to the public. Consistent with this policy, the Department opens to the public as many advisory group meetings as possible. However, advisory group meetings held for the specific purpose of considering

grant and contract proposals or applications should not be open meetings.

During such meetings, the material being discussed contains information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals or applications. These matters fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

The Department has an obligation to consider as confidential matters which are submitted as part of grant and contract proposals or applications.

It is hereby determined in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, as amended, that:

(1) The topics to be discussed at this meeting fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

(2) The public interest requires that such matters not be disclosed so that the Department may continue to receive information with respect to grant and contract matters.

The entire meeting, or portion specified below, which is devoted solely to review, discussion, and evaluation of grant and contract proposals or applications should not be open to members of the public.

Subcommittee on Soybean Research May 20 and 21, 1982—9:00 a.m. to 5:30 p.m.

John R. Block,
Secretary of Agriculture.

April 30, 1982.

[FR Doc. 82-12243 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-22-M

Forms Under Review by Office of Management and Budget

April 30, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h)

of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447-6201.

NEW

• Forest Service
States, Local Governments, and Other Federal Agencies Grazing Leasing Arrangements and User Charges.

Nonrecurring

State or local governments: 400 responses; 300 hours; not applicable under 3504(h)

Edward Frandsen (202) 235-8139

• Food and Nutrition Service
7 CFR 225—Summer Food Service Program—Recordkeeping.

On occasion

Business or other institutions: 86,008 responses; 8,053 hours; not applicable under 3504(h)

Norma Ball (703) 756-3888

• Food and Nutrition Service
Evaluation of Alternatives to Commodity Donation in the National School Lunch Program.

Quarterly

State or local governments: 2,478 responses; 1,229 hours; not applicable under 3504(h)

Michael Puma (703) 756-3115

• Food and Nutrition Service
7 CFR-227—Nutrition Education and Training Program Regulations—Recordkeeping.

On occasion

State or local governments: 114 responses; 16,074 hours; not applicable under 3504(h)

Joan Turetsky (703) 756-3554

• Food and Nutrition Service
Data on Food Bank Distribution Centers

Nonrecurring

State or local governments: 417 responses; 300 hours; not applicable under 3504(h)

Maure Hurt (301) 656-6346

REVISED

• Farmers Home Administration
7 CFR 1930-C Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

FmHA 444-8, 444-29, 1930-5, 1930-6, 1930-7, 1930-8

On occasion

Individuals or households, State or local governments: 424,420 responses; 629,962 hours; not applicable under 3504(h)

William F. Daniel (202) 382-1611

• Farmers Home Administration

7 CFR 1944-L Farmers Home Administration Tenant Grievance and Appeals Procedure

On occasion

Individuals or households, State or local government: 5,500 responses; 655 hours; not applicable under 3504(h)

William F. Daniel (202) 382-1611

• Forest Service

Experience Questionnaire

FS-6300-27

On occasion and annually

Businesses or other institutions: 4,000 responses; 2,000 hours; not applicable under 3504(h)

Esta Childers (703) 235-8165

• Agricultural Stabilization and Conservation Service

Report of Production and Disposition of Peanuts and Report of Marketings of Peanuts to Non-Established Buyers

ASCS-1010 and ASCS-1011

Annually

Farms: 3,100 responses; 516 hours; not applicable under 3504(h)

Paul Kume (202) 382-0153

• Food and Nutrition Service

Part 210—National School Lunch Program—Reporting

Annually

State or local governments: 50,066 responses; 60,935 hours; not applicable under 3504(h)

Don McCreary (202) 447-8386

• Food and Nutrition Service

7 CFR-227—Nutrition Education and Training Program Regulations—Reporting

FNS-42

On occasion

State or local governments: 2,514 responses; 98,090 hours; not applicable under 3504(h)

Joan Turetsky (703) 756-3554

EXTENSION

• Agricultural Marketing Service
Cottonseed Prices

CN-235

Weekly during Selective Season

Businesses or other institutions: 7,980 responses; 399 hours; not applicable under 350(h)

Lloyd R. Frazier (202) 447-2147

• Agricultural Marketing Service
Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping

On occasion

Business or other institutions: 4,200 responses; 69,700 hours; not applicable under 3504(h)

Richard W. Webber (202) 447-7473

• Office of Personnel

Advisory Committee Membership
Background Information

AD-755

Annually

Individuals or households: 540

responses; 270 hours; not applicable under 3504(h)

Carolyn T. Wright (202) 447-7654

• Food and Nutrition Service

Food Stamp Mail Issuance Report

FNS-259

Quarterly

State or local governments: 7,268

responses; 4,291 hours; not applicable under 3504(h)

David Rathbun (703) 756-3431

REINSTATEMENT

• Extension Service

Soil/Plant Laboratory Testing Activities
ES 288 and ES 289

Biennially

State or local governments: 78

responses; 39 hours; not applicable under 3504(h)

Fred Westbrook (202) 447-5385

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82-12220 Filed 5-4-82; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

**Arista International Airlines, Inc.;
Application for an All-Cargo Air
Service Certificate**

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations effective November 8, 1978, notice is hereby given that the Civil Aeronautics Board has received an application, Docket 40605, from Arista International Airlines, Inc., 516 Fifth Avenue, New York, New York 10036, for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before May 26, 1982. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-12284 Filed 5-4-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-4-137]

Fitness Determination of Air Oregon, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82-4-137, order to show cause.

SUMMARY: The Board is proposing to find that Air Oregon, Inc., is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended; that it has the ability to provide reliable essential air service; that it is fit, willing, and able to provide scheduled passenger air transportation pursuant to its existing certificate issued under section 401(d)(5) of the Act; and that the aircraft used in this service conform to the applicable safety standards. The complete text of this order is available as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than May 14, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Essential Air Services Division, Room 921, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of the order.

FOR FURTHER INFORMATION CONTACT: Barbara Pfeiffer, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5354.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-4-137 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-4-137 to distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation: April 26, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-12285 Filed 5-4-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

Allocation of Duty-Free Quotas for Calendar Year 1982 Among Producers Located in the Virgin Islands and Guam

AGENCY: Import Administration, International Trade Administration.

Commerce, and Office of Territorial Affairs, Interior.

ACTION: Allocation of duty-free quotas for calendar year 1982 among producers located in the Virgin Islands and Guam.

SUMMARY: Pursuant to Pub. L. 89-805 the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of watch quotas among watch assembly firms in the insular possessions. Section 303.5(a)(2) of the Departments' codified watch quota rules (15 CFR Part 303) provides for the annual allocation of watch quotas. The criteria for the calculation of the 1982 watch quotas among producers in the Virgin Islands and Guam are set forth in the final annual rules (the "Rules") published in the Federal Register dated March 11, 1982 (47 FR 10614 (1981)). The Departments have verified the data submitted on application form ITA-334P by producers in the Virgin Islands and Guam and inspected the current operations of all producers in accordance with § 303.4(b) of the codified rules. The verification established that in calendar year 1981 the Virgin Islands watch assembly firms shipped 2,628,628 watches and watch movements into the customs territory of the United States under General Headnote 3(a) of the Tariff Schedules of the United States. The dollar amount of corporate income taxes paid by all producers during calendar year 1981, less penalty payments and refunds and subsidies, plus the dollar amount of wages, up to a maximum of \$23,000 per person, paid by all producers during calendar year 1981 to residents and attributable to the producers' headnote 3(a) watch and watch movement assembly operations totalled \$3,623,868. The calendar year 1982 Virgin Islands annual allocations set forth below are based on the data verified by the Departments in the Virgin Islands and are made in accordance with the allocation formula contained in the Rules for that allocation of watch quota for calendar year 1982. The allocations include reallocations of quota pursuant to the codified watch quotas rules, as more fully explained in the Supplementary Information, below.

The duty-free watch quota allocations for calendar year 1982 in the Virgin Islands are as follows:

Name of firm	Annual allocation
1. Atlantic Time Products Corp.	250,000
2. Belair Watch Corp. & Belair Quartz Inc.	750,000
3. Cornavin V.I., Inc.	30,000

Name of firm	Annual allocation
4. Hampden Watch Co., Inc.	250,000
5. Master Time Co., Inc.	350,000
6. Progress Watch Co., Inc.	800,000
7. Standard Time Co.	100,000
8. Unitime Ind., Inc.	300,000
9. Waltham Watch Co. of the V.I. Inc.	50,000

The Guam allocation is made pursuant to Section 2 of the annual rules and is shown below.

Name of firm	Annual allocation
1. Timewise Ltd.	503,400

FOR ADDITIONAL INFORMATION CONTACT: Mr. Frank W. Creel, who can be reached on 202-377-1660.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 1, 1982 (47 FR 13935 (1982)), the International Trade Commission announced that the apparent U.S. consumption of watch movements for the calendar year 1981 was 90,610,000 units and that the number of watches and watch movements which may be entered free of duty during calendar year 1982 from the Virgin Islands is 8,809,000 units and 839,000 units from Guam. Of the Virgin Islands units, 2,000,000 units are set aside for new entrants, leaving 6,809,000 units to be allocated at this time.

The above allocation of quota among Virgin Islands producers reflects: (1) Adjustments made in the data supplied on the producers' annual application forms (ITA Form 334P) as a result of the Department's verification (which adjustments were reviewed by officials of the respective companies during the Departments' Virgin Islands verification of data); and (2) Reallocation of quota which has been voluntarily relinquished by a number of producers pursuant to § 303.5(a)(2) of the codified watch quota rules.

The above allocation of Virgin Islands quota totals 2,880,000 units. The remaining 3,929,000 units of unallocated quota will be treated in accordance with § 303.9(b) of the codified watch quota rules. The remaining 335,600 units of unallocated Guam quota will be treated in accordance with the same codified provision and with sections 3(b) and 6 of the annual rules.

The number of watches and watch movements authorized for shipment on or after January 1, 1982, under initial quotas previously allocated by the Departments, will be applied against the allocations above, which are for the full calendar year 1982.

Issued at Washington, D.C., on April 29, 1982.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff, Import Administration, International Trade Administration, U.S. Department of Commerce.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, U.S. Department of the Interior.

[FR Doc. 82-12143 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-10-M; 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement; Minority Export Development Consultant Program

Summary

The Minority Business Development Agency announces that it intends to award fifteen (15) competitive cooperative agreements to carry out its Minority Export Development Consultant program in selected SMSAs. The purpose of the program is to provide intensive support to minority business enterprises (MBEs) that have products and services that are in demand in the international marketplace. The consultant will be expected to:

- Develop export marketing plans.
- Identify potential markets and specific trade leads.
- Provide technical assistance necessary to complete international transactions including documentation, short-term financing and shipping.
- Coordinate with the public sector, i.e., the International Trade Administration, the Small Business Administration, and the Export-Import Bank and the private sector, i.e., export management companies, freight forwarders and banking institutions to insure full access by MBEs to the total realm of initiatives available in international trade.

Federal funds are estimated at \$100,000 for each competitive agreement. Fees for services in the amount of 10 percent of assistance rendered will be charged to all clients whose gross sales are less than \$500,000, and 25 percent will be charged to clients with gross sales in excess of \$500,000. These fees will be treated as program income and will be added to funds committed to the project by MBDA and used to further eligible program objectives.

Cooperative agreements will be awarded without restriction as to type

of recipient, i.e., individuals, non-profit organizations, for-profit firms, local and state governments, federally recognized American Indian tribes and educational institutions. The recipient must have an existing office in the SMSA to be served and be able to demonstrate exporting knowledge and experience.

Application kits may be requested as follows:

Awards for *New York City and San Juan, Puerto Rico*: Minority Business Development Agency, 26 Federal Plaza, Room 36-116, New York, New York 10278. Attn: Allan Walls, (212) 264-4741.

Awards for *Baltimore/Washington and Philadelphia*: Minority Business Development Agency, 1730 K Street N.W., Suite 420, Washington, D.C. 20006. Attn: Vincent Martin, (202) 634-7883.

Awards for *Atlanta and Miami*: Minority Business Development Agency, 1371 Peachtree Street, N.E., Suite 505, Atlanta, Georgia 30309. Attn: Carlton Eccles, (404) 881-4091.

Awards for *Dallas, Houston, New Orleans and El Paso*: Minority Business Development Agency, 1100 Commerce Street—Room 7E23, Dallas, Texas 75242. Attn: Cathy Bowman, (214) 767-8001.

Awards for *Chicago and Detroit*: Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603. Attn: Celso Moreno, (312) 353-0185.

Awards for *San Francisco/Oakland, Los Angeles and San Diego*: Minority Business Development Agency, Federal Building, Room 15043, 450 Golden Gate Avenue, San Francisco, California 94102. Attn: Mikel Cook, (415) 556-6733.

The closing date for submission of ALL applications is May 7, 1982.

Dated: April 28, 1982.

Luis Encinias,
Acting Assistant Director for Enterprise Development.

[FR Doc. 82-12255 Filed 5-4-82; 8:45 am]
BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Categories 337, 640, 641, and 648

May 3, 1982.

Pursuant to paragraph 8 of the bilateral textile agreement of September 17, 1980 between the Governments of the United States and the People's Republic of China, the United States has requested consultations with the

Government of the People's Republic of China with respect to Categories 337 (Cotton Playsuits), 640 (Woven Shirts of Man-Made Fibers), 641 (Woven Blouses of Man-Made Fibers), and 648 (Women's, Girls', and Infants' Trousers of Man-Made Fibers). It is anticipated these consultations will be held in the near future.

Any party wishing to comment or provide data or information regarding the treatment of categories 337, 640, 641, and 648 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textiles and apparel included in these categories, is invited to submit such comments or information in ten copies to Mr. Paul T. O'Day, Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary of Commerce for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-12341 Filed 5-4-82; 8:45 am]
BILLING CODE 3510-25-M

Announcing New TSUSA Numbers for Certain Man-Made Fiber Luggage and Related Products Which Are Exempt From Quota and Export Visa Requirements During 1982

AGENCY: Committee for the Implementation of Textile Agreements.

On December 18, 1981, there was published in the Federal Register (46 FR

61687) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which exempted during 1982 certain luggage, handbags and flat goods of man-made fibers in Category 669 (only T.S.U.S.A. numbers 706.2045, 706.2700, 706.2840, and 706.2850) from the levels of restraint and export visa requirements in effect for certain cotton, wool, and man-made fiber textile products, regardless of the date of export.

The purpose of this notice is to announce that, effective on April 1, 1982, the four T.S.U.S.A. numbers covering man-made fiber luggage, handbags, and flat goods in Category 669 were changed to the following: 706.3400, 706.3900, 706.4140, and 706.4150. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements amends the letter of December 15, 1981 to exempt from the levels of restraint and export visa requirements man-made fiber textile products in Category 669 (only T.S.U.S.A. numbers 706.3400, 706.3900, 706.4140, and 706.4150).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.
April 29, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of December 15, 1981 which directed you, effective on January 1, 1982 and extending through December 31, 1982, to exempt from levels of restraint and export visa requirements certain specified man-made fiber textile products in Category 669 from all countries, regardless of the date of export.

Effective on April 1, 1982, the T.S.U.S.A. numbers of the designated products in Category 669 were changed to the following: 706.3400, 706.3900, 706.4140, and 706.4150. It would be appreciated if you would exempt these products from the levels of restraint and export visa requirements.

This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-12256 Filed 5-4-82; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE**Department of the Air Force****Forms Under Review by OMB**

Form: Individual Religious Education Enrollment and Attendance Record (SAC Form 532).

Notice of Information Collection— SAC Form 532 is used to obtain data on dependents of military personnel who wish to receive Religious Education (RE) training on SAC bases. The data is used by Chaplains, chapel management personnel and RE teachers to determine individual RE needs. Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B-929, Pentagon, Washington, DC 20301. A copy of the information collection proposal may be obtained from Henry Dalto, AF/ACMMR, Room 4D-223, Pentagon, Washington, DC 20330, telephone (202) 695-0848.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

April 30, 1982.

[FR Doc. 82-12294 Filed 5-4-82; 8:45 am]

BILLING CODE 3910-01-M

Forms Under Review by OMB

Form: Open Mess Membership Application (SAC Form 100).

Notice of Information Collection— Authorized personnel who wish to become members of the open mess on SAC bases are required to complete SAC Form 100. The form is used to maintain current membership at each mess and is also used as the authority to establish an accounts receivable (charge account) for each member. Forward comment to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, OASD(C), DIRM, IRAD, Room 4B-929, Pentagon, Washington, DC 20301. A copy of the information collection proposal may be obtained from Henry Dalto, AF/ACMMR, Room 4D-223, Pentagon, Washington, DC 20330, telephone (202) 695-0848.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

April 30, 1982.

[FR Doc. 82-12293 Filed 5-4-82; 8:45 am]

BILLING CODE 3910-01-M

Forms Under Review by OMB

Form: Sponsor's Report—Youth Activities (SAC Form 897).

Notice of Information Collection— SAC Form 897 is filled out by individuals who have volunteered to be sponsors or chaperones during SAC air base youth center activities. The form is used by the volunteer to record any problems encountered during the activity so management action can be initiated to prevent repeated occurrences. Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, Agency Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B-929, Pentagon, Washington, D.C. 20301. A copy of the information collection proposal may be obtained from Henry Dalto, AF/ACMMR, Room 4D-223, Pentagon, Washington, D.C. 20330, telephone (202) 695-0848.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

April 30, 1982.

[FR Doc. 82-12292 Filed 5-4-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration****Energy Services, Inc.; Action Taken on Consent Order**

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Energy Services, Inc. as a final order of the Department.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 E. 11th Street, Kansas City, Missouri 64106-2466, telephone number (816) 374-2092.

SUPPLEMENTARY INFORMATION: On February 12, 1982, Vol. 47, No. 30, FR, Page 6462, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Energy Services, Inc. (Energy Services) on September 21, 1981, which would not become effective sooner than 30 days after publication of that notice. The Order resolves the dispute between the DOE and Energy Services arising out of

the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Energy Services' sales of crude oil during the period June 1, 1979 through January 28, 1981. The Order requires that within thirty (30) days of the effective date of the Consent Order, Energy Services is to deposit \$750,000 with the U.S. Treasury to be held in an escrow account, and the ERA will determine ultimate distribution of the funds. Pursuant to 10 CFR 205.199(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Four comments were received. None objected to the validity of the Consent Order, rather each comment addressed only the distribution of the escrowed funds suggesting that the funds be allocated to state or local governments for energy related programs which would offer direct benefit and restitution to the unidentified consumer-purchasers.

Since the ERA received no comments objecting to the Consent Order as proposed, the Proposed Consent Order was made final and effective on March 15, 1982 without modification. In determining the ultimate distribution of the escrowed funds, the ERA will consider numerous factors including the suggestions submitted in the comments received.

Issued in Kansas City, Missouri, on the 16th day of March 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-12265 Filed 5-4-82; 8:45 am]

BILLING CODE 8450-01-M

Northwest Pipeline Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Northwest Pipeline Corporation as a final order of the Department.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 E. 11th Street, Kansas City, Missouri 64106-2466, telephone number (816) 374-2092.

SUPPLEMENTARY INFORMATION: On February 8, 1982, Vol. 47, No. 26, FR, Page 5758, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Northwest Pipeline Corporation (Northwest Pipeline) on November 10, 1981, which would not become effective sooner than 30 days after publication of that notice. The Order resolves the dispute between the DOE and Northwest Pipeline arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Northwest Pipeline's sales of natural gas liquids and natural gas liquid products during the period February 1, 1974 through January 28, 1981. The Order requires that within twelve (12) months of the effective date of the Consent Order Northwest Pipeline is to deposit \$1,500,000 with the U.S. Treasury to be held in an escrow account, and the ERA will determine ultimate distribution of the funds. Pursuant to 10 CFR 205.199(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Three comments were received. None objected to the validity of the Consent Order. The comments addressed only the distribution of the escrowed funds. One comment suggested that the funds be allocated to state or local governments for energy related programs which would offer direct benefit and restitution to the unidentified consumer-purchasers; and, the other two comments were notifications of potential claims by purchasers of the products sold.

Since the ERA received no comments objecting to the Consent Order as proposed, the Proposed Consent Order was made final and effective on March 15, 1982 without modification. In determining the ultimate distribution of the escrowed funds, the ERA will consider numerous factors including the suggestions and potential claims submitted in the comments received.

Issued in Kansas City, Missouri, on the 16th day of March, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-12267 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

Robinson Energy Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Robinson Energy Corporation as a final order of the Department.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT:

David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 E. 11th Street, Kansas City, Missouri 64106-2466, telephone number (816) 374-2092.

SUPPLEMENTARY INFORMATION: On February 12, 1982, Vol. 47, No. 30, FR, Page 6463, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Robinson Energy Corporation on December 11, 1981, which would not become effective sooner than 30 days after publication of that notice. The Order resolves the dispute between the DOE and Robinson arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR 205, 210, 211, 212, in connection with Robinson's sales of crude oil during the period June 1, 1979 through January 28, 1981. The Order requires that within twenty-four (24) months of the effective date of the Consent Order, Robinson is to deposit \$601,000 with the U.S. Treasury to be held in an escrow account, and the ERA will determine ultimate distribution of the funds. Pursuant to 10 CFR § 205.199(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Four comments were received. None objected to the validity of the Consent Order, rather each comment addressed only the distribution of the escrowed funds suggesting that the funds be allocated to state or local governments for energy related programs which would offer direct benefit and restitution to the unidentified consumer-purchasers.

Since the ERA received no comments objecting to the Consent Order as proposed, the Proposed Consent Order was made final and effective on March 15, 1982 without modification. In determining the ultimate distribution of the escrowed funds, the ERA will consider numerous factors including the suggestions submitted in the comments received.

Issued in Kansas City, Missouri, on the 16th day of March, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-12267 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding \$139,300 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving C. K. Smith & Company, Inc. brought by the DOE's Office of Enforcement.

DATE AND ADDRESS: Comments must be filed by June 4, 1982 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20461. All comments should conspicuously display a reference to case number HEF-0006.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20461, (202) 633-9834.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to a consent order entered into by C. K. Smith & Company, Inc. 44 FR 39242 (1979).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Smith. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased No. 6 residual fuel oil from Smith during the period December 20, 1973 through April 30, 1974. The Proposed Decision and Order provides that in order to be

entitled to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that it was injured by the alleged unlawful prices for No. 6 residual fuel oil charged by Smith, including specific documentation concerning the date, place, price, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The refund process suggested in the Proposed Decision and Order would take place in two separate stages. In the first stage, all meritorious claims for refunds by persons such as the initial purchasers would be paid. For the second stage, which would take place after the claims procedure is completed, the Proposed Decision and Order suggests that the remainder of the consent order funds might be distributed through rate regulated utilities or other regulated industries to persons who are likely to have been injured by the alleged overcharges. The determination also proposes alternatively to distribute the settlement funds to the governments of the cities or states in which Smith marketed No. 6 residual fuel oil during the period covered by the consent order.

As an alternative, the DOE proposes to deposit all remaining funds directly into the United States Treasury. The Proposed Decision emphasizes that no procedure for the second stage will be adopted until the claims process is completed.

It should be pointed out that until final procedures are adopted for the first stage, no claims for refund can be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the *Federal Register*, will be given when the submission of claims is authorized. No less than 90 days from publication of such notice in the *Federal Register* will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures.

Commenting parties are requested to submit two copies of their comments. Comments should be submitted by June 4, 1982, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1111, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Issued in Washington, D.C. on April 28, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

April 28, 1982

Name of Petitioner: Office of Enforcement,
Economic Regulatory Administration: In
the Matter of C. K. Smith & Company,
Inc.

Dates of Filing: November 3, 1981.

Case Numbers: HEF-0006.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OE filed a Petition for the Implementation of Special Refund Proceedings in connection with a consent order entered into with C. K. Smith & Company, Inc. (Smith). Smith is a "reseller-retailer" of No. 6 residual fuel oil as that term was defined in 10 CFR 212.31 and 6 CFR 150.352. An audit of Smith's records revealed possible pricing violations with respect to the firm's sales of that product during the period December 20, 1973 through April 30, 1974. In order to settle all claims and disputes between Smith and the DOE regarding Smith's sales of No. 6 residual fuel oil during that period, Smith and the DOE entered into a consent order on May 30, 1979, in which Smith agreed to pay \$139,300 to the DOE. Notice of the consent order was published in the *Federal Register* on July 5, 1979. See 44 FR 39242 (1979). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement fund. A notice of claim and comments were received from the Braintree Electric Light Department (Braintree).

Jurisdiction and Authority To Fashion Refund Procedures

The OE filed a Petition for the Implementation of Special Refund Procedures under Subpart V in connection with the Smith consent order on November 3, 1981. Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute moneys obtained as part of settlement

agreements. 10 CFR 205.281, 205.282. The special refund procedures are part of an overall regulatory program which is intended to implement several different statutes. Congress provided for the mandatory allocation and pricing of crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970). EPAA, 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA), § 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), 201(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the DOE have provided throughout the existence of the price control program for the issuance of remedial orders requiring a person to cease a violation or to compensate for the effects of a violation, or both. See 6 CFR § 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order").

In order to implement these statutory and regulatory goals, the DOE's restitutionary authority is designed to accomplish two objectives: Disgorgement of the fruits of a regulatory violation from the wrongdoers, and refunds to persons injured by the regulatory violation. See generally *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter referred to as *Vickers*); *Sauder v. DOE*, 648 F.2d 1,341 (Temp. Emer. Ct. App. 1981). The latter objective—refunds to overcharged persons—further the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753 (b)(1)(F).

In the past the Subpart V process has been used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280. In several recent decisions we accepted jurisdiction over funds received by the DOE in settlement of enforcement

proceedings underlying Petitions for Implementation of Special Refund Procedures. See, e.g., *Office of Enforcement*, 8 DOE ¶ 82,515 (1981); *Office of Enforcement*, 8 DOE ¶ 82,516 (1981). In these decisions we determined that there was a significant degree of difficulty involved in identifying the persons who were injured by the alleged overcharges and that a Subpart V proceeding would be an effective and cost efficient means of making restitution to overcharged persons. After reviewing the record developed with respect to Smith, we have concluded that the implementation of Subpart V proceedings is also appropriate in this case. In this instance there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges and ascertaining the level of refunds that such persons should receive. Until recently, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result of decontrol, price rollbacks can no longer be used to refund moneys to purchasers who were overcharged in the past. Therefore, to refund money to the parties affected by the alleged overcharges, a determination must be made regarding the extent to which the first purchasers of the products involved absorbed the overcharges or passed the higher costs through to their customers by raising their own sales prices. In the present case, therefore, the persons entitled to refunds are not readily identifiable, and the amount of the refunds that any particular person should receive is not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism to effect restitution to persons who were likely to have been injured by alleged pricing violations. The Office of Hearings and Appeals therefore has decided to exercise jurisdiction over distribution of the funds received by the DOE in settlement of the enforcement proceeding underlying the Petition for Implementation of Special Refund Procedures in the Smith case.

Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed previously, the procedures to be implemented in this case should, to the

maximum extent practicable, provide for the distribution of refunds to parties who were adversely affected by the alleged violations.

As we have stated before, refunding moneys obtained through DOE enforcement proceedings is the primary focus of Subpart V. 10 CFR 205.280; see *Vickers*; *Office of Enforcement*, No. BEF-0021 (March 13, 1981) (proposed decision), issued in final form, 9 DOE ¶ 82,508 (1981). Subpart V offers a means of compensating many individuals who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under Section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning alleged overcharges to injured parties because it eliminates the need for long and costly court actions.

A. Refunds to Identifiable Purchasers. During the first stage in the refund process, the consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of No. 6 residual fuel oil by Smith during the applicable period. We note that the first purchasers of that product from the firm are likely to be claimants in this proceeding. First purchasers can generally be categorized as either resellers of No. 6 residual fuel oil or entities which were the ultimate consumers of the product. To the extent that first purchasers can establish that they absorbed the overcharges rather than pass them on to their customers, they will be entitled to receive a portion of the consent order funds. In order to qualify for a refund, first purchasers will be required to demonstrate that during the period covered by the consent order they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller should generally demonstrate that at the time it purchased the No. 6 residual fuel oil from Smith, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, the reseller must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

With respect to certain first purchasers who are ultimate consumers,

we believe that the above showing should not be necessary in order for a firm to qualify for a refund. The operations that would form this group might include hospitals, industrial plants, large apartment buildings and federal, state, and local government entities. In order to establish a claim, this type of first purchaser need demonstrate only that it purchased a specific quantity of No. 6 residual fuel oil which was sold by Smith during the relevant time period.

In *Office of Special Counsel*, 9 DOE ¶ — No. BEF-0072 (March 10, 1982) (hereinafter referred to as *Pennzoil*) we determined that regulated transportation companies, agricultural cooperatives and a corporation which acts as a fuel purchasing agent for several public utilities would not be required to offer proof that they absorbed the overcharges. In reaching that determination we noted the claims made by several regulated entities that any overcharges they suffered would have been channeled to their customers by the regulatory bodies or private contractual agreements that control the prices that they may charge. We also pointed out that the Office of Special Counsel has reviewed the operations of the agencies which regulate transportation companies and utilities and has determined that refunds are factored into their rate making systems. 46 FR at 29500-01 (1981). We further noted that agricultural cooperatives are owned by their customers, and the ultimate consumers of the petroleum products purchased by the cooperative would receive a refund either as a price reduction or as a distribution at the close of the cooperative's fiscal year. In *Pennzoil* we therefor concluded that:

firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed the alleged *Pennzoil* overcharges. Instead, those applicants should supply us with a full explanation of the manner in which refunds will be passed through to their customers in the form of lower prices or better service. In addition, these applicants' receipt of refund money will be conditioned on notice to the appropriate regulatory body or membership group.

Slip op. at 9.

We believe that this approach should be adopted in the Smith proceeding with respect to those types of entities.¹

In the event that the first purchasers are unable to make the showings described above, firms and individuals

¹ It appears that Braintree, the municipally owned electric system referred to above, may be a regulated entity of the type referred to in *Pennzoil*.

who purchased products from the first purchasers may be eligible to receive a portion of the funds. In order to establish an entitlement to a refund, a person claiming to be an injured party must satisfactorily demonstrate that it purchased, during the relevant time period, a specific quantity of No. 6 residual fuel oil sold by Smith. Privately with either Smith or one of its first purchasers need not be established; evidence need only be presented that the product purchased by the claimant followed through a chain of distribution leading back to Smith. In addition, unless the purchaser is an ultimate consumer, it should generally be able to demonstrate that it did not pass through the cost increases resulting from the alleged overcharges to its own customers. For example, a purchaser who resold the product should be in a position to show that market conditions did not permit it to raise prices charged to downstream customers, and that consequently it was forced to absorb the cost increases that are represented by the alleged overcharges. In the absence of that showing, we could conclude that the claimant was not injured in a monetary sense by the alleged overcharge. However, in the *Vickers* decision, we noted that the nature of the showing required could be too complicated for those individuals and firms who might otherwise be entitled to apply for refunds and who purchased relatively small amounts of products. We also observed that many of those purchasers might lack the types of records required to support such a showing. We therefore established in that case a 50,000 gallons per month (or 600,000 gallons per year) threshold level of purchases under which applicants, primarily smaller firms and individuals, were not required to make a detailed showing of actual injury. For those applicants who were claiming less than that level of purchases, we required only proof of the amount of product purchased by the applicant during the consent order period. However, the *Vickers* decision did require applicants whose purchases exceeded the threshold level to provide detailed information which would establish that they did not pass through the price increases to their customers. We will consider using the same type of treatment for smaller claimants in this proceeding, and we specifically request comments from the public on this issue. See *Vickers*; office of Special Counsel for Compliance, 4 DOE ¶ 82,511 at 85,043-4 (1979).

In *Vickers* we utilized a "pure" volumetric method of allocating refunds

to claimants, i.e. refunds were based on the proportion of product purchased by the applicant to the total amount of product sold by the supplier during the relevant audit period. When the *Vickers* decision was issued in July 1981, we believed that this method of distribution was appropriate for allocating the *Vickers* settlement funds because: (i) It is an administratively efficient method for determining what proportion of the settlement fund should go to each successful claimant; (ii) it serves as a useful approximation of injury in the treatment of overcharged claimants who are unable to quantify their alleged injury; and (iii) it allows applicants to recover a significant refund for each gallon of product they purchased.

Based on our experience in Subpart V cases since that time, however, we now believe that the adoption of the "pure" volumetric plan of distribution used in *Vickers* would not be the best mechanism for allocating the Smith consent order funds. There are a number of factors leading to this conclusion. First, we note that the size of the monetary settlements which are involved in Subpart V proceedings are arrived at through negotiations involving the DOE and the firms charged with the alleged regulatory violations. In *Pennzoil*, a recent decision that addressed this issue, we noted that the size of a settlement fund is based upon both the magnitude of the violations alleged by the government and other factors such as each party's views as to the probable length, expense and success of litigation. In *Vickers*, the settlement fund happened to be relatively large in proportion to the volume of product covered by the consent order and would therefore yield a significant per gallon refund. In *Pennzoil*, however, the settlement fund was small in relation to the total volume of products involved, and successful claimants would recover a refund of only \$.000375 per gallon if the settlement fund were distributed on a "pure" volumetric basis. Moreover, we believe that as a general proposition many claimants in the present case will be unable to provide the type of evidence necessary to support the approval of a refund application. For example, it may be difficult and costly for potential claimants to demonstrate that the effects of alleged regulatory violations were not passed through to their downstream customers. As a result, the total amount for which meritorious claims are submitted may be far less than the amount of the settlement funds available for distribution. See *Pennzoil*, slip op. at 13.

In this proceeding, we will follow *Pennzoil*, and adopt an alternative mechanism of distribution based on a modified version of the "pure" volumetric distribution scheme used in *Vickers*. As noted above, the size of the fund available for distribution is likely to be less than the amount needed to make full restitution to the injured claimants involved in this proceeding. The use of a "pure" volumetric mechanism would have the undesirable effect of placing a further artificial limitation on the amount of the refunds that are eventually received by successful claimants. We therefore believe that it is fully consistent with the restitutionary objectives of the present proceeding to distribute more than a pure volumetric share of the available Smith funds to successful claimants. First we will establish a "floor" or minimum amount a successful claimant could receive which will assist a potential applicant in deciding whether or not to apply for a refund. In this proceeding the minimum amount that a successful claimant will recover can be determined by multiplying its total product purchases (in gallons) by a factor computed using the total amount of money available for distribution divided by the total sales (in gallons) of the No. 6 residual fuel oil covered by the consent order. However, after the minimum refund amount has been determined for each successful claimant, the OHA will also give consideration to the following factors in determining individual refunds: (i) the amount of interest accumulated in the escrow account since the DOE received settlement funds from Smith; (ii) the number of qualified claimants, and the aggregate volume of their purchases from Smith compared to the amount of products sold by the firm during the consent order period; (iii) the impact of the alleged violations on the claimant's business; (iv) market conditions prevalent during the consent order period; (v) the claimant's position in the distribution chain, i.e. whether it is a reseller or ultimate consumer; and (vi) the manner in which the claimant's business is governed by federal, state or local regulatory agencies. A weighing and balancing of these factors will enable us to further the restitutionary goals of Subpart V and the underlying statutory objectives.

Any purchaser claiming a portion of the refund amount should file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim, including specific documentation concerning the

date, place price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. *See Vickers*. Before disposing of any of the funds received as a result of the Smith consent order, we intend to widely publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the *Federal Register*, notice will be provided in publications in the area in which Smith marketed No. 6 residual fuel oil during the period covered by the consent order, and an effort will be made to get a list of the names and addresses of affected first purchasers from Smith. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Refund Amount. After all meritorious claimants have received the share of the settlement fund to which they are entitled, the settlement fund, while diminished, may not be exhausted. The remainder of the funds should be distributed during the second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. In this decision, we are proposing several alternatives for the second-stage refund procedure. However, we wish to emphasize that any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As we noted in *Vickers*:

[such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. As in that case, we intend to set forth a number of second-stage alternatives in this proposed decision, consider the comments received after publication in the *Federal Register*, and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning the proposed second-stage procedure, and will solicit another round of comments on the distribution of the funds remaining after payment of claims in the first stage. In this way, we will have several opportunities to consider the

outstanding issues before reaching a final decision on the second stage.

Since refunding money to injured persons is the primary concern of Subpart V proceedings, we believe that the remaining funds should, if administratively and economically feasible, be distributed to groups of ultimate consumers who were likely to have borne a portion of the higher prices charged by Smith. In view of the relatively small sums of money likely to be involved in claims by many ultimate consumers, and the improbability that members of this class will possess records sufficient to establish their claims, we anticipate that only a limited number of ultimate consumers who were actually injured by the alleged overcharges will be able to prove during the first stage of the refund process that they are entitled to refunds. *See Vickers*. The fact that claims to specific refunds may not have been proved, however, does not mean that injuries to ultimate consumers have not occurred. Rather, the absence of claims for the full amount of the settlements would tend to reflect the difficulty such parties encounter in establishing a valid claim for a portion of the consent order funds.

If a second stage should prove necessary in this refund proceeding, refunds might be made in the form of lowered energy costs or energy related costs in the Smith market area. For example, in *Office of Special Counsel for Compliance*, No. DFF-0002 (March 13, 1981) (proposed decision), we proposed that the second-stage refund to consumers who were likely to have been overcharged be effected by using rate-regulated utilities to pass through the remaining funds to consumers through fuel adjustment clauses or other appropriate mechanisms. We observed that it is likely that the persons who purchased motor gasoline or heating oil in a particular area would reside there as well and would ultimately be consumers of electricity. They would therefore benefit from the proposed rate reduction. We further suggested that state governments in the affected areas also may be designated as refund recipients for the purpose of reducing energy-related expenses subject to their direct control. County and local governments are also candidates for distributing the refund amounts to affected citizens. Although we cannot yet determine what actions we will take in the second stage, we will consider these types of restitutionary schemes as possible alternatives.

In the event that the distribution schemes discussed above prove to be inappropriate because of administrative costs or the lack of accurate

information, we propose that the portion of the settlement fund which would go undistributed be deposited in the United States Treasury. We also propose as an alternative to the distribution scheme outlined above that any funds remaining after the first stage claims procedure be deposited directly into the United States Treasury. Subpart V regulations specifically sanction this course of action, *see* 10 CFR 205.287(c), and direct payments to the Treasury may well be appropriate in those cases where other remedies would be ineffectual or administratively burdensome. *See Golden Eagle Oil Co.*, 6 DOE ¶ 83,005 at 86,065 (1980); *cf. Chana's Auto Service Center*, 8 DOE ¶ 83,002 (1981). However, as noted above, we will not be in a position to decide what should be done with any remaining funds until after the first-stage refund procedure is completed. Only then will we know the amount of money available for the second stage of the refund process. This factor, as noted above, will strongly influence the ultimate disposition of those funds.

It Is Therefore Ordered That:

The \$139,300 refund amount supplied by C. K. Smith & Company, Inc. will be distributed in accordance with the foregoing Decision.

[FR Doc. 82-12146 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of March 29 Through April 2, 1982

During the week of March 29 through April 2, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a

proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of the proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

April 28, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.
Rogers Fuels, Inc., Middlebury, Vermont,
HEE-0015

Rogers Fuels, Inc. (Rogers) filed an Application for Exception from Energy Information Administration reporting requirements. The exception request, if granted, would permit Rogers to be relieved of the obligation to file a Form EIA-9A. On March 29, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the firm be relieved of its obligation to file Form EIA-9A for a temporary period.

[FR Doc. 82-12145 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 5 Through April 9, 1982

During the week of April 5 through April 9, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a

request to participate pursuant to 10 CFR § 205.194 on or before May 26, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

April 28, 1982

George B. Breznay,

Director, Office of Hearings and Appeals.

Petroleum Delivery Service, Inc., North
Miami Beach, Florida, Gasoline and No.
2 Diesel Fuel, HRO-0040

On April 9, 1982, Petroleum Delivery Service, Inc. (PDS) 1375 N.E. 135th Street, N. Miami Beach, Florida 33160, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 25, 1982. In the PRO the Southeast District found that during the period November 1, 1973 through July 31, 1974, PDS sold covered products at prices in excess of those permitted under 6 CFR 150.359 and 10 CFR Part 212, Subpart F of the Mandatory Petroleum Price Regulations. According to the PRO the PDS violation resulted in \$338,004.03 of overcharges.

Sonat, Inc. (Formerly Southern Natural
Resources, Inc.), Birmingham, Alabama,
Natural Gas Liquid, Products, HRO-0039

On April 5, 1982, Sonat, Inc., formerly Southern Natural Resources, Inc., P.O. Box 2563, Birmingham, Alabama 35202, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 9, 1982. In the PRO the Southeast District found that during September 1, 1973 to July 31, 1975, Sonat, a refiner and gas plant owner, sold natural gas liquid products at prices in excess of those permitted under 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K of the Mandatory Petroleum Price Regulations. According to the PRO the Sonat violation resulted in \$1,965,554.17 of overcharges.

[FR Doc. 82-12144 Filed 5-4-82; 8:45 am]

BILLING CODE 6450-01-M

[Volume 640]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 28, 1982.

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								

-AMOCO PRODUCTION CO								
8226479	K82-0163	1509300000	RECEIVED:	04/05/82	J A: KS	HUGOTON	18.0	CITIES SERVICE GA
8226481	K82-0161	1509300000	108			HUGOTON	17.0	CITIES SERVICE GA
8226480	K82-0162	1518700003	108			HUGOTON	17.5	CITIES SERVICE GA
8226477	K82-0165	1505500000	108			HUGOTON	17.5	CITIES SERVICE GA
8226478	K82-0164	1512900000	108			HUGOTON	18.5	CITIES SERVICE GA
8226543	K82-0144	1518120184	103			HUGOTON	873.0	CITIES SERVICE GA
-ANADARKO PRODUCTION COMPANY								
8226535	K81-1308	1515520430	RECEIVED:	04/05/82	J A: KS	LANGDON	14.9	PANHANDLE EASTERN
8226495	K82-0068	1517500000	108			CONDIT	3.4	CIMARRON-QUINQUE
8226494	K82-0069	1512900000	108			SANTA FE TRAIL	4.4	PANHANDLE EASTERN
8226497	K82-0066	1518920095	108			GENTZLER	10.1	CIMARRON-QUINQUE
-ANTARES OIL CORPORATION								
8226591	K82-0123	1515120943	RECEIVED:	04/05/82	J A: KS	COATS WEST	180.0	KANSAS GAS SUPPLY
8226488	K82-0088	1518700000	108			HUGOTON	14.6	EL PASO NATURAL G
-ASSOCIATE RESOURCE CORP								
8226484	K82-0093	1512522843	103			EAST COFFEYVILLE	10.4	VERDIGRIS ENERGY
8226485	K82-0092	1512522950	103			EAST COFFEYVILLE	9.0	VERDIGRIS ENERGY
8226486	K82-0091	1512522952	103			EAST COFFEYVILLE	9.0	VERDIGRIS ENERGY
8226487	K82-0089	1512523450	103			EAST COFFEYVILLE	14.4	VERDIGRIS ENERGY
-BENSON MINERAL GROUP								
8226584	K82-0006	1512524498	RECEIVED:	04/05/82	J A: KS	JEFFERSON-SYCAMORE	9.1	UNION GAS SYSTEMS
8226513	K81-0235	1512522705	102-2			JEFFERSON-SYCAMORE	7.3	UNION GAS SYSTEMS
8226585	K82-0005	1512524500	103			JEFFERSON-SYCAMORE	21.5	UNION GAS SYSTEMS
8226515	K81-0451	1503522049	108			TISDALE GAS	18.3	COLONIAL CORP
8226514	K81-0450	1535522088	108			TISDALE GAS AREA	18.3	COLONIAL CORP
8226512	K81-0236	1512522713	108			JEFFERSON-SYCAMORE	7.7	UNION GAS SYSTEMS
8226510	K81-0233	1512522714	108			JEFFERSON-SYCAMORE	6.6	UNION GAS SYSTEMS
8226587	K82-0003	1512524502	103			JEFFERSON-SYCAMORE	11.0	UNION GAS SYSTEMS
8226586	K82-0004	1512524503	103			JEFFERSON-SYCAMORE	12.1	UNION GAS SYSTEMS
8226505	K81-0113	1503522017	108			JEFFERSON-SYCAMORE	17.9	COLONIAL CORP
8226516	K81-0112	1503522093	108			TISDALE	17.9	COLONIAL CORP
8226592	K82-0125	1514520792	102-2			TISDALE	474.5	NORTHERN NATURAL
8226511	K81-0234	1512522710	108			JEFFERSON-SYCAMORE	9.5	UNION GAS SYSTEMS
8226583	K82-0007	1512524504	102-2			JEFFERSON-SYCAMORE	18.3	UNION GAS SYSTEMS
8226582	K82-0008	1512524505	102-2			JEFFERSON-SYCAMORE	11.0	UNION GAS SYSTEMS
-BEREN CORPORATION								
8226493	K82-0070	1509720831	RECEIVED:	04/05/82	J A: KS	CARVER-ROBBINS WEST	108.0	PANHANDLE EASTERN
8226555	K82-0105	1507700000	108			ILS	17.0	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226556	K-82-0106	1500720402	108		AXLINE B-2	ILS	14.0	CENTRAL STATES GA
8226557	K-82-0107	1500720455	108		AXLINE 2-17	ILS	10.0	CENTRAL STATES GA
8226558	K-82-0108	1500720089	108		BAIER #1	ACTINA MISSISSIPPI	17.0	CITIES SERVICE GA
8226559	K-82-0109	1500720000	108		BINNING #1	BOGGS	9.0	CITIES SERVICE GA
8226560	K-82-0110	1500720000	108		LOKNER B #1	BOGGS	10.0	CITIES SERVICE GA
8226561	K-82-0111	1500720000	108		LOKNER C #1	BOGGS	15.0	CITIES SERVICE GA
8226562	K-82-0112	1500720097	108		MCRAYER A #1	ACTINA	16.0	CITIES SERVICE GA
8226568	K-82-0113	1500720000	108		MEE #1	BOGGS	13.0	CITIES SERVICE GA
8226589	K-82-0114	1500720699	108		PENDLEY #1	RHODES SOUTHWEST	5.0	CITIES SERVICE GA
-CITIES SERVICE COMPANY								
8226530	K-82-0002	1517520532	103	RECEIVED:	04/05/82	JA: KS	49.5	NORTHERN NATURAL
8226470	K-82-0036	1515500000	108		BAUGHMAN V #1	LEMERT	15.4	NORTHERN NATURAL
8226521	K-81-1303	1504720926	103		TAIT G #1	HUGOTON	36.5	NORTHERN NATURAL
-EARL M KNIGHTON								
8226570	K-82-0238	1518500000	108	RECEIVED:	04/05/82	JA: KS	7.7	KANSAS-NEBRASKA N
-EDMISTON OIL CO INC								
8226544	K-82-0145	1500720759	103		GRAVES #1	HARDTNER	12.0	KANSAS GAS SUPPLY
8226545	K-82-0146	1500720855	103		GRAVES #2	HARDTNER	12.0	KANSAS GAS SUPPLY
8226546	K-82-0147	1500720865	103		GRAVES #3	HARDTNER	12.0	KANSAS GAS SUPPLY
8226547	K-82-0148	1500720957	103		GRAVES #4	HARDTNER	12.0	KANSAS GAS SUPPLY
8226548	K-82-0149	1500720711	103		OHLSON #B #1	HARDTNER	7.2	KANSAS GAS SUPPLY
8226549	K-82-0150	1500720736	103		OHLSON #B #2	HARDTNER	20.4	KANSAS GAS SUPPLY
-ELDEN HENKE								
8226593	K-82-0126	1511500000	108	RECEIVED:	04/05/82	JA: KS	1.4	KAN-60 INC
8226594	K-82-0127	1511500000	108		HENKE #2	LOST SPRINGS	1.4	KAN-60 INC
8226498	K-82-0128	1511500000	108		HENKE #5	LOST SPRINGS	1.4	KAN-60 INC
-EXXON CORPORATION								
8226474	K-82-0027	1504720898	103	RECEIVED:	04/05/82	JA: KS	0.0	NORTHERN NATURAL
-F G HOLL								
8226531	K-82-0042	1514520859	102-4	RECEIVED:	04/05/82	JA: KS	14.0	NORTHERN NATURAL
8226508	K-81-0469	1504720563	108		FOX #1-34	MASSEY EXT	18.0	REPUBLIC NATURAL
8226507	K-81-0030	1504720184	108		MCKINNEY #C #1-3	WAYNE S EXT	20.0	KANSAS-NEBRASKA N
8226573	K-82-0041	1504720812	102-4		MEYER #1	EMBRY EXT	75.0	REPUBLIC NATURAL
8226574	K-82-0040	1504720817	102-4		SCHARTZ #1-14	WIL WEST EXT	11.5	REPUBLIC NATURAL
-GATOR OIL CO								
8226476	K-82-0025	1512522274	108	RECEIVED:	04/05/82	JA: KS	3.7	UNION GAS SYSTEMS
-GS OIL & GAS CO								
8226491	K-82-0081	1502520443	103	RECEIVED:	04/05/82	JA: KS	182.5	KANSAS POWER & LI
-GULF OIL CORPORATION								
8226503	K-82-0133	1502721298	103	RECEIVED:	04/05/82	JA: KS	25.0	CITIES SERVICE GA
8226504	K-82-0134	1500721309	103	RECEIVED:	04/05/82	JA: KS	30.0	CITIES SERVICE GA
-HAROLD C LIDDELL								
8226575	K-82-0072	1504720128	108	RECEIVED:	04/05/82	JA: KS	4.7	NORTHERN NATURAL
8226492	K-82-0071	1504720127	108	RECEIVED:	04/05/82	JA: KS	5.3	NORTHERN NATURAL
-HELLAR DRILLING CO INC								
8226565	K-82-0243	1516500000	108	RECEIVED:	04/05/82	JA: KS	7.6	HELLAR DRILLING C
8226566	K-82-0242	1516500000	108		BIEBERR #1	REICHEL	5.3	HELLAR DRILLING C
8226571	K-82-0236	1518520355	108		GILLIG #1	REICHEL	5.6	KANSAS-NEBRASKA N
8226509	K-81-1107	1505320589	102-2		O'CONNER #1	O'CONNER	25.5	GARFIELD GAS GATH
8226563	K-82-0245	1516500000	108		RATHBUN #1	WILD CAT	4.6	HELLAR DRILLING C
8226564	K-82-0244	1516500000	108		REICHEL #1	REICHEL	9.4	HELLAR DRILLING C
-HOLLY ENERGY, INC								
8226475	K-82-0028	1503320467	103	RECEIVED:	04/05/82	JA: KS	70.0	NORTHERN NATURAL
					BAKER TRUST #1	COLLIER FLATS SOUTH		

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226473	K 82-0029	1503320500	103	RECEIVED:	BAKER TRUST #2	COLLIER FLATS SOUTH	70.0	NORTHERN NATURAL
-IMPERIAL OIL COMPANY					FRUIT #1-13			
8226541	K 82-0137	1509720767	102-2		WINKLEPLECK #2-12	CARVER ROBBINS WEST	2920.0	PANHANDLE EASTERN
8226489	K 82-0087	1509720838	102-2	RECEIVED:	04/05/82	CARVER ROBBINS WEST	54.8	PANHANDLE EASTERN
-KENNEDY & MITCHELL INC					WALKER #25-419			
8226506	K 81-1188	1511920351	103	RECEIVED:	04/05/82	MCKINNEY GAS AREA	150.0	NORTHERN NATURAL
-LEAR PETROLEUM EXPLORATION INC					04/05/82			
8226590	K 82-0122	1503320436	102-2	RECEIVED:	04/05/82	BIRD SOUTH	110.0	MICHIGAN WISCONSINI
-MOBIL OIL CORP					BAYNE #2-5			
8226552	K 81-1266	1518920547	102-4	RECEIVED:	04/05/82	WILDCAT (WALKEMEYER)	100.0	NORTHERN NATURAL
-MONSANTO COMPANY					FLOWER #1 UNIT #2			
8226523	K 81-1339	1509520940	103	RECEIVED:	04/05/82	SPIVEY GRABS	20.0	KANSAS GAS SUPPLY
8226524	K 81-1310	1509520999	103		RENDER #1	SPIVEY GRABS	30.0	KANSAS GAS SUPPLY
8226525	K 81-1311	1509521094	103		RENDER #2	SPIVEY GRABS	40.0	KANSAS GAS SUPPLY
8226526	K 81-1312	1509521148	103		RENDER #3	SPIVEY GRABS	75.0	KANSAS GAS SUPPLY
8226527	K 81-1313	1509521134	103		RENDER #4	SPIVEY GRABS	20.0	KANSAS GAS SUPPLY
-MULL DRILLING CO INC					YOUNG #2			
8226528	K 81-1314	1507720711	103	RECEIVED:	04/05/82	HIBBORD NE	73.0	PEOPLES NATURAL G
-N AMER DRILLING & EXPLORATION INC					FANNING #1			
8226568	K 82-0240	1504720478	108	RECEIVED:	04/05/82	WIL	8.0	PANHANDLE EASTERN
8226567	K 82-0241	1504720546	108		ANDERSON #1	WIL	16.4	CENTRAL STATES GA
8226569	K 82-0239	1504720283	108		FAIR #3	WIL	19.8	CENTRAL STATES GA
-NATIONAL COOP REFINERY ASSOC					MILLER #1			
8226554	K 82-0104	1500721301	103	RECEIVED:	04/05/82	HARDTNER	25.0	KANSAS GAS SUPPLY
-NATIONAL OIL COMPANY					GOOD #2			
8226502	K 82-0132	1511920540	103	RECEIVED:	04/05/82	NOVINGER	144.0	PANHANDLE EASTERN
-OMNI PRODUCTION CO INC					HOLMES #24-10			
8226482	K 82-0160	1520522082	102-2	RECEIVED:	04/05/82	NEODESHA	148.5	TULSA GAS GATHERI
8226483	K 82-0159	1520521322	102-2		LOFLIN #1A	NEODESHA	60.0	TULSA GAS GATHERI
8226581	K 82-0234	1520521814	102-2		POSTIER #1C	NEODESHA	3.3	TULSA GAS GATHERI
8226572	K 82-0235	1520521970	102-2		POSTIER #2	NEODESHA	3.3	TULSA GAS GATHERI
-PHILLIPS PETROLEUM COMPANY					POSTIER #3			
8226529	K 82-0001	1511900000	108	RECEIVED:	04/05/82	ADAMS RANCH MISS	9.0	COLORADO INTERSTA
-PHOENIX RESOURCES COMPANY					ADAMS H #1			
8226542	K 82-0138	1517520524	103	RECEIVED:	04/05/82	THREE STAR	180.0	PANHANDLE EASTERN
-QUINQUE OIL & GAS PRODUCING CO					LIGHT #2-8			
8226553	K 82-0180	1517520548	102-4	RECEIVED:	04/05/82	WILDCAT	91.2	PANHANDLE EASTERN
-ROBERT F WHITE					KEATING #2-24			
8226595	K 79-1237	1511500000	108-ER	RECEIVED:	04/05/82	LOST SPRINGS	0.0	CITIES SERVICE GA
-ROXANA CORP					PRITZ A #1			
8226469	K 82-0033	1518520940	103	RECEIVED:	04/05/82	DILLWYN WEST EXT	150.0	CENTRAL STATES GA
8226471	K 82-0031	1518521280	103		DEBUSK #3	CRISSMAN NO	150.0	CENTRAL STATES GA
8226472	K 82-0030	1518521275	103		LINK #3	CRISSMAN NO	75.0	CENTRAL STATES GA
-S & G OIL CO INC					TURNER #3			
8226490	K 82-0085	1509520590	108	RECEIVED:	04/05/82	SPIVEY-GRABS	7.0	PEOPLES NATURAL G
-SHAWMAR OIL CO INC					JOHNSON #3			
8226533	K 81-1306	1511520232	108	RECEIVED:	04/05/82	ANTELOPE SE POOL	12.0	CITIES SERVICE GA
8226532	K 81-1305	1511520858	108		SCHLEHUBER #1	ANTELOPE SE POOL	12.0	CITIES SERVICE GA
8226522	K 81-1304	1511520401	108		SCHLEHUBER #2	ANTELOPE SE POOL	12.0	CITIES SERVICE GA
8226534	K 81-1307	1511520451	108		SCHLEHUBER #3	ANTELOPE SE POOL	5.0	CITIES SERVICE GA
-SOHIO PETROLEUM CO					SCHLEHUBER #12	ANTELOPE POOL		
8226496	K 82-0067	1515120914	103	RECEIVED:	04/05/82	SWISHER	10.6	CENTRAL STATES GA
-TERRY P SILHAN					FINCHAM 1-A			

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JD NO	JA DAT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226578	K-82-0231	1511500002	108		SCHIMPF A-3	ANTELOPE FIELD	2.3	K AN-GO INC
8226579	K-82-0232	1511500000	108		SCHIMPF B-2	ANTELOPE FIELD	2.3	KAN-GO INC
8226580	K-82-0233	1511500000	108		SCHIMPF B-3	ANTELOPE FIELD	2.3	KAN-GO INC
-TXO PRODUCTION CORP			RECEIVED:	04/05/82	JA: KS			
8226576	K-82-0076	1509521166	103		HAMPEL #1	VARNER	36.5	
8226577	K-82-0077	1503320407	102-2		RAFLER #1	HAAS	182.5	
-VINCENT OIL CORP			RECEIVED:	04/05/82	JA: KS			
8226499	K-82-0129	1519500000	108		ROBINSON #1	SPIVEY-GRABS	12.0	PEOPLES NATURAL G
-W. L. KIRKMAN, INC.			RECEIVED:	04/05/82	JA: KS			
8226550	K-81-1281	1503320476	102-4		BOX RANCH "B" #1	TUTTLE EXTENSION	219.0	NORTHERN NATURAL
-WELLS ENERGY CORP			RECEIVED:	04/05/82	JA: KS			
8226551	K-82-0015	1515121006	102-4		LIPPELMANN #1	CARVER-ROBBINS	183.0	
-WELLS-BATTELSTEIN OIL & GAS INC			RECEIVED:	04/05/82	JA: KS			
8226501	K-82-0131	1501922029	103		GATES (#0078) #1	PERU SEDAN	47.5	SHERWIN WILLIAMS
8226500	K-82-0130	1501922265	103		OLCC "800" (#0410) PHASE II #14-B	PERU SEDAN	52.6	SHERWIN WILLIAMS
8226537	K-81-1295	1501922034	103		OLCC "800" (#0410) PHASE II #15-B	COOKSON HILLS	5.4	COOKSON HILLS GAS
8226539	K-81-1297	1501922172	103		OLCC "800" (#0410) PHASE II #16-B	COOKSON HILLS	4.3	COOKSON HILLS GAS
8226540	K-81-1298	1501922173	103		OLCC "800" (#0410) PHASE II #17-B	COOKSON HILLS	3.6	COOKSON HILLS GAS
8226517	K-81-1299	1501922174	103		OLCC "800" (#0410) PHASE II #24-B	COOKSON HILLS	3.6	COOKSON HILLS GAS
8226518	K-81-1300	1501922929	103		OLCC "800" (#0410) PHASE II #42-B	COOKSON HILLS	4.3	COOKSON HILLS GAS
8226520	K-81-1302	1501922891	103		OLCC "800" (#0410) PHASE II #44-B	COOKSON HILLS	4.3	COOKSON HILLS GAS
8226519	K-81-1301	1501922931	103		OLCC "800" (#0410) PHASE II #8-B	COOKSON HILLS	3.6	COOKSON HILLS GAS
8226536	K-81-1296	1501921898	103		OLCC E R (#0408) PHASE II #108	PERU SEDAN	2.9	COOKSON HILLS GAS
8226536	K-81-1294	1501922739	103		OLCC E R (#0408) PHASE II #110	PERU SEDAN	8.0	COOKSON HILLS GAS
8226464	K-81-1293	1501922740	103		OLCC E R (#0408) PHASE II #112	PERU SEDAN	11.3	COOKSON HILLS GAS
8226465	K-81-1292	1501922741	103		OLCC E R (#0408) PHASE II #114	PERU SEDAN	8.7	COOKSON HILLS GAS
8226466	K-81-1291	1501922742	103		OLCC E R (#0408) PHASE II #116	PERU SEDAN	9.1	COOKSON HILLS GAS
8226467	K-81-1290	1501922812	103		OLCC E R (#0408) PHASE II #118	PERU SEDAN	7.6	COOKSON HILLS GAS
8226468	K-81-1289	1501922813	103		OLCC E R (#0408) PHASE II #118	PERU SEDAN	9.4	COOKSON HILLS GAS

LOUISIANA OFFICE OF CONSERVATION								

-AMOCO PRODUCTION CO			RECEIVED:	04/05/82	JA: LA			
8226607	81-1444	1702321449	102-4		MIAMI CORP #34	SOUTH PECAN LAKE	1050.0	COLUMBIA GAS TRAN
8226606	81-1443	1702321449	102-4		MIAMI CORPORATION #34-D	SOUTH PECAN LAKE	73.0	COLUMBIA GAS TRAN
-EXCHANGE OIL & GAS CORPORATION			RECEIVED:	04/05/82	JA: LA			
8226605	80-3848	1710922267	102-4	103	PELLEGRIN-PRICE #1	BAYOU SAUVEUR	0.0	

MICHIGAN DEPARTMENT OF NATURAL RESOURCES								

-CRYSTAL OIL COMPANY			RECEIVED:	04/06/82	JA: MI			
8226463		2108734140	102-4		BROUGHMAN #1-15	MARATHON	109.5	CONSUMERS POWER C
8226461		2108734593	102-4		KERN #1-15	MARATHON	3.6	CONSUMERS POWER C
8226462		2108734596	102-4		KERN #2-16	MARATHON	10.9	CONSUMERS POWER C

NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								

-ARCO OIL AND GAS COMPANY			RECEIVED:	04/05/82	JA: NM			
8226596		3002505790	108		ELMER C HILL #1	BLINEBRY	4.0	WARREN PETROLEUM
8226599		3002522959	108		J R CONE "B" #3	WANTZ (ABO)	4.0	WARREN PETROLEUM
8226600		3002509337	108		KING GAS COM UN #1	JALMAT	15.5	EL PASO NATURAL G
8226597		3002509015	108		MCDONALD STATE WN #21	JALMAT (YATES - SEVEN	15.0	EL PASO NATURAL G
8226598		3002521354	108		WIMBERLY WN #10	JUSTIS (BLINEBRY)	15.0	EL PASO NATURAL G

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME RECEIVED: 04/05/82 JA: NM
 8226604 3002510019 108 BRUNSON B #5
 -CITIES SERVICE COMPANY
 8226601 3002524909 108 A L CHRISTMAS #2
 -GETTY OIL COMPANY
 8226602 3002502878 108 E VACUUM GB/SA UNIT TRACT 2648 #023
 -PHILLIPS PETROLEUM COMPANY
 8226603 3002508525 108 E VACUUM GB/SA UNIT TRACT 2717 #002

 NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

 RECEIVED: 04/06/82 JA: NY
 8226440 2163 3101316053 102-2 C F REYNOLDS UNIT #1
 -BEREA OIL AND GAS CORPORATION
 8226425 1849 3101316054 102-2 C H EDSON UNIT #1
 8226439 2198 3101316434 102-2 H OAG UNIT #2
 8226420 2163 3101316280 102-2 N REED & SONS INC #1
 8226435 2164 3101316281 102-2 N REED & SONS INC #2
 8226426 1857 3101316258 102-2 NEWTON BROTHERS #1
 8226424 2223 3101316259 102-2 NEWTON BROTHERS #3
 8226431 2048 3101316259 102-2 NEWTON BROTHERS #3
 8226429 2136 3101316219 102-2 NYS REF #10 - #10
 8226454 2161 3101316217 102-2 NYS REF #10 - #4
 8226427 2135 3101316297 102-2 NYS REF AREA #10 - #9
 8226436 2150 3101316453 102-2 S MCCHESENEY #1

 RECEIVED: 04/06/82 JA: NY
 8226442 2184 3101315675 102-2 BRATT UNIT #1
 -BOUNTY OIL & GAS INC
 8226456 2185 3101315675 107-TF BRATT UNIT #1
 8226455 2190 3101315464 102-2 C LEVIN UNIT #1
 8226458 2191 3101315464 107-TF C LEVIN UNIT #1
 8226441 2186 3101315772 102-2 CHENEY #1
 8226457 2187 3101315772 107-TF CHENEY #1
 8226443 2182 3101315956 102-2 FREDERES #1
 8226438 2188 3101316431 102-2 OVEREND #1
 8226445 2183 3101316015 102-2 SEITZ/KOZAK #1

 RECEIVED: 04/06/82 JA: NY
 8226430 1818 3101312805 102-2 LYLE W COCHRAN WN-1644
 -CONSOLIDATED GAS SUPPLY CORPORATION
 8226428 1139 3101314627 102-2 MULLARD SR #2
 -OILMARK & CO INC
 8226447 2154 3112116076 102-2 E BARTZ #1
 -SHARON RESOURCES INC
 8226452 2159 3112116273 102-2 E FONTAINE #1
 8226450 2157 3112116272 102-2 J KERWIN #2
 8226451 2158 3112116271 102-2 L BARTZ #2
 8226446 2153 3112116072 102-2 L SCHILTZ #1
 8226448 2155 3112116090 102-2 R BARVIAN #1
 8226449 2156 3112116266 102-2 R FONTAINE #1
 8226444 2152 3112116057 102-2 R KIRSCH #2

 RECEIVED: 04/06/82 JA: NY
 8226418 1704 3101315213 107-DV B RENDELL - NY #80 31-013-15213
 -TRANAH PETROLEUM INC
 8226414 1677 3101315523 107-DV COWEN #3 31-013-15523
 8226453 2098 3101315476 102-2 DONALD WHITE #1 31-013-15476
 8226459 1718 3101315520 107-DV E BLY #1 31-013-15520
 8226413 1736 3101315521 107-DV E BLY #2 31-013-15521
 8226415 1650 3101314176 107-DV GEORGE PETERSON-CRONER #4

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FIELD NAME
 DRINKARD
 JALMAT (GAS)
 VACUUM GB/SA
 VACUUM GB/SA

PROD
 11.0 NORTHERN NATURAL
 19.4 EL PASO NATURAL G
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PURCHASER
 30.0 COLUMBIA GAS TRAN
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 35.0 COLUMBIA GAS TRAN
 0.0 NATIONAL FUEL GAS
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 10.3 GENERAL SYSTEM PU
 10.0 NATIONAL FUEL GAS
 10.5 COLUMBIA GAS TRAN
 10.5 COLUMBIA GAS TRAN
 10.5 COLUMBIA GAS TRAN
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 10.5 COLUMBIA GAS TRAN
 10.5 COLUMBIA GAS TRAN
 10.5 COLUMBIA GAS TRAN
 36.0 COLUMBIA GAS TRAN
 1.2 COLUMBIA GAS TRAN
 36.0 NATIONAL FUEL GAS
 36.0 COLUMBIA GAS TRAN
 36.0 COLUMBIA GAS TRAN
 12.0 COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226433	2096	3101315865	102-2		GREEN-WELLS-CROWER #3 31-013-15865	PANAMA	36.0	COLUMBIA GAS TRAN
8226423	1681	3101315524	107-DV		KEEM #1 31-013-15524	ELLINGTON	1.6	COLUMBIA GAS TRAN
8226460	1716	3101315580	107-DV		LEO ACKLEY #2 31-013-15580	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8226417	1652	3101312533	107-DV		R H MILSPAY NY #16 31-013-12533	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8226422	1720	3101315272	107-DV		ROGER NEIL - NY #7 31-013-15272	PANAMA	36.0	COLUMBIA GAS TRAN
8226416	1672	3101315866	107-DV		THOMAS POTTER #2 31-013-15866	LAKEWOOD	36.0	NATIONAL FUEL GAS
8226419	1700	3101312525	107-DV		VRUWINK - NY #13 31-013-12525	PANAMA	36.0	COLUMBIA GAS TRAN
8226421	1653	3101314284	107-DV		WIDRIG NY #68 31-013-14284	PANAMA	9.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP			RECEIVED:	04/06/82	JA: NY			
8226437	2035	3101315421	102-2		P HAMMOND #2	GERRY	20.0	NATIONAL FUEL GAS
8226432	2052	3101315419	102-2		PAUL HAMMOND #1	GERRY	20.0	NATIONAL FUEL GAS
-VANDERMARK ASSOCIATES			RECEIVED:	04/06/82	JA: NY			
8226434	2306	3100316239	102-2		BLACK FARM #1 31-003-16239	VANDERMARK CREEK	73.0	COLUMBIA GAS TRAN

OKLAHOMA CORPORATION COMMISSION								

-ANDOVER OIL COMPANY			RECEIVED:	04/07/82	JA: OK			
8226728	16480	3501722103	102-2		ROTHER #2-4		180.0	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY			RECEIVED:	04/07/82	JA: OK			
8226729	16336	3504722810	102-4		INA HUTCHINGS #1	CARRIER	36.5	PANHANDLE EASTERN
-BRAXTON OIL AND GAS CORP			RECEIVED:	04/07/82	JA: OK			
8226718	13501	3505320627	103		HORNING #1	WAKITA	10.0	SUN GAS CO
-COOK OPERATING CO			RECEIVED:	04/07/82	JA: OK			
8226721	13630	3511720792	103		R D #1		36.5	H J D CATTLE CO
8226722	13631	3511721000	103		R D #2	NORTH TERLTON	36.5	H J D CATTLE CO
-COTTON PETROLEUM CORPORATION			RECEIVED:	04/07/82	JA: OK			
8226712	17649	3501521186	107-DP		TALKINGTON #1	NORTH TERLTON	0.0	UNITED GAS PIPELI
-J W HUBER CORPORATION			RECEIVED:	04/07/82	JA: OK			
8226719	13578	3504921480	103		LONGMIRE 1-12	SW VERDEN	0.0	WARREN PETROLEUM
-LANMASTER DRILLING CO			RECEIVED:	04/07/82	JA: OK			
8226720	13611	3505121182	103		FARWELL #3	KLONDIKE NORTH	0.0	ARKANSAS LOUISIAN
-MARYMAC CO			RECEIVED:	04/07/82	JA: OK			
8226726	15733	3508520846	102-4		OAKMAN-HERSH 4-1		75.0	AMINOIL USA INC
8226725	15731	3508520424	102-4		PASCHALL #1	NORTH PIKE	75.0	AMINOIL USA INC
-PHOENIX RESOURCES COMPANY			RECEIVED:	04/07/82	JA: OK			
8226727	17636	3504900000	107-PE		WORLEY #1		0.0	TRANSOK PIPE LINE
-POST PETROLEUM COMPANY INC			RECEIVED:	04/07/82	JA: OK			
8226715	13490	3504722690	103		DILLING #1	NE ENID	0.0	
-RED EAGLE OIL CO			RECEIVED:	04/07/82	JA: OK			
8226724	13652	3509322168	103		KATHRYN #1	NORTHWEST OKEENE	55.0	PHILLIPS PETROLEU
-SABINE CORP			RECEIVED:	04/07/82	JA: OK			
8226713	12132	3504520485	108		GILLISPIE #3-2		5.0	PRODUCER'S GAS CO
-SUNDANCE ENERGY CORP			RECEIVED:	04/07/82	JA: OK			
8226714	13487	3504722607	103		HAMMOND #1	E KREMLIN	17.0	
-TOMLINSON OIL CO INC			RECEIVED:	04/07/82	JA: OK			
8226716	13491	3500722028	103		JOSEY #B 1-21		29.0	PHILLIPS PETROLEU
8226717	13492	3500721968	103		JOSEY 1-21	WEST ELMWOOD	14.5	PHILLIPS PETROLEU
-WHITMAR EXPLORATION CO			RECEIVED:	04/07/82	JA: OK			
8226723	13646	3504921567	103		GOODSON #1-18	ANADARKO BASIN	0.0	BUCKEYE NATURAL G

WEST VIRGINIA DEPARTMENT OF MINES								

-ALLEGHENY LAND & MINERAL COMPANY			RECEIVED:	04/05/82	JA: WV			

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JD NO	JA DAT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226632		4708300467	103		A - 1009	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8226645		4709702238	103		A - 1015	BUCKHANNON	0.0	COLUMBIA GAS TRAN
8226623		4708300439	103		A - 1016	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8226624		4708300440	103		A - 1017	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8226647		4708300496	103		A - 1043	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8226636		4709702272	103		A - 1046	MEADE	0.0	COLUMBIA GAS TRAN
8226641		4709702053	103		A - 881	WASHINGTON	0.0	COLUMBIA GAS TRAN
8226646		4704900692	103		A - 912	WINFIELD	0.0	CONSOLIDATED GAS
8226635		4708505214	103		A - 942	MURPHY	0.0	CONSOLIDATED GAS
8226633		4708300499	103		A - 945	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8226634		4708505163	103		A - 949	MURPHY	0.0	CONSOLIDATED GAS
8226626		4708300466	103		A - 983	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8226622		4708300438	103		A - 1012	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8226613		4704102105	108		A-660	SKIN CREEK	0.0	CONSOLIDATED GAS
8226611		4703301182	108		A-697	SARDIS	0.0	CONSOLIDATED GAS
8226610		4703301170	108		A-726	UNION	0.0	CONSOLIDATED GAS
8226612		4703302073	108		A-753	SARDIS	0.0	CONSOLIDATED GAS
8226608		4703302069	108		A-775	SARDIS	0.0	CONSOLIDATED GAS
8226614		4709701877	108		A-779	UNION	0.0	CONSOLIDATED GAS
8226609		4701702493	108		A-851	SOUTHWEST	0.0	CONSOLIDATED GAS
8226621		4701702793	103		A-874	CENTRAL DISTRICT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC			RECEIVED:	04/05/82	JA: WV			
8226625		4703901176	108		R E ESKINS #2 - 60741	LENS CREEK	15.0	INDUSTRIAL GAS CO
-BLUE CREEK GAS COMPANY			RECEIVED:	04/05/82	JA: WV			
8226615		4703903493	108		DAMA HILL #1	ELK	0.0	COLUMBIA GAS TRAN
8226616		4703903497	108		DAMA HILL #2	ELK	0.0	COLUMBIA GAS TRAN
-BRAXTON OIL AND GAS CORP			RECEIVED:	04/05/82	JA: WV			
8226619		4704102927	108		DAVISSON #1	VANDALIA	10.0	CONSOLIDATED GAS
8226618		4700701534	108		FEENEY #3	HEATERS	10.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP			RECEIVED:	04/05/82	JA: WV			
8226637		4703903729	107-DV		LOUIE FOSTER #1	WASHINGTON	17.0	TENNESSEE GAS PIP
8226631		4703903625	107-DV		M K MCCORMICK #1	JEFFERSON	39.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	04/05/82	JA: WV			
8226617		4706100375	108		BRUCE BLANEY 12485	CLINTON DISTRICT	1.5	GENERAL SYSTEMS P
-J C BAKER & SONS INC			RECEIVED:	04/05/82	JA: WV			
8226620		4700700153	108		HARRY ROBINSON	SALT LICK	6.0	CONSOLIDATED GAS
-J SCOTT TALBOTT			RECEIVED:	04/05/82	JA: WV			
8226652		4704302508	103		W-10 BATES #2	UNION	0.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC			RECEIVED:	04/05/82	JA: WV			
8226651		4707321072	107-DV		ARLINGTON SHULTZ #1	UNION	10.0	COLUMBIA GAS TRAN
-NRM PETROLEUM CORPORATION			RECEIVED:	04/05/82	JA: WV			
8226649		4704102523	108		BURTON STALNAKER #1	SKIN CREEK	13.0	EQUITABLE GAS CO
8226648		4702103411	108		BUSH #1	STEWART CREEK	11.0	COLUMBIA GAS TRAN
8226650		4704102563	108		PETE CASTO #1	HACKERS CREEK	4.0	EQUITABLE GAS CO
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	04/05/82	JA: WV			
8226638		4706100289	108		SMITH Q #2	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
-SPARTAN GAS COMPANY			RECEIVED:	04/05/82	JA: WV			
8226642		4707901013	108		WARNER SOVINE 1-S-213	CURRY	7.5	PENNZOIL CO
-STERLING DRILLING & PROD CO INC			RECEIVED:	04/05/82	JA: WV			
8226639		4701501683	108		ALO1 #23 SDP#183	BUFFALO DISTRICT	19.0	EQUITABLE GAS CO
8226640		4701501717	108		ALO1 37 SDP#272	BUFFALO DISTRICT	11.0	EQUITABLE GAS CO
8226627		4700701447	108		ARGABRITE #173 SDP#173	BIRCH	3.0	EQUITABLE GAS CO
-UNITED PETRO LTD			RECEIVED:	04/05/82	JA: WV			

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	VOLUME	640	PAGE	008	PROD	PURCHASER
8226644		4709702146	108		BRADLEY LIGGETT #1-A	ABBOTT-FRENCH CREEK A	22.0				22.0	COLUMBIA GAS TRAN
8226643		4709702145	108		UNITA C LARAMIE #1	ABBOTT-FRENCH CREEK A	22.0				22.0	COLUMBIA GAS TRAN
-W J LYDIC INC					RECEIVED: 04/05/82							
8226629		4709500888	103		ASH #1	MEADE	20.0				20.0	
8226628		4709500899	107-DV		PYLE #1	MEADE	182.0				182.0	
8226630		4709500890	103		PYLE #1	MEADE	182.0				182.0	
-WYOMING OIL & GAS CONSERVATION COMMISSION												
-ANDOVER OIL CO					RECEIVED: 04/06/82							
8226665	NG27-82	4900500000	103		ANDERSON 24-23	S E KITTY	87.0				87.0	MGPC INC
-CHEVRON U S A INC					RECEIVED: 04/06/82							
8226663	NG 11-82	4941229800	102-4		PAINTER RESERVOIR UNIT 13-318	PAINTER RESERVOIR	613.0				613.0	NORTHERN NATURAL
8226662	NG 10-82	4904120262	102-4		PAINTER RESERVOIR UNIT 34-1D	PAINTER RESERVOIR	318.0				318.0	NORTHERN NATURAL
8226664	NG 12-82	4904120297	102-4		PAINTER RESERVOIR UNIT 41-1D	PAINTER RESERVOIR	214.0				214.0	NORTHERN NATURAL
-DAVIS OIL COMPANY					RECEIVED: 04/06/82							
8226672	NG45-82	4900525069	103		ANGELA #1	NORTH HILIGHT	18.0				18.0	PHILLIPS PETROLEUM
8226676	NG49-82	4900526008	102-2		BELLE FOURCHE #3-A	N W HILIGHT	14.0				14.0	PHILLIPS PETROLEUM
8226671	NG44-82	4900525872	102-2		HARRY PUTNAM #1	DEVELOPMENT	35.0				35.0	BIG HORN FRACTION
8226673	NG46-82	4900526136	103		HOADLEY #2	NORTH HILIGHT	5.8				5.8	PHILLIPS PETROLEUM
8226674	NG47-82	4900526072	102-2		TERRA #2-A	WILDCAT	13.8				13.8	PHILLIPS PETROLEUM
8226677	NG-50-82	4900526012	102-2		TERRA #4	WILDCAT	0.0				0.0	PHILLIPS PETROLEUM
8226675	NG48-82	4900526127	102-2		TERRA #5	BETHLEHEM	13.6				13.6	PHILLIPS PETROLEUM
-EXETER EXPLORATION COMPANY					RECEIVED: 04/06/82							
8226668	NG32-82	4900921904	103		MOHR 6-21	MIKE'S DRAW	50.0				50.0	PHILLIPS PETROLEUM
8226669	NG33-82	4900921911	103		STATE 6-16	MIKE'S DRAW	50.0				50.0	PHILLIPS PETROLEUM
-LADD & LUKOWICZ INC					RECEIVED: 04/06/82							
8226666	NG29-82	4900525873	103		FRED DILTS #1	UNNAMED	90.0				90.0	BIG HORN FRACTION
-LOUISIANA LAND & EXPLORATION CO					RECEIVED: 04/06/82							
8226670	NG42-82	4900921796	102-2		STATE 78-874 #1	POWELL	290.0				290.0	MOUNTAIN FUEL SUP
-MARATHON OIL COMPANY					RECEIVED: 04/06/82							
8226667	NG31-82	4903721613	102-4		WAMSUTTER UNIT #A #11	WAMSUTTER	475.0				475.0	COLORADO INTERSTA
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER, WY												
-MIDLANDS GAS CORPORATION					RECEIVED: 04/07/82							
8226685	M226-1	2507121625	188		FEDERAL 1 0102	BOWDOIN	8.0				8.0	KANSAS-NEBRASKA N
8226690	M 236-1	2507121640	108		FEDERAL 1 0251	UNNAMED	10.0				10.0	KANSAS-NEBRASKA N
8226686	M 229-1	2507121443	108		FEDERAL 1 0512	WILDCAT	18.0				18.0	KANSAS-NEBRASKA N
8226682	M225-1	2507121642	108		FEDERAL 1 0570	UNNAMED	10.0				10.0	KANSAS-NEBRASKA N
8226681	M224-1	2510521162	108		FEDERAL 1 0707	WILDCAT	10.0				10.0	KANSAS-NEBRASKA N
8226687	M 230-1	2507121658	108		FEDERAL 1 0951	UNNAMED	13.0				13.0	KANSAS-NEBRASKA N
8226683	M226-1	2507121644	108		FEDERAL 1 0970	UNNAMED	12.0				12.0	KANSAS-NEBRASKA N
8226678	M220-1	2507121647	108		FEDERAL 1 1760	UNNAMED	20.0				20.0	KANSAS-NEBRASKA N
8226680	M23-1	2507121637	108		GRIGGS FEDERAL 1 1571	WILDCAT	10.0				10.0	KANSAS-NEBRASKA N
8226688	M 232-1	2507121499	108		LARB HILLS A-1 1102	WILDCAT	14.0				14.0	KANSAS-NEBRASKA N
8226689	M 233-1	2507121199	108		LARB HILLS A-1 1202	WILDCAT	9.0				9.0	KANSAS-NEBRASKA N
8226679	M221-1	2510521054	108		LOBERG 1 2606	WILDCAT	8.0				8.0	KANSAS-NEBRASKA N
8226684	M227-1	2507121128	108		MIAMI-FEDERAL 626-35 3512	WILDCAT	14.0				14.0	KANSAS-NEBRASKA N
8226707	M489-1	2507121475	108		235631 2361	BOWDOIN	20.0				20.0	KANSAS-NEBRASKA N
8226691	M 237-1	2507121608	108		63531 0651	WHITEWATER	5.0				5.0	KANSAS-NEBRASKA N
-GULF OIL CORPORATION					RECEIVED: 04/07/82							
8226708	ND490-1	3300700194	102-2		ELKHORN USA 1-5	ELKHORN RANCH	50.0				50.0	KOCH HYDROCARBON

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226709	ND491-1	3300700283	102-2	RECEIVED:	USA 2-5 GULF SUNBEHM	ELKHORN RANCH	45.0	KOCH HYDROCARBONS
8226692	NP 392-1	3305301127	102-2	RECEIVED:	FEDERAL #2-8 RR	ROUGH RIDER	0.0	KOCH HYDROCARBON
8226695	W 467-1	4900720628	102-2	RECEIVED:	COAL GULCH "F" #1	COAL GULCH	235.9	CITIES SERVICE GA
8226696	W 468-1	4900720628	102-2	RECEIVED:	COAL GULCH "F" #1	COAL GULCH	235.9	CITIES SERVICE GA
8226697	W 469-1	4903721781	102-2	RECEIVED:	SEVEN MILE GULCH UNIT #13	SEVEN MILE GULCH	296.0	CITIES SERVICE GA
8226698	W 470-1	4903721781	102-2	RECEIVED:	SEVEN MILE GULCH UNIT #13	SEVEN MILE GULCH-FRON	296.0	CITIES SERVICE GA
8226693	W 405-1	4903520605	103	RECEIVED:	BIRD CANYON FEDERAL #1-23	BIRD CANYON	0.0	NORTHWEST PIPELIN
8226694	W 466-1	4903721565	102-2	RECEIVED:	BRUFF FEDERAL #1	BRUFF	60.0	
8226699	W 471-1	4903505456	108	RECEIVED:	FIGURE FOUR CANYON UNIT #2	EAST LABARGE	14.3	NORTHWEST PIPELIN
8226710	W 493-1	4902320449	107-1F	RECEIVED:	ANDERSON FEDERAL 1-18	WHISKEY BUTTES	204.0	
8226700	W 476-1	4920921924	102-4	RECEIVED:	FEDERAL J T #1-12	SHAWNEE	45.0	INEXCO OIL CO
8226701	W 479-1	4902521170	102-4	RECEIVED:	FEDERAL #2-33	COOPER RESERVOIR	182.5	KANSAS NEBRASKA N
8226705	W 483-1	4902920994	103	RECEIVED:	CACTUS "A" #11 (TENSLEEP FORMATION)	OREGON BASIN	4.3	CODY GAS COMPANY
8226711	W 499-1	4902320442	103	RECEIVED:	FEDERAL 23-25	FONTENELLE	881.0	PACIFIC GAS TRANS
8226702	W 480-1	4901321101	103	RECEIVED:	FEDERAL 644 #4-17	FULLER	20.0	INTERNORTH INC
8226703	W 481-1	4901321055	103	RECEIVED:	FEDERAL 886 #3-17	FULLER RESERVOIR II	10.0	INTERNORTH INC
8226704	W 482-1	4901321057	103	RECEIVED:	FEDERAL 886 #7-18	UPPER FORT UNION	40.0	INTERNORTH INC
8226706	W 484-1	4904521544	102-4	RECEIVED:	SANDY FEDERAL #1-5	WEST TODD	75.0	PHILLIPS PETROLEU
8226659	W 485-1	4902900000	102-2	RECEIVED:	176-42	NAVAL PETROLEUM RESER	18.0	CHEVRON USA INC
8226654	W 486-1	4902900000	103	RECEIVED:	18R-381	NAVAL PETROLEUM RESER	91.0	CHEVRON USA INC
8226661	W 487-1	4902900000	102-2	RECEIVED:	32R-371X	NAVAL PETROLEUM RESER	55.0	CHEVRON USA INC
8226660	W 488-1	4902900000	102-2	RECEIVED:	32S-382	NAVAL PETROLEUM RESER	82.0	CHEVRON USA INC
8226656	W 489-1	4902900000	102-2	RECEIVED:	34R-325	NAVAL PETROLEUM RESER	64.0	CHEVRON USA INC
8226657	W 490-1	4902900000	102-2	RECEIVED:	56-335A	NAVAL PETROLEUM RESER	73.0	CHEVRON USA INC
8226658	W 491-1	4902900000	102-2	RECEIVED:	56-386	NAVAL PETROLEUM RESER	73.0	CHEVRON USA INC
8226653	W 492-1	4902900000	103	RECEIVED:	76-381	NAVAL PETROLEUM RESER	36.0	CHEVRON USA INC
					7R-358	NAVAL PETROLEUM RESER	110.0	CHEVRON USA INC

OTHER PURCHASERS

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8226705 COLORADO INTERSTATE GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12219 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-C

[Volume 641]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 28, 1982.

JD NO	JA EXT	API NO	D SEC(1), SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER

OHIO DEPARTMENT OF NATURAL RESOURCES						

-A & R COMPANY		3416726604	RECEIVED: 04/08/82 JA: OH	NEWPORT	7.0	COLUMBIA GAS TRAN
-ALSID OIL & GAS DEVELOPMENT CO		3416726604	107-DV JOS C EDDY #2-A OH-46-0502			
-ALTEX INC		3415520931	RECEIVED: 04/08/82 JA: OH	CHAMPION	15.0	
8226731		3415520931	103 107-RT WOLFE #1	JACKSON	10.0	
8226732		3411926229	RECEIVED: 04/08/82 JA: OH			
-AMERICAN EXPLORATION CO		3411923278	103 107-TF KILPATRICK #3A			
8226733		3411923278	RECEIVED: 04/08/82 JA: OH			
-ATLAS ENERGY GROUP INC		3415521906	108 E TUCKER #1	GUSTAVUS	10.0	EAST OHIO GAS
8226745		3415521906	RECEIVED: 04/08/82 JA: OH			
-ATWOOD RESOURCES INC		3403123198	102-2 107-TF C POWELL #2			
8226746		3403123198	RECEIVED: 04/08/82 JA: OH			
-BANDS COMPANY INC		3407523356	103 107-TF SAM MILLER #1	CLARKE	8.0	COLUMBIA GAS TRAN
8226747		3407523356	RECEIVED: 04/08/82 JA: OH			
-BARCLAY PETROLEUM INC		3412725412	107-TF SEASON ASSOCIATES #3	HARDY	2.0	COLUMBIA GAS TRAN
8226748		3412725412	RECEIVED: 04/08/82 JA: OH			
-BARTLO OIL AND GAS COMPANY		3405923265	103 107-TF PUGH-KELLEY #1 LTD	BREMEN	18.0	NATIONAL GAS & OI
8226749		3405923265	RECEIVED: 04/08/82 JA: OH			
-BELDEN & BLAKE & CO #79		3410322756	103 107-TF LEATHERWOOD VALLEY FARMS #2	SENECAVILLE	20.0	
8226750		3410322756	RECEIVED: 04/08/82 JA: OH	WADSWORTH	10.0	
-BEREA OIL AND GAS CORPORATION		3413322759	103 107-TF MELVIN LONG #1	FRANKLIN	36.5	
8226751		3413322759	RECEIVED: 04/08/82 JA: OH	BROWN	36.5	
8226752		3419215355	103 107-TF HUGO SAND CO INC-1-341167			
8226753		3419215355	RECEIVED: 04/08/82 JA: OH			
-BERG PETROLEUM INC		3411925797	103 107-TF M HOWLS-2-341178	HARTFORD	0.0	COLUMBIA GAS TRAN
8226754		3411925797	RECEIVED: 04/08/82 JA: OH	HIGHLAND	0.0	COLUMBIA GAS TRAN
8226755		3411925837	103 107-TF E MORROW #1	UNION	0.0	COLUMBIA GAS TRAN
8226756		3415521880	103 107-TF L GOFF #4	HARTFORD	0.0	COLUMBIA GAS TRAN
8226757		3415521880	RECEIVED: 04/08/82 JA: OH			
-BERG PETROLEUM INC		3416726318	103 107-TF R WOOFER #3	AURELIUS	50.0	COLUMBIA GAS TRAN
8226758		3416726318	RECEIVED: 04/08/82 JA: OH	AURELIUS	50.0	COLUMBIA GAS TRAN
8226759		3416726320	107-DV BARENGO #2-80			
-BERMAN J SHAVER		3410322851	107-DV SHOOK #1-80	WESTFIELD CENTER	7.5	COLUMBIA GAS TRAN
8226901		3410322851	RECEIVED: 04/08/82 JA: OH			
-BERWELL ENERGY INC		3408323017	103 PARTON #1	DANVILLE	36.0	COLUMBIA GAS TRAN
8226760		3408323017	RECEIVED: 04/08/82 JA: OH			
-BLAUSER WELL SERVICE INC		3410522170	103 BERWELL ENERGY #3	LEGANON	9.7	COLUMBIA GAS TRAN
8226763		3410522170	RECEIVED: 04/08/82 JA: OH	LEGANON	10.0	COLUMBIA GAS TRAN
8226764		3410522170	103 EDGAR BREWER #1-149			
-BOBBY ANDERSON		3416727099	107-DV J W SUTTLE #1-50	MILE RUN	7.3	RIVER GAS CO
8226734		3416727099	RECEIVED: 04/08/82 JA: OH			
-BRIDGE OIL DEV (O'D) PTY LTD			103 EWING #1			
			RECEIVED: 04/08/82 JA: OH			

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226765		3416923242	103	107-TF	LOWELL & DIXIE ELSEY #1	WEST SALEM	27.0	COLUMBIA GAS TRAN
-C J WARREN OIL COMPANY				RECEIVED:	04/08/82			
8226916		3411925770	103	107-TF	BERRY SKINNER #1	SEGO EAST	0.0	
8226918		3412724803	103	107-TF	BERTHA CLAYTON #4	CLAYTON	0.0	
8226915		3411925698	103	107-TF	FOSTER #1	SEGO SOUTH	0.0	
8226920		3412725481	103	107-TF	HENDERSON #1	SEGO	0.0	
8226914		3408338630	D	103	107-TF	DANVILLE NORTHEAST	0.0	
8226919		3412724959	103	107-TF	SPORN #2A	CLAYTON	0.0	
8226917		3412724778	103	107-TF	OHIO-SURFACE BERTHA CLAYTON #3	REHOBATH EAST	0.0	
-CALLANDER & KIMBREL INC				RECEIVED:	04/08/82			
8226769		3403124512	103		S GORBY #1	COSHOCKTON	5.0	
8226767		3403124509	107-TF		BARCUS #1	COPPERDALE	3.0	
8226768		3403124511	103		BOHRS #2	COPPERDALE	4.0	
-CANAN OIL CO				RECEIVED:	04/08/82			
8226770		34009232358	D	102-2	MICHAEL #1	STEWART	1.5	COLUMBIA GAS TRAN
-CAVENISH PETROLEUM OF OHIO INC				RECEIVED:	04/08/82			
8226772		3412121971	108		DAVIS 2-MD	0.0	EAST OHIO GAS	
8226771		3411922957	108		ROSENBERGER #1	0.0	COLUMBIA GAS TRAN	
-CHANCE PETROLEUM CORPORATION				RECEIVED:	04/08/82			
8226773		3400721910	103		J & J MCINTOSH #2	3.1		
-CLARENCE SHERMAN				RECEIVED:	04/08/82			
8226902		3415722197	103	107-TF	MILLER #28	RAGERSVILLE	10.0	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED:	04/08/82			
8226777		3411926171	103		C AND V BABCOCK #1-706	OTSEGO	10.0	
8226781		3416723911	108		Q ROBINSON #1	10.0	RIVER GAS CO	
8226774		3411923304	108		G NOVARIA #1	10.0	NATIONAL GAS & OI	
8226776		3411922566	103	107-TF	H MORGAN #2-665	DRESDEN	10.0	
8226775		3411922516	103	107-TF	HOWARD HUEY #1-644	ZANESVILLE WEST	10.0	
8226783		3416724640	108		K SILEY #1	10.0	GAS TRANSPORT INC	
8226782		3416724038	108		K SILEY #2	10.0	GAS TRANSPORT INC	
8226784		3416724473	108		K SILEY #3	10.0	GAS TRANSPORT INC	
8226785		3416724474	108		LANG #2	10.0	GAS TRANSPORT INC	
8226778		3411926175	103	107-TF	POTTER UNIT #1-707	WILLS CREEK	10.0	
8226780		3416723591	108		R POTTMEYER #1	10.0	RIVER GAS CO	
8226779		3416723590	108		SCHWENDEMAN #1	10.0	RIVER GAS CO	
-CMC ENERGY INC				RECEIVED:	04/08/82			
8226766		3416931430	103	107-TF	COTLE #2	PLAIN	5.0	
-COASTAL PETROLEUM CORP				RECEIVED:	04/08/82			
8226787		3410322785	107-TF		BRAMLEY #1	WADSWORTH	9.0	COLUMBIA GAS TRAN
8226786		3410322783	107-TF		BRAMLEY-STACY #1	WADSWORTH	9.0	COLUMBIA GAS TRAN
8226788		3410322802	107-TF		CARMANY #1	WADSWORTH	9.0	COLUMBIA GAS TRAN
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	04/08/82			
8226790		3416726048	107-DV		JOHN GRINES #6	GRANDVIEW	5.0	COLUMBIA GAS TRAN
8226789		3408924231	103	107-TF	MOSSMAN #1	HOPENWELL	2.0	NEUZANE GAS CO
-DERBY OIL & GAS CORP				RECEIVED:	04/08/82			
8226792		3416723115	103	107-TF	RYARD D HORST #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8226791		3407523648	103	107-TF	MELVIN R SOMMERS #1A	SALT CREEK	12.0	COLUMBIA GAS TRAN
-DERRICK PETROLEUM INC				RECEIVED:	04/08/82			
8226794		3403124385	103		MARLENE UNTIED (RILEY) #1	PERRY	0.0	COLUMBIA GAS TRAN
8226793		3403124292	103		THOMAS JEFFRIES #1	PERRY	0.0	COLUMBIA GAS TRAN
-DOLPHA ANDERSON				RECEIVED:	04/08/82			
8226744		3416725461	108		BLACK RIVER #1	WARREN TWP	5.8	GAS TRANSPORT CO
8226735		3416724062	108		BUCKHORN ENERGY CO #1	WARREN TWP	6.6	GAS TRANSPORT CO

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8226736		3416724321	108		DRAVIS #1	WARREN TWP	5.5	GAS TRANSPORT CO
8226741		3416724941	108		HENTHORN #1	WARREN TWP	2.9	GAS TRANSPORT CO
8226739		3416724848	108		JOHNSON #1	WARREN TWP	5.8	GAS TRANSPORT CO
8226740		3416724927	108		LEMASTER #1	WARREN TWP	4.8	GAS TRANSPORT CO
8226738		3416724561	108		LEMLEY #1	WARREN TWP	2.2	GAS TRANSPORT CO
8226743		3416752590	108		LEMLEY #2	WARREN TWP	3.7	GAS TRANSPORT CO
8226742		3416724968	108		MILLER #1	WARREN TWP	2.9	GAS TRANSPORT CO
8226737		3416724560	108		WILSON #1	WARREN TWP	6.5	GAS TRANSPORT CO
-DOME DRILLING CO				RECEIVED: 04/08/82	JA: OH			
8226796		3416923090	103	107-TF	FRANCHESTER #5	BURBANK	10.0	COLUMBIA GAS TRAN
8226795		3419321149	103	107-TF	PDK CO-COLUMBIA SCHOOL BOARD #1	WEST VIEW	36.0	COLUMBIA GAS TRAN
-DOMESTIC OIL & GAS CO				RECEIVED: 04/08/82	JA: OH			
8226797		3407523188	103		BARNES #1 - 3188	RICHLAND	4.0	
-DUSTY DRILLING COMPANY INC				RECEIVED: 04/08/82	JA: OH			
8226798		3411522682	103	107-TF	EDWARDS #2-C	ROKEBY LOCK	10.0	COLUMBIA GAS TRAN
8226799		3411522696	103	107-TF	THOMPSON #2-C	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 04/08/82	JA: OH			
8226805		3408322517	D 108		DAVIDSON ED-1A	TRINWAY	0.0	COLUMBIA GAS TRAN
8226803		3408322303	D 108		DAVIDSON ED-2A		0.0	COLUMBIA GAS TRAN
8226800		3403123427	D 108		MCDONALD MO-1A		18.0	COLUMBIA GAS TRAN
8226804		3408322392	108		PHILLIPS DW-1A		18.0	COLUMBIA GAS TRAN
8226802		3403124634	103	107-TF	POWELL WB-2A		18.0	COLUMBIA GAS TRAN
8226801		3403123431	108		RICHCREEK MO-1A		18.0	COLUMBIA GAS TRAN
-ENERGY UNLIMITED INC				RECEIVED: 04/08/82	JA: OH			
8226809		3411122444	103		COCHRAN #1	BENTON TOWNSHIP	0.0	
8226808		3411122159	103		LEATHERMAN #1	BENTON TOWNSHIP	0.0	
8226806		3400922477	107-DV		MERRILL #2	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8226810		3416725716	107-DV		SAGER #2	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8226807		3400922488	107-DV		SCHLOSS #1	CARTHAGE TOWNSHIP	0.0	COLUMBIA GAS TRAN
8226811		3416726508	107-DV		WINLAND #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 04/08/82	JA: OH			
8226817		3416320656	103	107-TF	BENEDICT #2	SWAN	36.5	COLUMBIA GAS TRAN
8226818		3416320691	103	107-TF	ENGLE #1	SWAN	36.5	COLUMBIA GAS TRAN
8226813		3401921529	103		KLOTZ #1	BROWN	18.2	
8226812		3401920904	103		LLOYD #1	ORANGE	36.5	
8226814		3405923118	103		MID-OHIO COAL #12	JACKSON	18.2	COLUMBIA GAS TRAN
8226816		3405923139	103		MID-OHIO COAL #9	JACKSON	27.3	COLUMBIA GAS TRAN
8226815		3405923119	103		VINCENT #1	JACKSON	36.5	COLUMBIA GAS TRAN
-FRANCIS MCKIBBEN				RECEIVED: 04/08/82	JA: OH			
8226849		3413320201	108		MOULTON #1	ROKEBY LOCK	150.0	
8226850		3415121066	108		OVERLIN #1		1.5	EAST OHIO GAS CO
8226848		3409920178	108		REYNOLDS #1		1.5	EAST OHIO GAS CO
-GNC ENERGY CORP				RECEIVED: 04/08/82	JA: OH			
8226819		3411522400	103		GLADYS MORIN #1		11.0	EAST OHIO GAS
-GUERNSEY PETROLEUM CORPORATION				RECEIVED: 04/08/82	JA: OH			
8226821		3411923465	108		OHIO POWER 26-MD		100.0	COLUMBIA GAS TRAN
-GNF CORP				RECEIVED: 04/08/82	JA: OH			
8226820		3400922136	103		CLARENCE FROST #1	CLARENCE FROST	5.4	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED: 04/08/82	JA: OH			
8226827		3410521937	108		C O ROGERS #1		5.4	COLUMBIA GAS TRAN
8226828		3410521961	108		DALE LITTLE #1		5.4	COLUMBIA GAS TRAN
8226824		3410521897	108		DAVID PRICE #1		5.4	COLUMBIA GAS TRAN
8226826		3410521913	108		FRED THOMPSON #1		5.0	COLUMBIA GAS TRAN

JD NO	JA CRT	APT NO	D SEC(1)	SEC(2)	WELL NAME	VOLUME	641	PAGE	004	PROD	PURCHASER
8226823		3410521872	108		HARTWELL CURD #1					5.0	COLUMBIA GAS
8226830		3410522154	D	107-TF	HUGH MITCHELL #1					5.4	COLUMBIA GAS
8226829		3410521992	108		JAMES JOHNSON #1					5.0	COLUMBIA GAS
8226822		3410521871	108		PAUL MCELROY #1					5.4	COLUMBIA GAS
8226825		3410521909	108		WILLIAM ASBECK #1					5.4	COLUMBIA GAS
-HOPWELL OIL AND GAS DEVELOPMENT			CO	RECEIVED: 04/08/82	JA: OH					10.0	COLUMBIA GAS
8226832		3411122249	103		K O MYERS #1					9.6	NATIONAL OIL & GA
8226833		3411122586	103	107-TF	SARAH & FLOYD ALLARD #1					5.0	
-INLAND DRILLING CO INC			RECEIVED: 04/08/82	JA: OH							
8226834		3413322505	103	107-TF	SMITH #2						
-IRVIN PRODUCING COMPANY			RECEIVED: 04/08/82	JA: OH							
8226837		3411926222	103	107-TF	MARY MILSTED #1					10.0	COLUMBIA GAS
8226835		3411522527	103	107-TF	PENNA FARMS #1					10.0	COLUMBIA GAS
8226836		3411522528	107-TF		PENNA FARMS #2					10.0	COLUMBIA GAS
-J D DRILLING CO			RECEIVED: 04/08/82	JA: OH						6.0	COLUMBIA GAS
8226838		3410522223	107-DV		DIXIE SMITH #1					3.0	COLUMBIA GAS
-JOHN F WILLIAMS			RECEIVED: 04/08/82	JA: OH						0.0	COLUMBIA GAS
8226839		3410521624	108		R J SMITH #1					0.7	COLUMBIA GAS
8226841		3417523527	107-TF		GEORGE R STRAITS #2					0.0	COLUMBIA GAS
8226842		3407521439	108		GEORGE STRAITS #1					0.0	COLUMBIA GAS
-K S T OIL & GAS CO INC			RECEIVED: 04/08/82	JA: OH						0.0	
8226843		3415321016	103	107-TF	FLICKENGER-SUTPHEN #1					5.0	COLUMBIA GAS
8226844		3415321017	103	107-TF	FLICKENGER-SUTPHEN #2					15.0	
8226845		3413322309	103	107-TF	MAUR UNIT #2					18.0	COLUMBIA GAS
-LARRY H WRIGHT INC			RECEIVED: 04/08/82	JA: OH						13.1	REPUBLIC STEEL CO
8226846		3410521976	108		ROBERT L JONES #1					0.5	NATIONAL GAS & OI
-LEADER EQUITIES INC			RECEIVED: 04/08/82	JA: OH						200.0	
8226847		3411924534	108		W CASTOR #1					2.0	
-LIBERTY OIL & GAS CORP			RECEIVED: 04/08/82	JA: OH						8.0	
8226848		3400922202	107-DV		D W DAVIS JR #1					25.0	COLUMBIA GAS
-M B OPERATING CO INC			RECEIVED: 04/08/82	JA: OH						42.0	COLUMBIA GAS
8226849		3415123469	103	107-TF	FRANK-BAUMAN UNIT #1					48.0	COLUMBIA GAS
-MCCLEIN OIL CO			RECEIVED: 04/08/82	JA: OH						24.0	COLUMBIA GAS
8226850		3408924365	103		MCCLAIN UNIT #1					18.0	COLUMBIA GAS
-MCCORMICK OIL & GAS CO			RECEIVED: 04/08/82	JA: OH						15.0	OHIO GAS CO
8226851		3411522613	107-TF		HAINES #1					15.0	OHIO GAS CO
-MERIDIAN OIL & GAS ENT INC			RECEIVED: 04/08/82	JA: OH						15.0	OHIO GAS CO
8226852		3400721515	103	107-TF	GEORGE D BOLTE #1					15.0	OHIO GAS CO
-MILLER DAY ISEL ENERGY CO			RECEIVED: 04/08/82	JA: OH						15.0	OHIO GAS CO
8226853		3400721877	103	107-TF	JONATHAN P FREEMAN #1					15.0	OHIO GAS CO
-MORMACK INDUSTRY INC			RECEIVED: 04/08/82	JA: OH						15.0	OHIO GAS CO
8226854		3411122509	107-DV		BLANEY #2-24					15.0	OHIO GAS CO
8226855		3416922340	107-TF		CHARLES NIEMAN #1					15.0	OHIO GAS CO
8226856		3416922837	107-TF		FRANK JENNINGS #1					15.0	OHIO GAS CO
8226857		3416922607	107-TF		JACOB ZIMMERLY #2					15.0	OHIO GAS CO
8226858		3416922306	107-TF		RICHARD HARTZLIER #1					15.0	OHIO GAS CO
-NATIONAL PETROLEUM CORP			RECEIVED: 04/08/82	JA: OH						15.0	OHIO GAS CO
8226860		3400720861	107-TF		EWING TANSEY #1					15.0	OHIO GAS CO
8226861		3400720958	107-TF		OHIO LAND & TIMBER #4					15.0	OHIO GAS CO
8226862		3400720733	103		SMITH #2					15.0	OHIO GAS CO
8226863		3400720804	103		W K SMITH #1					15.0	OHIO GAS CO
8226864		3400720862	107-TF		W KELNER #2					15.0	OHIO GAS CO
8226865		3400720861	107-TF		W KELNER #3					15.0	OHIO GAS CO

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	VOLUME	PAGE	PROD	PURCHASER
8226863		3400720864	107-TF	RECEIVED:	W KELNER #4	LENEX	641	005	15.0	OHIO GAS CO
-NATIONAL PRODUCTION CORPORATION		3411923717	108	RECEIVED:	CARL C POLK #1				5.2	NATIONAL GAS & OI
8226866		3411923717	108	RECEIVED:	JOSEPH L MATTINGLY #1				7.1	NATIONAL GAS & OI
8226865		3411923691	103	RECEIVED:	S D & S M LONES #1	JUNCTION CITY			3.0	FORAKER GAS CO IN
-OHIO PRODUCERS SERVICES INC		3412725406	103	RECEIVED:	THOMASSON 1-A	NEWTON			1.0	FORAKER GAS CO IN
-OPEX INC		3411925869	107-TF	RECEIVED:	JOHN SPRING #1	NEWTON			10.0	
-OXFORD OIL CO		3411925806	103	RECEIVED:	SAMUEL KINSEY #1	GLENMONT			11.0	
8226870		3407523511	103	RECEIVED:	ADKINS #1	NW GRANDVIEW			1.5	
8226869		3416726041	107-DV	RECEIVED:	WORSTELL #4	BELL RIDGE			9.5	
-PAGE P BLAKEMORE		3416725774	107-DV	RECEIVED:	CARTER #1				6.7	
8226762		3415325258	108	RECEIVED:	CASE #2				13.1	
8226761		3415326830	108	RECEIVED:	EVANS #1				1.3	
-POI ENERGY INC		3415326030	108	RECEIVED:	FORTUNA #3				1.4	
8226871		3415325330	108	RECEIVED:	GENOVESE #1				1.9	
8226884		3415325480	108	RECEIVED:	GENOVESE #2				14.1	
8226872		3415325720	108	RECEIVED:	GENOVESE-MYERS #1				14.1	
8226874		3415325770	108	RECEIVED:	GIRL SCOUTS #1				5.5	
8226878		3415325620	108	RECEIVED:	GIRL SCOUTS #2				7.9	
8226879		3415325650	108	RECEIVED:	GIRL SCOUTS #5				4.9	
8226875		3415325840	108	RECEIVED:	HAWLEY #1				7.9	
8226876		3415326100	108	RECEIVED:	JOHNSON #1				2.0	
8226880		3415326480	108	RECEIVED:	JOHNSON #2				12.9	
8226885		3415326490	108	RECEIVED:	JOHNSON #3				12.9	
8226887		3415326470	108	RECEIVED:	KIRK #1				15.2	
8226888		3415325670	108	RECEIVED:	KIRK #2				15.2	
8226889		3415325980	108	RECEIVED:	LEVINTHAL #1				1.9	
8226877		3415325300	108	RECEIVED:	MATTHEWS #1				3.2	
8226883		3415325990	108	RECEIVED:	MATTHEWS #2				13.7	
8226881		3415325970	108	RECEIVED:	MCCLELLAND-CUNNINGHAM #1				17.7	
8226890		3415326510	108	RECEIVED:	MORGAN EVANS #1	PIKE			0.0	COLUMBIA GAS TRAN
8226873		3415325334	108	RECEIVED:	STRAUB #4	SEVILLE			18.0	
-POWER RESOURCES INC		3415723579	107-TF	RECEIVED:	BARELKA #2	POWEROY			5.0	COLUMBIA GAS TRAN
8226893		3410378800	103	RECEIVED:	DELONG-THOMPSON #3	POWEROY			5.0	COLUMBIA GAS TRAN
-R A HATFIELD & SON INC		3410378800	103	RECEIVED:	NAU #1	BEDFORD			5.0	COLUMBIA GAS TRAN
8226831		3410378800	103	RECEIVED:	NAU #2	SALISBURY			5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM #81-I		3410522262	103	RECEIVED:	GENHEIMER #1	POWEROY			5.0	COLUMBIA GAS TRAN
8226897		3410522273	103	RECEIVED:	JOHNSON #5	POWEROY			5.0	COLUMBIA GAS TRAN
8226898		3410522273	103	RECEIVED:	JOHNSON #6	LEE			91.0	COLUMBIA GAS TRAN
8226899		3410522274	103	RECEIVED:	THOMAS E WARD #1					
-ROYAL PETROLEUM 81-I		3410522274	103	RECEIVED:	THOMAS E WARD #1					
8226894		3410522135	103	RECEIVED:	THOMAS E WARD #1					
-ROYAL PETROLEUM 81-III LTD		3410522244	103	RECEIVED:	THOMAS E WARD #1					
8226895		3410522244	103	RECEIVED:	THOMAS E WARD #1					
8226896		3410522245	103	RECEIVED:	THOMAS E WARD #1					
-RYCOL EXPLORATION INC		3411122487	107-DV	RECEIVED:	THOMAS E WARD #1					
8226900		3411122487	107-DV	RECEIVED:	THOMAS E WARD #1					
-SHIELD DRILLING CO		3411122487	107-DV	RECEIVED:	THOMAS E WARD #1					

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226903		3416725418	107-DV		ADA BOHLEN HEIRS #1	INDEPENDENCE	75.0	
8226904		3416726692	107-DV		LAWRENCE SMITH #14	INDEPENDENCE	75.0	
-STRATA EXPLORATION INC LTD			RECEIVED:	04/08/82	JA: OH			
8226905		3407522463	103	107-TF #2	JAMES FLYNN	KILLBUCK	250.0	COLUMBIA GAS TRAN
-TATCO PETROLEUM INC			RECEIVED:	04/08/82	JA: OH			
8226906		3407522672	103	107-TF	ARCHIE CARPENTER #1	KILLBUCK	41.0	COLUMBIA GAS TRAN
-TEMPLE OIL & GAS CO			RECEIVED:	04/08/82	JA: OH			
8226907		3411924414	107-RT	ARDEN PENNINGTON #1		CLAY	12.0	COLUMBIA GAS TRAN
-THUNDER CORP			RECEIVED:	04/08/82	JA: OH			
8226909		3416725175	103	HART #2		MARIETTA	4.0	RIVER GAS CO
-TRIO PETRO INC			RECEIVED:	04/08/82	JA: OH			
8226908		3407720101	102-2	BARMAN #1		GREENWICH	38.0	
-UNITED PETROLEUM CORP			RECEIVED:	04/08/82	JA: OH			
8226910		3409920801	108	KOPE SIMONS #1		ELLSWORTH	0.0	AMERICAN ENERGY S
8226911		3409920867	108	MATULEK #1		ELLSWORTH	0.0	AMERICAN ENERGY S
-VESCOP INDUSTRIES INC			RECEIVED:	04/08/82	JA: OH			
8226912		3413321323	108	C & M COLLINS #1			10.0	TIMKEN CO
8226913		3413321753	108	GUYETTE #1			10.0	TIMKEN CO
-WORTHINGTON OIL COMPANY INC			RECEIVED:	04/08/82	JA: OH			
8226923		3408924308	107-DV	FARWCO #5		NEWARK NORTH	11.0	COLUMBIA GAS TRAN
***** PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES *****								
***** RECEIVED: 04/08/82 JA: PA *****								
-ADOBE OIL & GAS CORPORATION			RECEIVED:	04/08/82	JA: PA			
8226925		3706326400	103	ANDY PISARCIC #1		BRUSH VALLEY	21.0	CONSOLIDATED GAS
8227016		3706522227	103	BERTHA KOHLER #4		MCGEES MILLS	22.0	COLUMBIA GAS TRAN
8226927		3706325914	103	EDWIN M LONG #1-C		CLYMER	23.0	T W PHILLIPS
8226928		3706522398	103	ELMER REED #1		COOLSPRING	24.0	T W PHILLIPS
8227015		3703321159	103	GERALD LOCKARD		BURNSIDE	0.0	
8226926		3706522290	103	LITTLE LEO CORPORATION #1-D		PUNKSY	25.0	T W PHILLIPS
-ANGERMAN ASSOCIATES INC			RECEIVED:	04/08/82	JA: PA			
8226931		3706300000	103	E S BROWN #1-IND-26373		W PA-UPPER DEVONIAN S	45.0	PEOPLES NATURAL G
8226930		3706300000	103	LLOYD GIBSON TAYLOR #1-IND-26425		W PA-UPPER DEVONIAN S	15.0	PEOPLES NATURAL G
8226929		3706300000	103	SUSIE M GIBSON #1-IND-26424		W PA-UPPER DEVONIAN S	45.0	PEOPLES NATURAL G
-ATLAS RESOURCES INC			RECEIVED:	04/08/82	JA: PA			
8226936		3706326332	102-2	COUDRIET #2		CHERRYHILL	27.0	COLUMBIA GAS TRAN
8226937		3706326480	102-2	IA NA KE #3		CHERRYHILL	47.0	COLUMBIA GAS TRAN
8226934		3706326349	102-2	L BASH #1		CHERRYHILL	46.0	COLUMBIA GAS TRAN
8226935		3706326351	102-2	SCHROTH #1-73A		CHERRYHILL	26.0	COLUMBIA GAS TRAN
8226932		3706326058	102-4	SWANK #4		CHERRYHILL	96.0	COLUMBIA GAS TRAN
8226933		3706326059	102-4	SWANK #5		CHERRYHILL	49.0	COLUMBIA GAS TRAN
-C & C TROYER BROTHERS			RECEIVED:	04/08/82	JA: PA			
8227006		3704920993	102-2	DONNELL #1 (#23)		WATERFORD	15.0	NATIONAL FUEL GAS
-DANSON-LOUDEN CO LTD & NCC-LOUDEN			RECEIVED:	04/08/82	JA: PA			
8226967		3712921106	108	A B VANCE B451-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226968		3712921131	108	D A PORTER & R E PORTER 8890-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226975		3712921422	108	D W CRAMER B798-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226952		3712921322	108	D W LEONARD B400-2		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226971		3712921271	108	E A KOCH B793-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226962		3712921242	108	E C BAKER B846-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226942		3712921384	108	E R BRILHART B765-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226958		3712921339	108	E S BYERS B796-1		E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226961		3712921247	108					

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8226960	11178	3712921024	108		F N STONER TRUST B761-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226974	11192	3712920941	108		G F CROUSHORE JR B368-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226944	11162	3712921391	108		G FELGAR B833-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226954	11172	3712921272	108		G W & F POORBAUGH B797-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226940	11158	3712921455	108		H LEIGHTY B882-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226945	11163	3712921215	108		H M GRIMM B824-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226948	11166	3712921137	108		I BOWSER B819-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226970	11188	3712921105	108		J E LYNCH B411-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226955	11173	3712921246	108		J H BROWN B788-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226950	11168	3712921138	108		J H MOORE B818-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226949	11167	3712921434	108		J H MOORE B818-2	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226939	11157	3712921340	108		J P SKOVIRA B891-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226953	11171	3712921133	108		J W GAUT B800-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226964	11182	3712921146	108		K HIXSON B789-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226963	11181	3712921392	108		K HIXSON B789-2	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226969	11187	3712921120	108		M L KOMENDA B429-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226966	11184	3712921135	108		M LONG ET AL B716-2	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226972	11190	3712920940	108		M S CROUSHORE B388-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226957	11175	3712921268	108		R E GAUT B779-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226956	11174	3712921385	108		R E GAUT B779-2	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226943	11161	3712921214	108		R L BYERS B842-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226959	11177	3712921116	108		R O LOVE B764-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226973	11191	3712921007	108		S H LYNN & F P ALLEGRA B374-2	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226965	11183	3712921257	108		SOUTHMORELAND SCHOOL DIST B748-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226947	11165	3712921151	108		T J CATALINA B822-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226951	11169	3712921343	108		T J SIDLOVSKY B809-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226946	11164	3712921321	108		W C LAYMAN B823-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
8226941	11159	3712921325	108		W M ADAMS B877-1	E HUNTINGDON	20.0	TEXAS EASTERN TRA
-DELTA 80 S T JOINT VENTURE			RECEIVED:		04/08/82 JA: PA	NONE	25.0	COLUMBIA GAS TRAN
*8226977	11156	3706325548	102-2		MARCOLINE-MYERS #1	NONE	25.0	COLUMBIA GAS TRAN
*8226976	11153	3706326176	102-2		MARCOLINE-MYERS #3	NONE	25.0	COLUMBIA GAS TRAN
-DOC-NCC SERVICE CO			RECEIVED:		04/08/82 JA: PA	E HUNTINGDON	30.0	TEXAS EASTERN TRA
8226978	11209	3712921863	103		CLAY G STROHM 1209-1	UPPER DEVONIAN SANDS	30.0	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC			RECEIVED:		04/08/82 JA: PA	BLAIRSVILLE	36.0	T W PHILLIPS GAS &
8226979	11137	3712921755	103		DORAN #1 K2-6	NOLO MOUNTAIN	37.8	COLUMBIA GAS TRAN
-E M MURDOCK			RECEIVED:		04/08/82 JA: PA	NOLO MOUNTAIN	9.6	COLUMBIA GAS TRAN
-ENERGY PRODUCTION CO			RECEIVED:		04/08/82 JA: PA	NOLO MOUNTAIN	8.6	COLUMBIA GAS TRAN
8226997	11225	3716326504	103		CLAWSON #3	CREEKSIDE	18.0	T W PHILLIPS GAS
8226982	11110	3706326431	103		B F OLIVER #5	PINETON FIELD	0.0	COLUMBIA GAS TRAN
8226981	11109	3706325921	103		EDMONDSON #2	ARMSTRONG	7.0	T W PHILLIPS GAS
8226980	11108	3706326524	103		STEPHENS #1-A	BELL	0.0	T W PHILLIPS GAS
-FAIRMAN DRILLING CO			RECEIVED:		04/08/82 JA: PA	BELL	0.0	T W PHILLIPS GAS
8226983	10753	3706326562	103		MARY J WALKER #1 F-3304	ARMSTRONG	7.0	T W PHILLIPS GAS
-FELMONT OIL CORPORATION			RECEIVED:		04/08/82 JA: PA	BELL	0.0	T W PHILLIPS GAS
8226984	11203	3706326555	103		DONALD HICKOK #1 F-340	ARMSTRONG	7.0	T W PHILLIPS GAS
-J & J ENTERPRISES INC			RECEIVED:		04/08/82 JA: PA	BELL	0.0	T W PHILLIPS GAS
8226989	11099	3706323357	108		CLAIR FULMER #2	ARMSTRONG	7.0	T W PHILLIPS GAS
8226987	11112	3703320702	103		ROBERT KESTER #7	ARMSTRONG	7.0	T W PHILLIPS GAS
8226988	11113	3703320663	103		ROBERT KESTER #8	ARMSTRONG	7.0	T W PHILLIPS GAS
-J E S TRUCKING INC			RECEIVED:		04/08/82 JA: PA	ARMSTRONG	7.0	T W PHILLIPS GAS
8226986	11130	3706326393	103		LLOYD & LINDA DEBNAR #1 (001) 1016A	BURRELL	0.0	PEOPLES NATURAL G
-JAMES F SCOTT			RECEIVED:		04/08/82 JA: PA	BURRELL	0.0	PEOPLES NATURAL G
8227001	11195	3706326304	103		DALE STARZELL #1 P-357	CANOE	16.0	CONSOLIDATED GAS

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8227000	11129	3700522518	RECEIVED:	04/08/82	JA: PA			
8226999	11128	3700522581	103	JOHN E SAUL #1 (009) 7.5A	GILPIN	0.0	PEOPLES NATURAL G	
8226998	11199	3706300000	RECEIVED:	04/08/82	JA: PA			
8226997	11198	3706300000	103	M C WILSON #3 (0010) 7.4A	WAYNE	0.0	PEOPLES NATURAL G	
8226996	11197	3706300000	RECEIVED:	04/08/82	JA: PA			
8226995	11196	3706300000	103	LAIRD & RUBY ORR #2-IND-26551	W PENNA-UPPER DEVONIA	15.0	PEOPLES NATURAL G	
8226994	11195	3706300000	RECEIVED:	04/08/82	JA: PA			
8226993	11194	3706300000	108	LAWRENCE BLAIR #3	BLANKET HILL	36.5	PEOPLES NATURAL G	
8226992	11193	3704921371	RECEIVED:	04/08/82	JA: PA			
8226991	11192	3704921371	102-2	D TROYER #581-1	WATERFORD	30.0	NATIONAL FUEL GAS	
8226990	11191	3704921371	107-TF	D TROYER #581-1	WATERFORD	30.0	NATIONAL FUEL GAS	
8226989	11190	3703921368	102-2	V MAHAN #583-3	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS	
8226988	11189	3703921368	107-TF	V MAHAN #583-3	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS	
8226987	11188	3703921368	RECEIVED:	04/08/82	JA: PA			
8226986	11187	3703921359	103	CHAPIN #1	CONNEAUTVILLE-MEDINA	0.0	COLUMBIA GAS TRAN	
8226985	11186	3703921359	107-TF	CHAPIN #1	CONNEAUTVILLE-MEDINA	0.0	COLUMBIA GAS TRAN	
8226984	11185	3703921359	RECEIVED:	04/08/82	JA: PA			
8226983	11184	3706320463	107-TF	MUSSEY #1	YOUNG	8.5	PEOPLES NATURAL G	
8226982	11183	3706320463	RECEIVED:	04/08/82	JA: PA			
8226981	11182	3706320463	108	F & M TRUST CO #2	BANKS	11.0	T W PHILLIPS GAS	
8226980	11181	3706320463	108	F & M TRUST CO #3	BANKS	11.0	T W PHILLIPS GAS	
8226979	11180	3706320463	108	F & M TRUST CO #4	BANKS	11.0	T W PHILLIPS GAS	
8226978	11179	3706320463	RECEIVED:	04/08/82	JA: PA			
8226977	11178	3706320463	103	HARRY D HOOVER #1	WAYNE	60.0	T W PHILLIPS GAS	
8226976	11177	3706320463	RECEIVED:	04/08/82	JA: PA			
8226975	11176	3706320463	103	A BLAIR LIAS #1	NUMINE	30.0	PEOPLES NATURAL G	
8226974	11175	3706320463	103	THOMAS E ANDERSON #1	BRYAN	30.0	T W PHILLIPS GAS	
8226973	11174	3706320463	RECEIVED:	04/08/82	JA: PA			
8226972	11173	3706320463	102-2	A SAVKO #1	FREEHOLD	20.0	COLUMBIA GAS TRAN	
8226971	11172	3706320463	107-TF	A SAVKO #1	FREEHOLD	20.0	COLUMBIA GAS TRAN	
8226970	11171	3706320463	RECEIVED:	04/08/82	JA: PA			
8226969	11170	3706320463	107-TF	HOLMES #2	CRETE CHURCH	8.0	PEOPLES NATURAL G	
8226968	11169	3706320463	RECEIVED:	04/08/82	JA: PA			
8226967	11168	3706320463	102-2	ERNEST B SHREVE #1 (U-72)	ATHENS (BLOOMFIELD)	3.0	COLUMBIA GAS TRAN	
8226966	11167	3706320463	107-TF	ERNEST B SHREVE #1 (U-72)	ATHENS (BLOOMFIELD)	3.0	COLUMBIA GAS TRAN	
8226965	11166	3706320463	RECEIVED:	04/08/82	JA: PA			
8226964	11165	3706320463	102-2	RUFFNER #2	NONE	25.0	COLUMBIA GAS TRAN	
8226963	11164	3706320463	102-2	SICKENBERGER #1	NONE	25.0	COLUMBIA GAS TRAN	

OTHER PURCHASERS VOLUME NO :641

8226976 ATLAS RESOURCES INC
 8226977 ATLAS RESOURCES INC
 8227013 ATLAS RESOURCES INC
 8227014 ATLAS RESOURCES INC

Kenneth F. Plumb,
 Secretary.

[FR Doc. 82-12218 Filed 5-4-82; 8:45 am]
 BILLING CODE 6717-01-C

[Docket No. ER81-179-004]

Arizona Public Service Co.; Refund Report

April 28, 1982.

The filing Company submits the following:

Take notice that on April 12, 1982, Arizona Public Service Company filed a refund report pursuant to the Commission's order of February 26, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12208 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-179-005]

Arizona Public Service Co.; Refund Report

April 28, 1982.

The filing Company submits the following:

Take notice that on April 12, 1982, Arizona Public Service Company filed a refund report pursuant to the Commission's order of February 26, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12209 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5988-000]

Stephen E. and George S. Austin; Application for Preliminary Permit

April 30, 1982.

Take notice that Stephen E. and

George S. Austin (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5988 to be known as the Browns Mill Project located on Paul Stream in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A newly constructed 8-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 1,124 feet NGVD and a storage capacity of 7.2 acre-feet; (3) a 100-foot long tailrace; (4) a new powerhouse containing one generating unit with a rated capacity of 47 kW; (5) 2.5 miles of new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 200,000 to 240,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The project property is owned by the St. Regis Paper Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$15,718.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR § 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption

must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR § 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12210 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5986-000]

**Stephen E. and George S. Austin;
Application for Preliminary Permit**

April 30, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5986 to be known as the Bradley Vail Mill Project located on the Moose River in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A newly constructed 12-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 1,023 feet NGVD and a storage capacity of 27.5 acre-feet; (3) a 100-foot long tailrace; (4) a new powerhouse containing one generating unit with a rated capacity of 83 kW; (5) a new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 360,000 to 400,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The project property is owned by William Payeur of North Concord, Vermont, Mrs. Charles Birk of Massapequa Park, New York, and Hyman Abramson, Jr. of Berlin, New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$15,767.

Competing Applications—Anyone desiring to file a competing application

for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E.

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12211 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5987-000]

**Stephen E. and George S. Austin;
Application for Preliminary Permit**

April 30, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5987 to be known as the Mile One Rapids Water Power Project located on Paul Stream in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A new 11-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 991 feet NGVD and a storage capacity of 12 acre-feet; (3) a 100-foot long tailrace; (4) a new powerhouse containing a single generating unit with a rated capacity of 55 kW; (5) 1.4 miles of new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 240,000 to 280,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The project property is owned by the St. Regis Paper Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the

work to be performed under the preliminary permit would be \$15,718.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12212 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-274-000]

Cities Service Gas Co.; Application

April 29, 1982.

Take notice that on April 6, 1982, Cities Service Gas Company, (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in docket No. CP82-274-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline taps, measuring regulating and appurtenant facilities to enable Applicant to render natural gas service to authorized local natural gas distribution companies for resale to 10 right-of-way customers or to serve same directly if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities:

1. Tap Applicant's Tonganoxie-Kansas City 26-inch transmission pipeline in Leavenworth County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Donald Stockman.

2. Tap Applicant's "C" System 12-inch gathering pipeline in Haskell County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Harriet R. Calihan.

3. Tap Applicant's Jane 20-inch transmission pipeline in Newton County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to W. R. Collie.

4. Tap Applicant's Pleasant Hill 8-inch transmission pipeline in Cass County, Missouri, and construct measuring, regulating and appurtenant facilities for

delivery of natural gas to Lawrence H. Divine.

5. Tap Applicant's Pleasant Hill 8-inch transmission pipeline in Cass County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Helen H. Gentry.

6. Tap Applicant's McLouth Storage 4-inch pipeline in Jefferson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Dean Hosman.

7. Tap Applicant's McLouth Storage 4-inch pipeline in Jefferson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Howard Hughes.

8. Tap Applicant's McLouth Storage 4-inch pipeline in Jefferson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to George Kays.

9. Tap Applicant's Waynoka Gathering 8-inch lateral pipeline in Woods County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Chris Olson.

10. Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Kay County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Elwood Sneath.

Applicant anticipates that the sales to Harriet R. Calihan, Dean Hosman, Howard Hughes and George Kays would be made directly by Applicant and the sales to the other six customers would be made to The Gas Service Company for resale to these customers.

Applicant estimates that the total cost of the facilities proposed would be approximately \$12,032 which cost Applicant would finance from treasury cash.

Applicant estimates average annual sales for each of 9 of the customers would be 2650 Mcf with annual sales to Harriet R. Calihan being 3,000 Mcf to 5,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12176 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-464-000]

Consumers Power Co.; Filing

April 28, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on April 19, 1982, tendered for filing Supplemental Agreement No. 2 to the Coordinated Operating Agreement between Consumers Power Company and Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., City of Grand Haven, Michigan, City of Traverse City, Michigan and City of Zeeland, Michigan (hereinafter collectively referred to as the "MCP members"). Also tendered for filing is a Supplemental Agreement No. 2 to each of six interconnection facilities agreements between Consumers and Individual MCP members designated as the "Alba"; "Blendon"; "Grand Traverse"; "Hersey"; "Livingston"; and "Redwood" Interconnection Facilities Agreements. By letter of February 16, 1982 in Docket No. ER82-181-000, the Commission accepted for filing the Coordinated Operating Agreement and designated the same as Rate Schedule FERC 53. The Commission also accepted

for filing as supplements thereto the related interconnection facilities agreements and Supplemental Agreement No. 1 to the Coordinated Operating Agreement and each of the facilities agreements, which had extended the effective date of each of the agreements.

Supplemental Agreement No. 2 to each of the agreements again extends the effective date of the agreements to April 1, 1982, and extends the time for approval by the Rural Electrification Administration (REA). The supplemental agreements were necessary because of delays in obtaining said approval. Requisite approval of the REA was granted on March 19, 1982 and is included in Consumers' filing.

Consumers requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

According to Consumers copies of this filing were served on MCP members and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12191 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-189-003]

Delhi Gas Pipeline Corp.; Amendment To Petition To Amend

April 29, 1982.

Take notice that on March 22, 1982, Delhi Gas Pipeline Corporation (Petitioner), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP81-189-003 an amendment to its pending petition to amend, in the instant docket, filed pursuant to § 284.127 the Commission's Regulations so as to increase its estimated daily and total volumes of natural gas to be delivered to

Transcontinental Gas Pipe Line Corporation (Transco) over the remaining term of the twenty-year transaction, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is submitted that by order issued February 2, 1982, Petitioner was authorized to transport for Transco over a period of twenty years a total of 146,000,000 Mcf of gas at a daily rate of 20,000 Mcf redelivering such gas to Transco at delivery points in Webb, Zapata, and La Salle Counties, Texas.

It is further submitted that on March 5, 1982, Petitioner filed a petition to amend the order issued February 22, 1980, so as to increase its estimated daily and total volumes to be delivered to Transco to 40,000 Mcf and 279,000,000 Mcf of gas, respectively, over the remaining term of the twenty year transaction.

Upon further analysis and review of its contract with Transco, Petitioner proposes to amend its petition to amend so as to increase its estimated daily and total volumes to be delivered to Transco to 45,000 Mcf of gas per day and 312,525,000 Mcf of gas total over the remaining term of the twenty year transaction.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12177 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-50-000]

El Paso Electric Co.; Application

April 28, 1982.

Take notice that on April 21, 1982, El Paso Electric Company (Applicant) filed a request with the Commission,

pursuant to Section 204 of the Federal Power Act, requesting authority to negotiate for the placement of up to 4,000,000 shares of Common Stock, no par value.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12192 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-465-000]

Empire District Electric Co.; Filing

April 28, 1982.

The filing Company submits the following:

Take notice that the Empire District Electric Company (EDE) on April 19, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume No. One. The proposed changes would increase revenues from present jurisdictional sales and service by \$1,277,155 based on the 12-month period ending December 31, 1982.

The presently effective rates are based on costs for the twelve months ending February 28, 1978. Since the time EDE has experienced substantial increase in all elements of its cost, including fuel, labor, interest, taxes and construction to provide additional capacity and meet environmental requirements.

EDE proposes an effective date of July 1, 1982.

Copies of the filing were served upon the public utility's jurisdictional customers, the Missouri Public Service Commission, and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1982. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12193 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3208-003]

Lewis D. Evans; Application for License (5 MW or Less)

April 30, 1982.

Take notice that Mr. Lewis D. Evans (Applicant) filed on February 22, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as Hume Lake Water Power Project No. 3208. The project would be located at the United States Department of Agriculture, Forest Service's existing Hume Lake Dam on Ten Mile Creek within the Sequoia National Forest in Fresno County, California. Correspondence with the Applicant should be directed to: Mr. Lewis D. Evans, P.O. Box 820, Kings Canyon National Park, California 93633.

Project Description—The proposed project would consist of: (1) a 36-inch diameter, 8,000-foot long low pressure pipe; (2) a 30-inch diameter, 4,500-foot long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 3,500 kw; (4) a switchyard adjacent to the powerhouse; (5) a 70-kV, approximately 3-mile long transmission line connecting the powerhouse with an existing Pacific Gas and Electric Company line south of the powerhouse.

Purpose of Project—Project energy would be sold to a public utility company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the

issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, or before July 12, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12213 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6076-000]**Fairview Orchards Associates;
Application for Preliminary Permit**

April 30, 1982.

Take notice that Fairview Orchards Associates (Applicant) filed on March 11, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6076-000 to be known as the Rock Creek Project located on Rock Creek in Nevada County, California. The proposed project would affect U.S. lands under the administration of the U.S. Bureau of Land Management. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jeffrey C. Reed, Fairview Orchards Associates, P.O. Box 307, Hancock, Maryland 21750.

Project Description—The proposed project would consist of: (1) the existing 12-foot high concrete Lake Vera Dam owned by Lake Vera Mutual Water Company, and impounding; (2) a 12-acre reservoir; (3) a 7,300-foot long, 48-inch diameter pipeline; (4) a powerhouse containing two generating units, one rated at 1,400 kW and one rated at 2,600 kW; (5) a short access road; and (6) a 3,000-foot long transmission line. The average annual energy generation is estimated to be 12 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. A service road will be required to conduct the studies. The cost of the work to be done under the preliminary permit is estimated to be \$100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 16, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 16, 1982, and should specify the type of application forthcoming. Application for licensing or

exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12214 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1995-000]**Robert M. Hewett; Application**

April 29, 1982.

The filing individual submits the following:

Take notice that on March 1, 1982, Robert M. Hewett filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Kentucky Utilities Company
Vice President, Old Dominion Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to be come a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12178 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-15-000]**Kansas Power & Light Co.; Application
for Adjustment**

April 29, 1982.

On April 1, 1982, Kansas Power and Light Company (Kansas P&L) filed with the Federal Energy Regulatory Commission an application for an adjustment from the Commission's incremental pricing regulations (18 CFR Part 282). Kansas P&L is engaged in the transmission and distribution of natural gas from sources within the State of Kansas and the sale of gas within Kansas at the wholesale and retail levels. Although none of its customers have been subject to incremental pricing in the past, Kansas P&L intends to purchase interstate gas which will be subject to incremental pricing. Kansas P&L asserts that, unless the relief requested is granted, all of its customers that would be subject to incremental pricing surcharges as a result of the interstate gas purchases will leave Kansas P&L's system and purchase other intrastate gas in order to avoid paying incremental pricing surcharges. Accordingly, Kansas P&L seeks an adjustment to eliminate the impact of incremental pricing with respect to the interstate gas which is to be attached to its system supply.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and

Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before April 20, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12179 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6143-000]

Lake Cushman Co.; Application for Preliminary Permit

April 29, 1982.

Take notice that Lake Cushman Company (Applicant) filed on March 30, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6143 to be known as the Mt. Rose Hydroelectric Project located on an unnamed stream near Hoodport in Mason County, Washington. The proposed project would affect the U.S. lands within the Olympia National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael E. Kirk, Owner, Systems Northwest, P.O. Box 202, Hoodport, Washington 98048.

Project Description—The proposed project would consist of: (1) A 2-foot high screened diversion structure; (2) a 600-foot long, 18-inch diameter polyethylene pipe; (3) a 600-foot long, 18-inch diameter steel penstock; (4) a powerhouse with a total installed capacity of 200 kW; and (5) a 2,500-foot long, 7.2-kV transmission line interconnecting with an existing PUD No. 3 transmission line. The Applicant estimates that the average annual output would be 972 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for 24 months during which it would conduct engineering, hydrological, economic, and environmental studies, and prepare an FERC license application.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 C.F.R. § 4.30 et seq. (1981); and Docket No. RM81-15, issued

October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12194 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6173-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

April 29, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 6, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6173 to be known as the Bear Creek Project located on Bear Creek within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th NE., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) two 1-foot high diversion structures on Bear Creek and unnamed tributary to Bear Creek; (2) 8,000 feet of 36-inch diameter pipeline conveying water from diversion points to; (3) a power plant to contain a single generating unit with a rated capacity of 2,700 kW, operating under a head of 1,000 feet; and (4) a 12-mile long, 115 kV transmission line to tie into a utility company line. The estimated average energy output is 11.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct environmental, economic, and technical studies as well as prepare an application for an FERC license. The estimated cost of such studies and the preparation of an FERC license application is \$40,000. No new roads will be needed.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption

from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12196 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6174-000]

Metropolitan Water District of Southern California; Application for Exemption of Small Conduit Hydroelectric Facility

April 30, 1982.

Take notice that on April 7, 1982, The Metropolitan Water District of Southern California (Applicant) filed an application under section 30 of the Federal Power Act (Act) [16 U.S.C. 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Coyote Creek Small Conduit Hydroelectric Project (FERC Project No. 6174) would be located on the Applicant's Lower Feeder Pipeline, in Orange County, California. Correspondence with the Applicant should be directed to: Mr. Evan L. Griffith, General Manager, The Metropolitan Water District of Southern California, P.O. Box 54153, Terminal Annex, Los Angeles, California 90054.

Purpose of Project—The power generated by the project would be sold to a public or private utility.

Project Description—The project would consist of a powerhouse with an installed capacity of 3.1 MW. The powerhouse would operate under a head of 218 feet and would generate approximately 19.6 million kWhs annually.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other

formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12215 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP71-54-001]

Michigan Wisconsin Pipe Line Co.; Petition to Amend

April 29, 1982.

Take notice that on April 9, 1982, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP71-54-001 a petition to amend the order issued December 7, 1970,¹ as

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

amended, in Docket No. CP71-54 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continuance of an exchange agreement among Petitioner, Natural Gas Pipeline Company of America (Natural) and Phillips Petroleum Company (Phillips), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner is presently authorized to exchange up to 80,000 Mcf of natural gas per day with Natural and Phillips pursuant to a supplemental gas exchange agreement dated July 17, 1970 as amended on August 19, 1974. It is stated that pursuant to the gas exchange agreement Phillips makes deliveries to Petitioner at the tailgate of Phillips' Sherman Plant located in Hansford County, Texas, and that Petitioner redelivers equivalent volumes to Natural at an existing point of interconnection between the facilities of Petitioner and Natural also located in Hansford County, Texas. It is further stated that the aforementioned amendment to the supplemental gas exchange agreement provided for a primary term through July 31, 1979, and from year to year thereafter.

Petitioner states that the pressure levels at the Hansford delivery point to Natural are such that difficulty is encountered in effectuating deliveries of the exchange gas to Natural. Petitioner states that in order to restore the deliveries of exchange gas to the levels authorized by the certificate Phillips has agreed to operate new facilities necessary to dehydrate and compress the gas delivered by Petitioner at the Hansford exchange point to both the quality and pressure conditions required for utilization by Natural in its pipeline system. Petitioner states that it has therefore agreed to reduce Phillips' contribution for fuel use and shrinkage from 30 Mcf per 1000 Mcf of gas actually received by Petitioner from Phillips at Phillips' Sherman Plant to 10 Mcf per 1000 Mcf. It is stated that Phillips' dollar reimbursement of \$12.50 per 1000 Mcf of gas actually delivered to Petitioner covering its compression and dehydration expenses remains unchanged.

Petitioner further states that the second amendment to the supplemental exchange agreement extends the primary term of the agreement through July 31, 1987, and from year to year thereafter unless cancelled by any of the parties by six months prior written notice.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before

May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12195 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4870-001 and 4876-001]

Modesto Irrigation District; Application for Preliminary Permit

April 29, 1982.

Take notice that Modesto Irrigation District (Applicant) filed on August 12, 1981, applications for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for projects Nos. 4870 and 4876 to be known as the Mendenhall Creek and the Eden Creek Projects located on Mendenhall and Eden Creeks, respectively, in Mendocino County, California. The applications are on file with the Commission and available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Lee DeLano, Modesto Irrigation District, P.O. Box 4060, Modesto, California 95352.

Project Description—Each proposed project consists of a 6-foot high diversion structure, a 5,500-foot long conduit, a 1,400-foot long penstock and a powerhouse containing a single generating unit with a rated capacity of 5,700 kW for Project No. 4870 and 5,400 kW for Project No. 4876.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested 24-month permits to prepare definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and

preparing designs is estimated by the Applicant to be \$45,000 for each project.

Competing Applications—These applications were filed as competing applications to Consolidated Hydroelectric, Inc.'s applications for Projects Nos. 4383 and 4384 filed on March 20, 1981. Public notice of the filing of the initial applications, which have already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12197 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP80-144-005 and CP80-144-001]

Mountain Fuel Resources, Inc. et al.; Petition To Amend

April 29, 1982.

Take notice that on March 30, 1982,¹ Mountain Fuel Resources, Inc. (Resources), 36 South State Street, Salt Lake City, Utah 84111, and Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket Nos. CP80-144-005, CP80-144-001, and CP80-144-002, a joint petition to amend the order issued September 30, 1981, as amended, in the instant dockets pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas to an additional delivery point to Northwest Pipeline Corporation (Northwest), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued September 30, 1981, they were authorized to transport up to an aggregate volume of 15,000 Mcf of natural gas per day for Northwest and up to 35,000 Mcf per day for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern). It is stated that the transportation and exchange agreement between Petitioners and Northwest and between Petitioners and Northern provided that the existing point of interconnection between the facilities of Mountain Fuel and Northwest designated as NPC-Red Wash delivery point would be used as an optional delivery point for natural gas transported for the accounts of Northern and Northwest. It is further stated that prior to the issuance of certificate authorization Petitioners filed an amendment to the application in order to avoid a formal determination at that time on the continuing viability of the Hinshaw exemption for the Southern Pipeline System in Utah. Said amendment provided that none of the volumes of natural gas transported by Mountain Fuel for the accounts of

Northwest and Northern would be redelivered for their respective accounts at the Red Wash delivery point.

Petitioners state that because of the projected increase in the volumes available for transportation on the Southern System together with reduced summer demand in its Utah distribution system operating conditions now require the activation of the Red Wash delivery point to Northwest on a permanent basis.

Petitioners request amendment of the order issued September 30, 1981, so as to authorize the use of the Red Wash delivery point for the redelivery of natural to Northwest for the account of Northwest and Northern, pursuant to the terms of the long-term gas transportation and exchange agreements on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12180 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2852-000]

New York State Electric & Gas Corp.; Application for License (over 5 MW)

April 29, 1982.

Take notice that the New York State Electric & Gas Corporation (Applicant) filed on June 8, 1978, and supplemented on May 23, 1980, August 11, 1980, and March 23, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for continued operation of a water power project to be known as the Keuka Project No. 2852. The project would be located on the Keuka, Waneta and Lamoka Lakes in Steuben and Schuyler Counties, New York. Correspondence with the Applicant should be directed to: L. Theodore Everett, Senior Vice

President, New York State Electric & Gas Corporation, Ithaca, New York 14850.

Project Description—The existing project consists of: (1) The 74,000 acre-foot reservoir formed by the interconnected Lamoka and Waneta Lakes; (2) a 9,288-foot long canal at the northeast of Waneta Lake; (3) a 54-inch diameter concrete penstock 3,600 feet long, connected to; (4) a 42-inch diameter steel penstock 835 feet long; (5) a powerhouse on the shores of Keuka Lake with an installed capacity of 2,000 kW; and (6) other appurtenances. Applicant owns all existing facilities. The average annual generation is 5,520,000 kWh.

A pre-historic Indian Village listed in the National Register of Historic Places is located on the Applicants property between Lamoka and Waneta Lakes. The New York State Department of Environmental Conservation in coordination with the Applicant, will construct two boat launch facilities and two parking areas at the site.

Purpose of Project—Project energy is integrated into the Applicant's main transmission system for ultimate delivery to its customers within New York State.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, or on or before July 12, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of

¹ The petition was initially tendered for filing on March 30, 1982, however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 1, 1982; thus, filing was not completed until the later date.

the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12198 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-278-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

April 29, 1982.

Take notice that on April 8, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-278-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new delivery point for its utility customer, Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to construct and operate one new delivery point in Kiowa County, Kansas, for Peoples. It is stated that Peoples would use the delivery point to provide natural gas service to at least 13 rural customers to be used primarily for irrigation during the upcoming crop season. It is further stated that additional volumes to be delivered to Peoples through the facilities are within Peoples' present entitlements. It is asserted that Peoples' deliveries to the rural customers would be an approximate maximum summer peak day volume of 1,815 Mcf and an estimated annual volume of 199,000 Mcf.

The estimated cost of the proposed facilities is \$21,250 which cost would be financed from cash on hand. Applicant would be reimbursed by Peoples for the cost of constructing the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20

1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12181 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-280-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

April 29, 1982.

Take notice that on April 8, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP 82-280-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and exchange of natural gas with East Tennessee Natural Gas Company (East Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas exchange and transportation agreement dated February 25, 1982, Applicant proposes to exchange certain volumes of natural gas with East Tennessee and to transport and redeliver such volumes to Northern Illinois Gas Company (NI Gas) for East Tennessee's account.

Applicant states that under such agreement it would deliver as exchange gas up to 8,000,000 Mcf of natural gas per year at Ogden, Iowa, for the account of East Tennessee and that the volumes delivered at Ogden would be thermally equivalent to the volumes that East Tennessee would cause to be delivered to United Gas Pipe Line Company at West Monroe, Louisiana, for Applicant's account.

It is further stated that Applicant would transport the volumes exchanged at Ogden, Iowa, and redeliver thermally equivalent volumes to NI Gas for East Tennessee's account at the existing interconnection between the pipeline systems of Applicant and NI Gas at East Dubuque, Illinois, and that the natural gas redelivered to NI Gas would be injected for storage pursuant to the storage agreement between East Tennessee and Mid-Continent Gas Storage Company.

Applicant asserts that it would initially charge East Tennessee the transportation rate of 7.79 cents per Mcf for gas transported from Ogden, Iowa, to East Dubuque, Illinois, and that it would also receive 1.0 percent of all the thermal content delivered to East Dubuque, Illinois, for fuel and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12182 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-47-000]

**Pacific Power & Light Co.;
Supplemental Application**

April 28, 1982.

Take notice that on April 23, 1982, Pacific Power & Light Company filed a Supplemental Application pursuant to section 204 of the Federal Power Act, seeking authorization to increase the amount of Preferred Stock to be issued from \$50 million to \$82.5 million.

Any person desiring to be heard to make any protest with reference to said Supplemental Application should, on or before May 10, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Supplemental Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12199 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6136-000]

**Ordell O. Packwood and Rita A.
Packwood; Application for Preliminary
Permit**

April 29, 1982.

Take notice that Ordell O. Packwood and Rita A. Packwood (Applicant) filed on March 29, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6136 to be known as the Old Oak Ranch Water Power Project located on North Fork Tule River

near Porterville in Tulare County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard L. Schafer, R.L. Schafer & Associates, Inc., P.O. Box 1388, Porterville, California 93258.

Project Description—The proposed project would consist of: (1) a 4-foot high diversion structure; (2) a 3-foot diameter conduit; (3) a powerhouse with a total installed capacity of 260 kW; (4) a switchyard located adjacent to the powerhouse; and (5) a 1,000-foot long transmission line interconnecting with an existing Southern California Edison Company transmission line. The Applicants estimate that the average annual output would be 670 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct engineering, hydrological, economic and environmental studies; and prepare an FERC license application. These studies are estimated by the Applicant to cost \$45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept application for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12200 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP77-17-007, CP77-613-002, CP78-510-003, CP78-511-002, CP78-516-003, CP80-489-005, CP81-7-005, CP81-101-003, CP81-109-003]

**Panhandle Eastern Pipe Line Co. and
Trunkline Gas Co.; Petition To Amend**

April 29, 1982.

Take notice that on March 31, 1982, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in the above-captioned dockets a petition pursuant to Section 7 of the Natural Gas Act to amend the orders issued in the instant dockets so as to authorize the cessation of certain transportation

services being performed by Petitioners for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), under three transportation arrangements: The Northern Blanket Agreement, The Eight Additional Transport Agreements, and The Eight Companion Transport Agreements, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued November 11, 1977, in Docket No. CP77-17, Trunkline was authorized to transport gas on Northern's behalf from Longville, Louisiana, and redeliver such gas to Panhandle at the interconnection of Petitioners' facilities in Tuscola, Illinois, for further delivery by Panhandle to Northern near Mullinville, Kiowa County, Kansas, pursuant to The Northern Blanket Agreement dated September 24, 1976. It is further submitted that the Northern Blanket Agreement was amended so as to provide for its termination on January 13, 1982, or upon commencement of the flow of gas in the Northern Border Project, whichever comes later. Petitioners state that they currently transport up to 175,000 Mcf of gas per day for Northern under The Northern Blanket Agreement.

It is further submitted that as a result of the termination of The Northern Blanket Agreement, The Eight Additional Transportation Agreements between Petitioners and Northern would also terminate. Petitioners asserts that by orders issued December 29, 1977, in Docket No. CP77-613, April 17, 1979, in Docket No. CP78-516, February 26, 1981, in Docket No. CP80-489, June 4, 1981, in Docket No. CP81-7, September 8, 1981, in Docket No. CP81-101, and January 5, 1982, in Docket No. CP81-109, Petitioners were authorized to transport natural gas on Northern's behalf to the Longville, Louisiana, delivery point whereby Petitioners make ultimate redelivery to Northern at Mullinville, Kansas, pursuant to The Eight Additional Transport Agreements. It is further asserted that as partial consideration for Petitioners providing such transportation service Northern has extended Panhandle an option to purchase up to 20 percent of the natural gas, and accordingly, Petitioners have entered into The Eight Companion Transport Agreements whereby Trunkline transports Panhandle's 20 percent Northern purchase option gas. Petitioners state that these Eight Companion Transport Agreements would also terminate.

Therefore, Petitioners request the Commission to amend the orders issued in the instant dockets so as to authorize them to discontinue natural gas transportation service provided for Northern under the terms of the Northern Blanket Agreement, The Eight Additional Transport Agreements, and the Eight Companion Transport Agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12183 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-290-000]

Panhandle Eastern Pipe Line Co.; Application

April 29, 1982.

Take notice that on April 19, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-290-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated February 23, 1982, Applicant proposes to transport up to 10,000 Mcf of natural gas per day on a firm basis for Trunkline from Mesa Petroleum production in Vermilion Block 348, offshore Louisiana. It is asserted that the point of receipt is Vermilion Block 340, offshore Louisiana, and the point of redelivery is at the existing interconnection of Applicant's and Trunkline's Stingray Pipeline System

facilities located in Vermilion Block 321, offshore Louisiana. Applicant states that it has agreed to redeliver a daily quantity of gas equal to the quantity received less the unaccounted for losses on the pipeline system through which the volumes are transported.

It is asserted that Trunkline would pay Applicant a monthly charge of \$22,663 and an excess/deficiency charge of 7.45 cents per Mcf.

It is submitted that the proposed service would enable Trunkline to move its Vermilion Block 348 gas supplies to the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12184 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6150-000]**Rainsong Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity**

April 30, 1982.

Take notice that on April 1, 1982, Rainsong Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6150) would be located on Jefferson Creek, tributary of Hamma Hamma River, Mason County, Washington. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Agent, Post Office Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) a 50-foot long, 6-foot high diversion structure; (2) a 8,000-foot long, 60-inch diameter pipeline/penstock; (3) a powerhouse containing one generating unit with an installed capacity of 5 MW; and (4) a 15,000-foot, 55-kV transmission line from the powerhouse to an existing 230-kV Bonneville Power Administration transmission line, or a 5.5-mile, 12-kV transmission line to intertie into the existing Mason County P.U.D. No. 1 transmission line. The Applicant estimates that the annual energy production will be approximately 30 GWh. The project is located entirely on Federal lands owned by Olympic National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Washington Department of Fisheries, and State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms

and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 19, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E.

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12216 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-110-000]**Ring Power Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility**

April 28, 1982

On April 9, 1982, Ring Power Corp., Post Office Box 17600, 8050 Phillips Highway, Jacksonville, Florida 32216 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is under construction in Jacksonville, Florida. The primary energy source of the facility will be natural gas. The electric power production capacity of the facility will be 975 kilowatts. Waste heat from three new reciprocating internal combustion sets will be recovered in boilers and 1.17 million Btu/hr. will be used in heating and cooling systems on an average annual basis. Installation of the facility began in December 1981. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12201 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3783-002]

Rocky Brook Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 30, 1982.

Take notice that on March 15, 1982, Rocky Brook Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), requesting that its accepted license application be treated initially as an application for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The notice of the application for license was issued February 25, 1982. The proposed small hydroelectric project (Project No. 3783) would be located on Rocky Brook in Jefferson County, Washington. Correspondence with the Applicant should be directed to: Joseph B. Clarkson, 460 Duckabush River Road, Brinnon, Washington 98320.

Project Description—The proposed project would consist of: (1) an 8-foot high, 24-foot long steel arch diversion dam; (2) a 500-foot long steel pipe; (3) a surge tank; (4) a 1,230-foot long steel penstock; (5) a powerhouse containing two generating units, one rated at 1,000 kW and one rated at 500 kW; and (6) an underground transmission line. The average annual energy generation is estimated to be 7 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Departments of Fisheries and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly

identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 18, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12217 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-463-000]

Southwestern Electric Power Co.; Filing

April 28, 1982.

The filing company submits the following:

Take notice that Southwestern Electric Power Company ("SWEPCO") on April 19, 1982, tendered for filing a Power Supply Agreement between SWEPCO and Northeast Texas Electric Cooperative, Inc. ("NTEC"). The Power Supply Agreement provides for power supply arrangements between SWEPCO and NTEC and also provides a formulaic method of determining periodic changes in rates and charges applicable to services rendered NTEC by SWEPCO. Rates determined under the first application of the Power Supply Agreement will result in aggregate increased revenues from NTEC for the 12 months ending June 30, 1983 of about \$8,424,000 or 20.1%, over rates presently in effect. SWEPCO requests that the Power Supply Agreement and rates determined thereunder be made effective as of April 1, 1982 and, accordingly, requests waiver of the notice of requirements under the Federal Power Act. NTEC has concurred in the filing and the proposed effective date.

Copies of the filing have been served on NTEC and upon the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12202 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6187-000]

Michael E. Springer and James B. Boulden; Application for Preliminary Permit

April 29, 1982.

Take notice that Michael E. Springer and James B. Boulden (Applicant) filed on March 29, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6187 to be known as the Leavitt Creek Water Power Project located on an unnamed spring, in Mono County, near Walker, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James B. Boulden, 729 Sexton Road, Sebastopol, California 95472.

Project Description—The proposed project would consist of: (1) a collection basin; (2) a 2-mile long water conduit; (3) a powerhouse with an installed capacity of 100 kW; and (4) a 0.3 mile-long transmission line to connect to an existing Sierra Pacific Power Company Line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be

filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12203 Filed 5-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-291-000]

Tennessee Gas Pipeline Co.; Application
April 29, 1982.

Take notice that on April 19, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-291-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 360 horsepower compressor unit and appurtenant facilities in Monroe County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that it has contracted to purchase gas from the Buttahatchie River Field, Monroe County, Mississippi, and is obligated to install the compression necessary to compress pressure-deficient gas from 250 pounds per square inch gauge to a pressure sufficient to cause such pressure deficient gas to be delivered into Applicant's pipeline. Applicant submits that the proposed 360 horsepower compressor would be required to handle the production from the Buttahatchie River Field.

Applicant estimates the cost of the proposed facilities to be \$697,000 which would be financed initially from general funds and/or borrowings under revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held

without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12185 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-281-000]

Texas Gas Transmission Corp.; Application

April 29, 1982.

Take notice that on April 9, 1982, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP82-281-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 3-inch run orifice measuring station and for permission and approval to abandon the Lyons sales meter station all in Coahoma County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon its existing Lyons sales meter station serving Mississippi Valley Gas Company (Mississippi Valley), an existing resale customer, and to replace it with a single 3-inch run orifice measuring station and related equipment. The cost of the proposed construction is estimated to be \$29,000 which would be financed by Mississippi Valley.

Applicant explains that an industrial customer served from the Lyons delivery point is expanding and plans to add two turbines which require a fuel gas pressure of at least 250 psig. It is asserted that the upgraded facilities would have a minimum line pressure of

350 psig. Applicant states that construction of the new sales meter station would not result in an increase in Mississippi Vallen's existing contract demand and quantity entitlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12186 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM79-34 and ST82-197]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Tennessee Gas Pipeline Co.; Self-Implementing Transactions

April 29, 1982.

Take notice that the following

transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Section 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 2894.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to Section 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date ¹	Transportation rate (C/MMBtu)
ST82-197	Tennessee Gas Pipeline Co.	3/01/82	G		
ST82-198	Dow Pipeline Co.	3/03/82	C		
ST82-199	Houston Pipe Line Co.	3/02/82	C		
ST82-200	Oasis Pipe Line Co.	3/02/82	C		
ST82-201	Transcontinental Gas Pipe Line Corp.	3/03/82	G		
ST82-202	Natural Gas Pipeline Co. of America	3/08/82	B		
ST82-203	Tennessee Gas Pipeline Co.	3/05/82	G		
ST82-204	United Texas Transmission Co.	3/05/82	C		
ST82-205	Oklahoma Natural Gas Co.	3/05/82	D		
ST82-206	Southern Natural Gas Co.	3/05/82	G		
ST82-207	Delhi Gas Pipeline Corp.	3/08/82	D	8/05/82	33.40
ST82-208	Delhi Gas Pipeline Corp.	3/08/82	C	8/05/82	33.40
ST82-209	Oklahoma Natural Gas Co.	3/10/82	D		
ST82-210	Houston Pipe Line Co.	3/11/82	C		
ST82-211	Houston Pipe Line Co.	3/11/82	C		
ST82-212	Natural Gas Pipeline Co. of America	3/15/82	G		
ST82-213	Colorado Interstate Gas Co.	3/15/82	G		
ST82-214	Monterey Pipeline Co.	3/15/82	C	8/12/82	24.40
ST82-215	Transcontinental Gas Pipe Line Corp.	3/15/82	F		
ST82-216	Transcontinental Gas Pipe Line Corp.	3/15/82	F		
ST82-218	Rocky Mountain Natural Gas Co., Inc.	3/15/82	C		
ST82-219	Tennessee Gas Pipeline Co.	3/16/82	G		
ST82-220	Tennessee Gas Pipeline Co.	3/16/82	B		
ST82-221	Tennessee Gas Pipeline Co.	3/16/82	G		
ST82-222	Caprock Pipeline Co.	3/17/82	B		
ST82-223	Delhi Gas Pipeline Corp.	3/17/82	C		
ST82-225	Oasis Pipe Line Co.	3/19/82	C		
ST82-226	Trunkline Gas Co.	3/22/82	G		
ST82-227	Natural Gas Pipeline Co. of America	3/22/82	G		
ST82-228	Northwest Pipeline Corp.	3/19/82	B		
ST82-229	Louisiana Intrastate Gas Corp.	3/23/82	C	8/20/82	20.00
ST82-230	Northern Natural Gas Co.	3/22/82	B		
ST82-232	Cabot Corp.	3/24/82	G(HS)	8/21/82	76.60
ST82-233	Natural Gas Pipeline Co. of America	3/24/82	G		
ST82-234	Intrastate Gathering Corp.	3/25/82	C		
ST82-235	Natural Gas Pipeline Co. of America	3/25/82	G		
ST82-236	United Gas Pipe Line Co.	3/25/82	G		
ST82-237	East Tennessee Natural Gas Co.	3/25/82	G		
ST82-238	Tennessee Gas Pipeline Co.	3/26/82	F		
ST82-239	Northern Utilities, Inc.	3/29/82	C		
ST82-240	United Gas Pipe Line Co.	3/30/82	G		

¹ The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-12207 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-165-001]

Trunkline Gas Co.; Extension Reports

April 28, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue

for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said

extension report should on or before May 25, 1982 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter and seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-165-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77251	Columbia Gas Transmission Corp.	4/12/82	G	14/10/82
ST80-279-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas TX 75201	Columbia Gas Transmission Corp.	4/05/82	C	7/10/82
ST80-296-001	Alagasco Pipeline Co., 1918 First Avenue North, Birmingham, AL 35295	Southern Natural Gas Co.	4/13/82	D	8/16/82

¹ This late request for an extension will be the subject of further Commission action and has not been deemed approved by operation of § 284.125(b)

[FR Doc. 82-12204 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-273-000]

United Gas Pipe Line Co.; Application

April 29, 1982

Take notice that on April 5, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-273-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon minor facilities located in the Carthage Field, Panola County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon 173 feet of 4½-inch pipeline, 127 feet of 3½-inch pipeline and a meter station located in the Carthage Field. It is asserted that such facilities were used to connect the Phillips Petroleum Company Ball No. 1 well in the Carthage Field under a gas purchase contract dated September 22, 1978. It is stated that the facilities in question are no longer used in the purchase of gas by Applicant. Applicant states that such abandonment would have no effect on its existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to

intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12187 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-446-005]

United Gas Pipe Line Co.; Petition To Amend

April 29, 1982.

Take notice that on April 13, 1982, United Gas Pipe Line Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-446-005 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the order issued January 8, 1980, in Docket No. CP79-446, as amended, so as to authorize the transportation of an additional 5,000 Mcf of gas per day for Arkansas Louisiana Gas Company (Arkla), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued January 8, 1980, in the instant docket Petitioner was authorized to transport up to 20,000 Mcf of natural gas per day for Arkla pursuant to a gas transportation agreement dated May 25, 1979. It is further submitted that under such agreement Arkla was to deliver or cause the delivery thereof of gas to Petitioner at Bayou Sale, St. Mary Parish, Louisiana, (Bayou sale point) while Petitioner was to make deliveries to Arkla at Champlin's East Texas plant, Panola County, Texas, the Bistineau storage facility, Bienville Parish, Louisiana, and the interconnection of Petitioner's 24-inch Carthage-Sterlington line and Arkla's 12-inch ST-1 line in Panola County, Texas.

Such order, Petitioner asserts, was amended on March 3, 1982, so as to authorize Petitioner to provide service at an additional point of delivery at the existing Bienville point and at a new point of interconnection between the facilities of Petitioner and Arkla in Plaquemines Parish, Louisiana, and an additional redelivery point at the existing interconnection between the facilities of Petitioner and Louisiana Interstate Gas Corporation at Exxon Company U.S.A.'s Garden City plant, St. Mary Parish, Louisiana.

It is stated that on June 1, 1981, Petitioner and Arkla further amended their agreement of May 25, 1979, so as to provide for the transportation by Petitioner of up to 5,000 Mcf of additional gas per day for Arkla, which gas would be received at the Plaquemines point. Petitioner, therefore, proposes to increase from 20,000 Mcf per day to 25,000 Mcf per day the total volumes of gas transported for Arkla.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12188 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-404-002]

Washington Natural Gas Co., as Project Operator; Petition To Amend

April 29, 1982.

Take notice that on April 2, 1982, Washington Natural Gas Company (Petitioner), 815 Mercer Street, Seattle, Washington 98111, filed in Docket No. CP79-404-002 a petition to amend the order issued March 4, 1982, in Docket No. CP79-404 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to operate the Jackson Prairie Storage Project, Lewis County, Washington (Storage Project), so as to provide a maximum firm daily deliverability of 325,000 Mcf, 71,800 Mcf of additional daily deliverability on a best-efforts basis and a seasonal deliverability of 12,800,000 Mcf during each winter heating season beginning with the 1982-1983 heating season and continuing through the end of the 1989-1990 heating season, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the Storage Project is owned in joint and equal undivided

interests by Petitioner, Northwest Pipeline Corporation (Northwest), and the Washington Water Power Company (Water Power) and that Petitioner's activities as project operator are conducted pursuant to the terms of the storage agreement dated June 25, 1970, as amended, which is on file with the Commissioner as Petitioner's Rate Schedule S-1, FERC Gas Tariff, Original Volume No. 1.

Petitioner states that by order issued March 4, 1982, it was granted authorization to expand the seasonal working gas in the Storage Project to 12,800,000 Mcf and the firm daily deliverability to 325,000 Mcf for three winter heating seasons beginning with the 1979-1980 heating season and extending through the 1981-1982 heating season.

Petitioner states that Northwest has requested that Petitioner extend the operation of the Storage Project at the level of 12,800,000 Mcf of seasonal working gas and at a firm daily deliverability of 325,000 Mcf for succeeding heating seasons beginning with the 1982-1983 heating season and continuing through the 1989-1990 heating season for the purpose of supporting an extension of Northwest's Rate Schedule WS-1 service for a like period. It is stated that the additional working gas to provide the increased level of deliverability of the Storage Project would be provided by Northwest and that no additional facilities are required to provide the increased deliverability.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12189 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-110-012]

Washington Natural Gas Co., as Project Operator; Petition To Amend

April 29, 1982.

Take notice that on April 2, 1982, Washington Natural Gas Company (Petitioner), 815 Mercer Street, Seattle, Washington 98111, as Project Operator of the Jackson Prairie Storage Project (Storage Project), Lewis County, Washington, filed in Docket No. CP75-110-012 a petition pursuant to Section 7(c) of the Natural Gas Act to amend¹ the order issued September 26, 1975,² in Docket No. CP75-110 so as to authorize an increase in the level of the cushion gas in the Storage Project beginning with the 1982-1983 winter heating season, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that the Storage Project is adjacent to and is connected to the facilities of Northwest Pipeline Corporation (Northwest) and is owned in joint and equal undivided interests by Petitioner, Northwest and the Washington Water Power Company (Water Power). It is further submitted that the Storage Project provides an underground natural gas storage facility to support the winter season service rendered by Northwest under Northwest's Rate Schedule SGS-1.

Petitioner states that by order issued September 26, 1975, in the instant docket, as amended, it was authorized to operate the Storage Project at the following levels of storage and service:

Seasonal Working Gas, 10,800,000 Mcf.
Cushion Gas, 18,100,000 Mcf.
Total Storage Gas, 28,900,000 Mcf.
Firm Daily Delivery Rate, 300,000 Mcf.
Daily Best Efforts Rate, 71,800 Mcf.
In order to maintain the delivery capability of the Storage Project to meet the seasonal and daily delivery requirements authorized in this proceeding and to provide for possible future increases in storage capacity, Petitioner proposes that beginning with the 1982 injection season the cushion gas in the Storage Project be increased 150,000 Mcf to a level of not less than 19,450,000 Mcf. Petitioner asserts that total storage gas would, accordingly, be increased to a level of 30,250,000 Mcf. It is stated that the additional cushion gas would be provided one-third each by Northwest, Water Power, and

¹ Although this filing is entitled a Petition for a Temporary Certificate, it is also being construed as a Petition to Amend.

² This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Petitioner in accordance with the terms of a Storage Agreement. Petitioner asserts that no construction work or additional facilities are required in order to attain the increased level of cushion gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1982 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-12190 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6086-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 Mw Capacity

April 29, 1982.

Take notice that on March 12, 1982, Western Hydro Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6086) would be located on Smith Creek, within Gifford Pinchot National Forest in Lewis County, Washington. Correspondence with the Applicant should be directed to: Donald J. White, Vice President, Western Hydro Electric, Incorporated, Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144, with copies to: Mr. Marc A. Auth, J-U-B Engineers, Inc., Industrial Division, 250 S. Beechwood Avenue, Boise, Idaho 83709.

Project Description—The proposed project would consist of: (1) a 6-foot high reinforced concrete diversion structure at elevation 2,650 feet; (2) a 36-inch diameter pipeline 10,700 feet long and penstock 7,300 feet long; (3) a powerhouse at elevation 1,180 feet

containing three turbine generators with 4.74 MW total capacity and 23.8 GWh annual energy production; and (4) a transmission line 3,700 feet long.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applications that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of any agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 21, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit

comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-12205 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 2G2622/T364; PH-FRL 2112-8]

American Cyanamid Co.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the pesticide ($\pm$)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity apples. This temporary tolerance was requested by American Cyanamid Company.

DATE: This temporary tolerance expires April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION:

American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540, has requested, in pesticide petition PP 1G261, the establishment of a temporary tolerance for residues of the pesticide ($\pm$)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity apples at 1.0 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 241-EUP-99 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 1, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the

requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: April 20, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-11709 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2621/T363; PH-FRL-2113-1]

**American Cyanamid Company;
Establishment of Temporary
Tolerance**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the pesticide ($\pm$)cyano(3-phenoxyphenyl)methyl(+)4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity pears. This temporary tolerance was requested by American Cyanamid Company.

DATE: This temporary tolerance expires March 22, 1983.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION:

American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540, has requested, in pesticide petition PP 1G2621, the establishment of a temporary tolerance for residues of the pesticide ($\pm$)cyano(3-phenoxyphenyl)methyl(+)4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity pears at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 241-EUP-100 which is being issued under the Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 22, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: April 20, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-11711 Filed 5-4-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50573; PH FRL 2113-6]

**AMVAC Chemical Corp.; Receipt of
Application for an Experimental Use
Permit for 1,2-Dibromo-3-
Chloropropane (DBCP)**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from Amvac Chemical Corporation. The experimental use permit, file symbol 5481-EUP-1, proposes allowing the use of 534 pounds of the nematocide 1,2-dibromo-3-chloropropane (DBCP) on peaches to identify and quantify residues of DBCP in the raw agricultural commodity peaches. Less than 10 acres would be used, all in South Carolina.

DATE: Written comments must be received on or before June 4, 1982.

ADDRESS: Comments should bear the document control number OPP-50573 and be submitted to: Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

The public record regarding this notice will be available for public inspection in Rm. E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: On March 5, 1981 EPA accepted the requests by all registrants of pesticide products containing DBCP, that all their registrations for DBCP pesticide products for uses other than on pineapples in Hawaii be cancelled. Notice of the acceptance appeared in the Federal Register of March 31, 1981 (46 FR 19596). This experimental use permit will be used by AMVAC to develop data specific to the use of DBCP in peach cultures. All peaches harvested from the treated areas will be destroyed and not used for food or animal feed.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: April 21, 1982.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-11837 Filed 5-4-82; 8:45 am]

BILLING CODE 6580-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. The proposed form under review is listed below and identified as an extension (burden change).

DATE: Comments must be received on or before June 4, 1982. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

ADDRESS: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EOC Agency Clearance Officer:
Thomas P. Goggin, Office of Administration, Room 3230, 2401 E Street, NW., Washington, D.C. 20506; Telephone (202) 634-6983.

OMB Reviewer: LaVerne Collins, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-8880.

List of Form(s)

Extension (Burden Change—Decrease)

Title: Elementary-Secondary Staff Information (EEO-5).

Form Number: EEOC FORMS 168A and B.

Frequency of Report: Biennially.

Type of Respondent: State of local governments.

Standard Industrial Classification (SIC) Code: 821.

Description of Affected Public: Public School Districts and Schools.

Federal Budget Functional Category: Federal law enforcement activities.

Annual Responses: 82,500.

Annual Reporting Hours: 412,500.

Federal Cost: \$69,000.

Applicable under Section 3504(h) of Public Law 96-511: Applicable—Notice of Proposed Rule Making for 29 CFR 1602.41(M).

Number of Forms: 2.

Abstract—Needs/Uses: Data used by EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Data are shared with Department of Education, Office of Civil Rights, National Center for Education Statistics and Department of Justice. Under Section 709(d) of Title VII, data are shared with 23 State and 56 local Fair Employment Practices Commission agencies.

Dated: April 29, 1982.

For the Commission.

Cathie A. Shattuck,

Acting Chairman, Equal Employment Opportunity Commission.

[FR Doc. 82-12289 Filed 5-4-82; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It; Meeting

April 28, 1982.

Task Group B-1 of Working Group B: Legal Implications:

Chairman: Martin Rothblatt (202) 662-5446.

Date: Tuesday, June 15, 1982.

Time: 1:00-4:00 p.m.

Location: Federal Communications Commission, 1919 M Street, NW., Room 650, Washington, D.C.

Agenda:

- (1) Review contributions dealing with law relevant to Space WARC, and
- (2) Begin legal evaluation of orbit/spectrum access methods and planning approaches.

William J. Tricarico,

Secretary, Federal Communication Commission.

[FR Doc. 82-12128 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-52; CC Docket No. 81-351; Transmittal No. 13663]

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services; Memorandum Opinion and Order Instituting Investigation

Adopted: January 28, 1982.

Released: February 23, 1982.

By the Commission: Commissioner Fogarty concurring in the result.

1. On May 21, 1981, the Commission instituted this investigation into the lawfulness of the American Telephone and Telegraph Company's (AT&T) February 13, 1981 tariff filing, which proposed to restructure and increase the rates for Series 7000 terrestrial television transmission service, AT&T, 86 FCC 2d 861 (1981) (Investigation Order). We also suspended the effectiveness of the revised tariff material for five months.¹ Based on the record² developed in this investigation, we have concluded that certain major provisions of AT&T's tariff filing are unjustified and therefore unlawful. Nevertheless, we believe that much information has been gathered in this proceeding which can aid in the development of a lawful rate structure for this service. We therefore shall commence further proceedings looking toward Commission prescription on an interim basis of the principal Series 7000 service elements. Further comment on the specific terms of this prescription will be requested, although this procedure may be modified or deferred

¹Since then, at the Common Carrier Bureau's request, AT&T has extended the effective date of the proposed revisions until February 1, 1982.

²AT&T filed a direct case. Comments in response have been filed by: The American Broadcasting Companies, Inc., CBS Inc., and the National Broadcasting Company, Inc., jointly (Networks); Cable News Network, Inc. (CNN); World Communications, Inc. (Wold); Storer Broadcasting Company (Storer); WETA-TV, Washington, D.C. (WETA); Nebraska Educational Television Commission and KQEP, Inc., jointly (NETC); a group of public television stations and the Public Broadcasting Service (PTV Entities); and Eastern Educational Television Network, Inc., Maryland Center for Public Broadcasting, and Louisiana Educational Broadcasting Authority, jointly (EEN). Hughes Television Network, Inc. (Hughes), Independent Television Stations, Inc. (INTV), and the Commissioner of Baseball (Baseball) have submitted separate comments, and each also submitted an analysis of AT&T's proposals by an independent consultant, Mr. William L. Scott of Waller Hinchman Associates, Inc. (Scott study). The National Basketball Association and National Hockey League (NBA-NHL) associate themselves with Hughes, INTV, and Baseball in their comments. AT&T replied to all the comments. Wold also filed a reply, but this was not permitted in the investigation schedule and was not considered.

if a satisfactory proposal is submitted by AT&T. In either event, we expect to review actual experience and further studies after one year in order to fine tune or, if necessary, revise this rate structure. The order also discusses various other issues raised in the investigation.

I. Background

2. A brief review of the regulatory history of AT&T's terrestrial television transmission service is helpful to indicate the Commission's long-standing concerns in this area. AT&T's Series 7000 tariffs have always been structured to provide separate full time and part time services. The full time service is used almost exclusively by the major commercial networks and has always been much less expensive per unit of time than the part time services which are used by many occasional distributors of sports, news, and entertainment programs as well as by the networks. AT&T has never justified this disparity in rates except with conclusory allegations, unsupported by evidence, that full time is a different service with lower costs. In 1970, a hearing examiner and the review board concluded that AT&T's Series 7000 tariff was unlawfully discriminatory as applied to small or occasional users. *Hughes Sports Network, Inc. v. AT&T*, 25 FCC 2d 550, 560 (1970). (SNI case.) The Commission also set for investigation two proposed revisions of the tariff in the early 1970's, but in 1973 terminated these proceedings without a decision on the merits, after accepting a stipulation of the parties to a revised tariff. (Aside from across the board increases to all private line rates in 1980 and 1981, those rates have remained in effect.) In 1977, AT&T again sought to revise its Series 7000 rates as part of a larger submission in response to Docket No. 18128 cost allocation principles. This filing proposed to increase part time rates and impose additional restrictions on part time service while generally reducing full time rates. The Commission rejected this filing on various grounds. *AT&T*, 67 FCC 2d 1134 (1978) (*Rejection Order*). Basically, it concluded that full time and part time were like service, within the meaning of Section 202(a) of the Communications Act, 47 U.S.C. 202(a), and that AT&T had failed even to attempt a cost justification for its discriminatory rate structure. The Commission also suggested several improvements to the stipulated tariff, and placed AT&T on notice that "only substantial changes in its ratemaking approach to series 7000 Service, which has always tended to favor its larger customers to the

detriment of moderate and smaller users, are likely to satisfy our substantial concerns with respect to this service." *AT&T*, 70 FCC 2d 2031, 2053, (1979) (*Reconsideration Order*). The Commission's decision was affirmed on appeal, *sub nom. ABC v. FCC*, No. 79-1261, (D.C. Cir. October 9, 1980), *reh den.* December 5, 1980.

II. Transmittal No. 13663

3. In the Transmittal under investigation here, AT&T originally proposed to increase the rates for full time service by about 40 percent and for part time by about 4 percent. It also proposed to restructure the various service elements in the tariff. Type 7001, the main television transmission service in the U.S., contains three elements: interexchange channels (IXCs), station connections (SCs), and local channels. Interexchange channels connect AT&T Television Operating Centers (TOCs) located in cities around the country. Station connections (SCs) within the TOCs connect the IXCs to local channels, which are used to pick up the TV signal from the studio or other point of origination and to deliver it at the other end of the network. The service is one-way.

4. In place of the existing full time/part time IXC and SC rate structure, AT&T proposed rates based on consecutive hours of use from 1 to 24 hours, and a flat rate for 24 to 730 hours, *i.e.*, 1 day to 1 month. Any customer desiring service for more than 24 consecutive hours would also be required to obtain permanent facilities and pay special construction charges. For local channels, the full time/part time structure would be replaced by rates based on the number of consecutive days of use, with surcharges for more than four consecutive days' use of temporary channels. AT&T also proposed to eliminate "topping" of local channel rates, *i.e.*, setting a maximum monthly charge for part time use which is about equal to the monthly full time rate.

5. In the May Investigation Order, we observed that the changes AT&T proposed in the IXC and SC rate structures were "largely cosmetic," and that the ostensibly "unified" IXC and SC rate structure continued in fact to be two separate services with no justification for the wide rate differentials. The 24-730 hour rate step was simply the old full time rate under a different name and remained far cheaper than the occasional use rate. For example, one hour of IXC service was \$.89 per mile. Under the 24-730 hour rate, the cost per mile per hour was \$.09. We found no justification for this rate

disparity. We were similarly troubled because the special construction requirement appeared to make the 24-730 hour service a very different offering and to impede any new customers or resellers from obtaining the cheaper (*i.e.*, 24-730 hour) rate.

6. The May order also questioned, among other things local channel rates and regulations, inclusion in the rate base of facilities no longer used or needed to provide TV service, and the pricing of services for non-commercial educational broadcasters. Overall, we concluded that despite improvements, the new filing still seemed unreasonable and unjustified. We went on to suggest that a curvilinear³ IXC and SC rate structure as proposed might be proper in order to average start-up and discontinuance costs, but questioned whether the filed tariffs did this in a reasonable way. We further stated our intention to consider prescribing a rate structure which reflects a more reasonable means of rate averaging to encourage efficiency and to distribute cost burdens fairly. Accordingly, we set twelve issues for investigation, including, most notably, questions of the reasonableness of the proposed tariff, the prescription of rates and practices, and the treatment of reduced rate services to noncommercial educational broadcasters.

7. In its direct case, AT&T defends the filed rate structure and various of its specific terms. At the same time, though, AT&T proposes an alternative rate structure which it contends would meet the Commission's regulatory goals. It states that it is amenable to withdrawing the February filing and substituting the alternative in its place if we determine the alternative to be acceptable and preferred. Under this two-part structure, a customer would pay a service charge for each newly provided IXC section, *i.e.*, for each new order or addition of an IXC to an existing system. The customer would also pay flat charges per hour for IXC sections and SCs. These usage charges would be the same for all customers.

8. In addition, AT&T proposes to disaggregate local channel rates, reflecting claimed higher costs of mobile and part time services as compared to full-time, in-place facilities. It also continues to propose the elimination of the "topping" maximum charge for part-time use of in-place local channels.

³ *I.e.*, a structure with gradually declining per hour rates.

III. Issues

9. AT&T's proposal of a new rate structure raises new issues. In effect, the Commission now has three separate rate structures before it—the existing full time/part time rates, the rates filed with Transmittal No. 13663 (hereafter, Plan A) rates and the alternative (hereafter, Plan B) rates. The three IXC-SC and local channel rate structures are shown in accompanying Tables 1-6. We must decide which, if any, of these three rates structure is reasonable. Thus, we face two major issues:

1. Determining a reasonable rate structure for IXC and SC services.
 2. Determining a reasonable rate structure for local channel services.
- In addition, there are four related, but distinguishable issues:

1. How the investment in unassigned PSV cable should be treated for ratemaking purposes.
2. Whether AT&T has improperly assigned excessive costs to television transmission services which should be removed.
3. Whether the proposed rates and practices for services to public broadcasters are reasonable and in conformity with section 396(h) of the Act.
4. Whether AT&T's special construction policies for local channels are reasonable.

TABLE 1.—PRESENT TYPE 7001 IXC AND SC RATES¹

Interexchange channels (IXCs):
Part-time, \$0.92 Mi/Hr.
Full-time, \$67.07 Mi/Mo.
Station Connections (SCs):
Part-time, \$97.55 SC/Hr.
Full-time, \$1,829.00 SC/Mo.
Full-time is subject to an initial 6-month minimum service period.

¹These rates are higher than the rates in effect when Trans. 13663 was filed because of the June 28, 1981 16 percent across-the-board rate increase.

TABLE 2.—FILED IXC AND SC RATES—PLAN A

Step	Consecutive hours of use—over to per mile	IXC per SC	
1	0-1	0.89	\$95.00
2	1-2	1.73	185.00
3	2-3	2.52	270.00
4	3-4	3.27	350.00
5	4-5	3.98	425.00
6	5-6	4.65	495.00
7	6-7	5.28	560.00
8	7-8	5.87	620.00
9	8-9	6.42	675.00
10	9-10	6.93	725.00
11	10-11	7.41	770.00
12	11-12	7.86	810.00
13	12-13	8.28	845.00
14	13-14	8.67	875.00
15	14-15	9.03	900.00
16	15-16	9.36	920.00
17	16-17	9.66	935.00
18	17-18	9.93	945.00

TABLE 2.—FILED IXC AND SC RATES—PLAN A—Continued

Step	Consecutive hours of use—over to per mile	IXC per SC	
19	18-19	10.17	952.00
20	19-20	10.38	958.00
21	20-21	10.56	963.00
22	21-22	10.71	967.00
23	22-23	10.83	970.00
24	23-24	10.93	972.00
25	24-730	67.65	1,944.87

NOTE.—New orders for IXCs for more than 24 consecutive hours are required to be by permanent facilities subject to special construction charges.

TABLE 3.—ALTERNATIVE IXC-SC RATES PROPOSED BY A.T. & T. IN DIRECT CASE—PLAN B

Service Charge, \$461.
IXC, \$0.14 Mi/hr.
SC, \$1.94 SC/hr.

TABLE 4.—PRESENT LOCAL CHANNEL RATES¹

Full time, per month, \$1,219.
Part time, per day, \$610.
Maximum monthly charge ("Topped" rate), \$1,220.
Full time service is subject to an initial six-month minimum service period.

¹Rates reflect June 28, 1981 16 percent across-the-board rate increase.

TABLE 5.—FILED LOCAL CHANNEL RATES—PLAN A

Step	Consecutive days of use—Over-to	Per channel	Additional charge for use of temporary facilities	
			MW	Cable
1	0-1	1,589.00		
2	1-2	884.00		
3	2-3	1,032.00		
4	3-4	1,106.00		
5	4-5	1,154.16	122.46	171.38
6	5-6	1,202.32		
7	6-7	1,250.48		
8	7-8	1,298.64		
9	8-9	1,346.80		
10	9-10	1,394.96		
11	10-11	1,443.12		
12	11-12	1,491.28		
13	12-13	1,539.44		
14	13-14	1,587.60		
15	14-15	1,635.76		
16	15-16	1,683.92		
17	16-17	1,732.08		
18	17-18	1,780.24		
19	18-19	1,828.40		
20	19-20	1,876.56		
21	20-21	1,924.72		
22	21-22	1,972.88		
23	22-23	2,021.04		
24	23-24	2,069.20		
25	24-25	2,117.36		
26	25-26	2,165.52		
27	26-27	2,213.68		
28	27-28	2,261.84		
29	28-29	2,310.00		
30	29-30	2,358.16		

¹Charge would apply per day for the 5th through 30th day in each consecutive 30 day period, for each microwave or cable system used in furnishing temporary facilities.
Initial 6-month minimum service period and maximum charge application eliminated.

TABLE 6.—ALTERNATIVE LOCAL CHANNEL RATES PROPOSED BY A.T. & T. IN DIRECT CASE—PLAN B

Full time, fixed, in-place, \$1,292 per month.
Full time, fixed, in-place, \$1,288 per day.
Full time, mobile, \$2,673 per day.

No six-month minimum service period.
No maximum monthly charge.

III. Discussion

A. IXC and SC Rate Structures

10. In both the SNI and 1978 Rejection cases, the Commission concluded that part and full time IXC are like service and that cost studies were required to support any rate differentials. AT&T has never supplied cost studies and, without these, the rate differentials have always appeared arbitrary.⁴

1. Reasonableness of the Plan A IXC-SC Rate Structure

11. For widely disparate reasons all of the commenters urge that the filed IXC rate structure is unjustified and unreasonable, and should be rejected. The Networks contend that the existing full time/part time rate structure is proper and that AT&T should be required to file cost studies and descriptions of actual facility use preparatory to a full-fledged investigation before an Administrative Law Judge. Hughes, INTV, Baseball, and the associated Scott study agree with the Commission's tentative finding in the Investigation order that the tariff revisions are unlawful, because they perpetuate an unjust and unreasonable discrimination between full-time and occasional users. The Scott study adds that the filing would perpetuate an artificial segmentation of the market, enabling AT&T to impose unjustified rate disparities.

12. For its part, AT&T essentially repeats its earlier justification for the Plan A IXC and SC rate structure. Thus, it defends its aggregation of all usage in excess of 24 hours into a single 24-730 hour rate step on the grounds that it has experienced no demand for non-continuous TV service in excess of 24 hours. The single final rate step has been fixed "to avoid a series of additional steps under which no service would be requested." (Direct Case p. 16) With respect to the consecutive use feature of the proposed structure, AT&T states that this has been generally designed to take account of the costs incurred in establishing occasional service, but attempts no analysis of

⁴In its February filing, for example, there was no explanation or justification for the proposed rate slope which resulted in very wide rate differentials between occasional and full time service.

whether the filed rate structure does this in a reasonable fashion.

13. We find on the record now before us that AT&T has not borne its burden of justifying the proposed rate disparities. Most notably, there still is no cost information to support the proposed rate slope up to 24 hours or the flat hourly rate for consecutive hours after the initial 24 hour period. IXC charges would be almost ten times as great per mile per hour for the first hour of occasional use as compared to full time. SC charges would be 36 times as great. As we admonished in the 1977 Rejection Order, generalized, unverifiable claims that such disparities are justified are simply inadequate. In other words, even if some differences are reasonable to reflect the spreading of set up charges or other factors, the carrier must explicate the basis for the choice of these particular charges. No such explanation is presented here. We must therefore find the rate differentials to be unjustified and thus unlawful as filed.

14. We also find unreasonable the use of the 24 to 730 hour rate step and the imposition of special construction charges for all IXC use of longer than 24 consecutive hours. As suggested in the May Investigation Order, the fact that historically there has been no demand for occasional service longer than 24 hours is not of itself persuasive, since that history is based upon AT&T's part time/full time rate structures, which segmented a single market into two parts, thus creating distorted demand or usage patterns.

15. The filed Plan A rate structure also maintains an apparent segmentation of the video transmission market, by a misapplication of traditional special construction requirements. The rates and regulations governing charges for special construction in connection with AT&T's private line services are found in AT&T Tariff FCC No. 262. Under its terms, special construction is applied in addition to the regular charges set forth in AT&T private line tariffs when, at the request of the customer, AT&T must construct facilities to provide services or channels which are not available and for which there is no other requirement, or when AT&T performs other special services such as constructing facilities of a type or routing not ordinarily used, expediting construction, or providing temporary facilities while permanent facilities are under construction.⁸ In this

case, AT&T has departed from its historical practice by proposing to require that all new IXC segments be provided as permanent facilities special construction charges even though none of these conditions is met. The requirement applies, for example, even if the facilities are available and regardless of whether special services are requested by the customer. Moreover, if the facilities are not immediately available, IXC channels would still not qualify as facilities for which there is no other requirement under the special construction tariff or general tariff principles. The construction of IXC facilities is not "special". As explained, these channels connect AT&T's television operating centers. They are not specially designed or built and are presumably provided in exactly the same way for all customers. AT&T incurs no special costs and constructs no special facilities. Rather, the facility is fungible, and if a long term customer ceases to use it the facility would become available to serve other long term or occasional customers. It is unreasonable, therefore, to attribute to any one customer costs which are necessary to the provision of a general offering.

16. IXC should be provided as ordinary tariffed facilities (as they already are for shorter periods). IXC is an ordinary tariffed service. Even if AT&T found it necessary to construct new facilities or shift existing facilities, the new customer should not be liable to pay an additional charge. The general tariff rate includes investment necessary to provide the service, and a customer should not be liable to pay extra charges because it happens that new facilities would be needed for the provision of ordinary service. An individual customer cannot fairly be assessed special construction charges simply because existing facilities are fully

there is no other requirement for the facilities so constructed.

2. AT&T constructs channel facilities of a type other than that which the Telephone Company would otherwise utilize in order to provide services or channels.

3. Construction by AT&T involves a routing of facilities other than that which it would normally utilize in order to provide services or channels.

4. AT&T constructs a greater quantity of channel facilities than that which it would otherwise construct in order to fulfill the customer's initial requirements for services or channels.

5. The channel facilities to provide services or channels are not available and, AT&T expedites constructions of the facilities at greater expense than would otherwise be incurred.

6. The channel facilities to provide services or channels are not available and, AT&T constructs temporary facilities to provide services or channels for the period during which the permanent facilities are under construction.

utilized and additional facilities are necessary. Such construction is merely part of the general service costs which the tariff rates should be fixed to recover.

17. Even if these facilities could be considered "special construction", AT&T's stated plan to apply a ten-year maximum termination liability (MTL) charge seems unreasonable. The MTL charge is a termination charge if the facility is used less than ten years and has no other use. AT&T's justification for imposing MTL charges is that AT&T always does this for specially constructed facilities used for 30 days or more. For service of less than a month, a one time charge is imposed to cover costs not reflected in the tariff rate. But in this case, the MTL charge would be applied even if the facility was used for only a day or two, solely because AT&T has lumped all service of longer than a day into the 24-730 hr., i.e., 1 day to 1 month rate step. This is so even though all the actual set up and take down costs are already included in the tariff rate, and thus if the service were considered to be for less than a month no extra charges could be justified.

18. In the 1978 Rejection Order, we questioned the 6 month minimum service requirement for full time IXCs. The effect of imposing MTL special construction obligations on all new IXC service of more than one day is in fact to make the service a ten year minimum term (although the actual MTL charge would be reduced or eliminated if the facility is used to meet other requirements). We recognize that the projected transfer of some service to satellites may justify restriction of any new construction or investment in terrestrial video facilities to meet short term demand. Such investment might be wasteful in the long run and we certainly do not wish to encourage inefficient facility investment. But this does not justify a general imposition of MTL charges where no actual new construction is needed. Indeed, if existing customers transfer to satellite service there is if anything likely to be excess, unused IXC capacity. It is difficult to perceive a rationale for imposing special construction charges and long term termination liability on customers subscribing to vacant facilities.

2. Reasonableness of Alternative Rates—(Plan B)

19. In presenting its alternative Plan B rate structure, AT&T generally asserts that this structure would meet Commission concerns by reflecting

⁸ AT&T's F.C.C. Tariff No. 262 lists six specific circumstances in which special construction charges are applied:

1. The channel facilities to provide services or channels are not available and, AT&T constructs facilities to provide the services or channels and

front-end and operating costs for all customers uniformly.

20. The comments are divided on this plan. On the one hand, the Networks repeat their position that an evidentiary hearing is necessary before moving from the existing full-time/part time rate structure. The remaining comments vary on how much better they consider the new structure to be. Hughes regards it as only a slight improvement, while CNN believes it could be the basis for lawful rates. The parties who support the structure, however, question the calculation of the service charge. They generally argue that AT&T has included costs in the front end charge which are incurred for continuing use, and that the result is to load these costs unfairly on occasional users. For example, 68 percent of the total front-end costs are for "testing", which amounts to \$318 per IXC section. The commenters contend that this is a very high price for testing, and that it is also likely that channels are tested regularly as part of on-going operations, not just when they are set up. The commenters also note that all sales and billing costs are assigned as part to the service charge. They agree that if the charge is imposed only when a service is set up, a long term user would never be subject to such costs. Baseball suggests as a solution that simple, flat rates without a service charge would be more reasonable.

21. AT&T defends both the proposed structure and the assignment of front-end costs. With regard to the contention that the service charge includes full-time expenses, AT&T answers that most of the expenses included in the charge are generated by newly provided IXCs, although some full-time expenses are included which would require a 9 to 12 month study to quantify. For example, as to testing, the major expense element, AT&T states that most of the expenses charged to interexchange testing are incurred by the set-up of newly added IXCs and take-down of IXCs.

22. From our examination of the record and the comments, we conclude that the Plan B alternative represents a significant improvement over both the existing rates and the filed Plan A, and could provide a useful framework for a fair and reasonable IXC and SC rate structure. First, although simple, the structure would appear to have the desirable effect of reflecting the actual costs of IXC service in a manner which is fair to all customers, even if the customers for the service are basically divided between full time and occasional users, as AT&T and the Networks contend. Costs of setting up new transmission networks would

properly be assigned to the customers who required this service. Continuous use, on the other hand, would be priced on the amount of actual use, which also should reasonably reflect costs.⁶ In the Investigation Order, we noted that it might be proper to use a curvilinear rate structure in order to reflect both front-end start-up and continuing operating costs. The Plan B structure also would reflect those costs and would do so directly.

23. In addition, the Plan B structure also strikes us as relatively easy to implement and to regulate. Under the Plan B structure there is a single but reasonable basis for determining the two parts of the rates: front-end costs are assigned to the service charge and on-going, operating costs are assigned to the hourly charge. Although some study, experience, and estimation may be necessary to draw this line accurately, we believe that the simplicity of the Plan B rate structure makes the task of cost analysis more manageable.

24. While the proposed structure may be sound in principle, we also believe the comments do raise valid points in arguing that the rate for the proposed service charge is too high because it includes charges actually assignable to continuing use. AT&T in fact concedes that some on-going expenses are included in the charge, though it doesn't purport to know how much.

25. The comments also present a number of criticisms and suggested movements to the proposed service charge. The Networks, for example, contend that the application of the charge is so vague and confusing as to be totally unsatisfactory from tariff standpoint. However, we think it unnecessary to consider this argument now. AT&T provides some explanation and examples of the application of the charge in its reply, but, in any event, we are at present considering only overall proposals, not specific traffic language. The important features of the proposal are clear, and any uncertainties which may arise when a tariff is filed may be considered in the review of that tariff.

26. The Networks further contend that, if retained, the service charge should be not on a "per system" basis as AT&T proposes, but rather a "per order" basis. Under the Networks' proposal, there would be a single service charge for each IXC order, even if the order requires set-up of more than one system. On the other hand, the Scott study suggests that smaller systems should have reduced service charges. In

addition, the Networks and other parties suggest modifications such as a reduced rate for consecutive days of use or for recurring use. While we have no specific objections to such modifications of the service charge, to the extent that they reflect improved cost allocation or increased efficiency, we also recognize that any tariff inevitably averages costs to some degree. In general, the assignment of a single service charge for each system seems to us a reasonable and straightforward approach, even if it averages front-end costs somewhat. Therefore, we will consider whether any refinements are warranted in a later stage of this proceeding based upon actual operating experience.

B. Local Channels

1. Current Rates and AT&T's Plan A

27. Local channels are currently provided on a per-day basis between any two local points, either as part of an interexchange hookup or to meet local needs. The channel may be provided either by cable or microwave facilities. In the existing rate structure, the part time rate per day is half the full time monthly rate, and part time rates are "topped." (That is, the maximum monthly charge for part time service is about the same as the full time rate or the equivalent of two days of part time use.) There is a six-month minimum service period for full time service. Significantly, in the 1978 Rejection Order, the Commission suggested that AT&T consider eliminating the six-month minimum service requirement and disaggregating local channel costs and rates to reflect the variety of local channel services. It also strongly criticized AT&T's proposal to eliminate topping.

28. In Plan A, AT&T proposed to increase local channel rates by 124 percent for full time service, and 11 percent for the first day of part time service. These increases would be part of a proposed 30 step declining rate structure which eliminates topping and the six month minimum service period. AT&T does not disaggregate local channel rates, but it does propose a surcharge for temporary facilities used longer than 4 consecutive days. In the Investigation Order, we questioned the elimination of topping, the use of rates based upon consecutive days of use, and the surcharges. We were particularly concerned that the proposed structure would encourage inefficient use of local channels and could be unfair to occasional users.⁷

⁶ As we discuss, *infra*, we also intend to consider whether peak/off-peak rates might be desirable for the hourly charges.

⁷ We also questioned the failure to disaggregate local channel rates, which is discussed *infra*.

29. AT&T defends elimination of topping as a means of reducing current inequities between full time and occasional users. It contends that topping is not cost related but designed to ensure that occasional users pay no more than full time users, regardless of the costs they cause. The Plan A structure is claimed to be more precisely cost related and to encourage use only as it is required.

30. The comments generally disagree. The Networks contend, for example, that elimination of topping is inequitable and not cost related.⁸ Other commenters contend that topping has been necessary to prevent discrimination against occasional users, or that it could be helpful as a means to stimulate resale and arbitrage. INTV urges that topping should be retained unless the local channel rate structure is reformed to eliminate preferential rates.

31. In general, we agree with INTV on this point. Topping was adopted by negotiated agreement in the mid-1970's to prevent inequitable rates. As such, it has been a somewhat arbitrary device since its inception rather than one based on cost. At the same time, topping must be perceived as part of an overall rate structure which imposes much higher rates upon occasional use and which itself has not been cost justified.

32. AT&T still has provided no explanation or justification for the proposed rate slope or its use of rates based on consecutive days of use, as we called for in the Investigation Order. As matters currently stand, because of the high first day rate and the consecutive day rate structure, a part time customer for ten non-consecutive days of service a month would pay 240 percent more than the proposed rate for 30 consecutive days. This seems not only unfair on its face but also encourages inefficient use. Assuming such a rate disparity might be justified by a demonstration of actual costs, to date AT&T has presented only general, unsupported claims of reasonableness. These are, obviously, insufficient to meet its burden of proof to justify its Plan A structure.

33. In defense of the proposed surcharge, AT&T explains that it maintains temporary local channel equipment in pools sized to reflect AT&T's experience with service requests. It states that 97 percent of all such requests are for four consecutive days or less. Where facilities are

required for longer periods, AT&T contends that it must lease equipment from other suppliers. A surcharge based upon the average lease charge is said to insure that the costs of leasing are borne by the cost-causing customer.

34. We find AT&T's explanation unpersuasive and the surcharge unreasonable. There is no basis for AT&T's assumption that use of more than four consecutive days imposes additional costs. As the Scott Study points out, equipment pools are sized to meet peak demand, not particular service periods. The fact that a customer uses a channel for more than four days does not cause AT&T to lease additional facilities. Rather, AT&T's lack of sufficient facilities to meet the needs of peak period customers causes such additional expenses. Following AT&T's argument to its logical conclusion, AT&T would have to lease additional equipment in the face of a five day service order even if it still had idle facilities of its own. This obviously cannot be the case. The relevant factor is the simultaneous peak daily use, which is a function of overall demand and not simply of long term demand. It similarly is inconsistent to argue as AT&T does on the one hand as AT&T does that long term use is less costly, while on the other hand that it is more costly to provide longer term service on a consecutive day basis because of the way AT&T designs and sizes its pools. For those reasons, we find the proposed surcharge unreasonable.

2. AT&T's Alternative Plan B Rates

35. In its alternative local channel rate structure, AT&T has responded to our suggestion to consider disaggregated local channel rates, to reflect the different technologies for those channels. It proposes a monthly rate for full-time, fixed, in-place facilities of \$1288, and a daily rate for part time, mobile facilities of \$2673.

36. A basic goal of the Commission's suggestion was to permit competition, if feasible, for mobile microwave channels. Only Wold and the Networks support the proposed disaggregation of rates into full time, part time in place, and part time mobile. Wold is a competitor of AT&T in providing mobile facilities. It contends that on the basis of the record the Commission must conclude that rates should be disaggregated because AT&T's cost study shows that mobile channel rates do not reflect costs. Also, it urges that alternative suppliers do exist (though it mentions no suppliers other than itself) and that there is no reason to believe others would not arise. Indeed, it points out, to permit AT&T to offer service

below the full and fair price on the grounds that there is no alternative supplier may make that supposition a self-fulfilling prophecy—competition might not arise until the market is permitted to act naturally. The Networks also support disaggregation, though they argue that no credible data has been offered to support the mobile channel rates.

37. The remaining commenters oppose disaggregation. In general, they argue that mobile channels would in fact be used interchangeably with in-place channels, and that the rationale that they use separate, dedicated facilities is an internal AT&T accounting mechanism which bears little relation to reality. It is claimed that local microwave facilities are entirely fungible and interchangeable. According to these commenters, AT&T sets up pools of microwave facilities which it presently classifies as full time and part time. For example, Hughes states that a mobile microwave channel is classified as full time in-place service, where it is leased six months of the year at a stadium for baseball coverage and six months at an arena for basketball and hockey. If AT&T followed this same practice for mobile facilities, the argument runs, it could exercise its considerable discretion to artificially segment the market by presenting purported cost differences in support of differential rates solely on the basis of its own facilities practices. Disaggregation in this manner would provide AT&T with an incentive to create classes of users, some more favored than others.⁹ Also, it is argued that disaggregation could lead to the inequitable result of having customers at the same place paying very different rates for the same service,—e.g. at sports stadiums where there are several broadcasters. In sum, the comments contend that from the perspective of the customer, there is but a single local channel service.

38. In addition, these commenters argue that the cost support for the disaggregated rates is highly questionable. All of the cost figures,

⁸ For example, they point out that under Plan B mobile facilities would be priced at \$2673 per day without limit and with no lower rate for additional days. If a facility were kept at the same location, as in the case of an unexpectedly ongoing news event, the local channel rate could exceed \$80,000 per month vs. the monthly in place Plan B rate of \$1292.

⁹ One possible remedy to eliminate AT&T's incentive to force customers into the more expensive part time services is a suggestion by Storer that if AT&T fails to fill an order for a full time channel within a reasonable time, it should charge no more than the full time rate regardless of the channel used in providing the service. CNN also suggests that disaggregated rates, if adopted, should be phased in over a reasonable adjustment period, say five years. Wold and the Networks opposed a phase-in. AT&T also states that it is unaware of any problems in obtaining permanent facilities for full time service and attacks the Storer proposal as unreasonable and unrealistic.

they say, are based on unverifiable estimates from aggregated investment categories. The rates themselves are derived from overall costs by estimating that part-time use is only once a month. Yet if part-time use is provided by mobile channels, this presumably means the mobile facility is expected to be idle 29 days out of thirty, which the comments urge is unlikely. Use of mobile channels for sports events, for example, is claimed to be more on the order of 10 times a month.

39. As a separate matter, the comments also object generally to the magnitude of the proposed increases. Hughes claims that its local channel rates for baseball would increase by 204 percent under Plan A and 734 percent under Plan B. Moreover, it claims that it generally is required to pay substantial special construction charges for these channels, often in amounts greater than the tariff rates.¹⁰

40. In its reply, AT&T states that much of the criticism of the disaggregation of local channel service results from misconceptions and misunderstandings as to how the service is furnished. It contends that local channels are not interchangeable, although full time and part time in-place channels are identical from a facility and equipment standpoint. The distinguishing characteristic is said to be that part time, fixed in-place channels are used intermittently, by a single customer. In-place microwave channels, moreover, are said to differ from mobile facilities because they are provided using permanently installed rack mounted facilities. AT&T says it discourages permanent installation of part-time facilities, in the interest of efficiency, and encourages use of pooled, portable equipment. Mobile channels are furnished using portable microwave and cable systems shipped from AT&T's pool to the telco location serving the site.

41. As we have noted, the proposal to disaggregate local channel rates originated with the Commission, with the intent of achieving rates more closely correlated to relevant costs, efficient use of facilities, and fair competition. Our examination of the comments and the record, however, convinces us that it would be premature to implement the Plan B local channel rates at this time. As we discuss, *infra*, this is principally the result of a failure to disaggregate rates properly or a lack

of evidence that disaggregation as Plan B proposes would be reasonable. For one thing, the rate increases are in some cases quite substantial. The Plan B rates would represent a 111 percent increase in part time fixed in place rates and a 338 percent increase for part time mobile. Moreover, if the proposed elimination of topping were also adopted, part time mobile rates could in an extreme case be as much as \$800,000 a month, over 65 times the current rate. Increases of this magnitude should be fully justified, and in this case, as the comments point out, the support information is almost entirely based upon unverified and doubtful estimates of costs and usage. AT&T states for example that sufficient data was not available to disaggregate mobile investment, so that an estimate was used. Although the chosen estimation method may be reasonable, as AT&T claims, it is impossible on this record to assess the accuracy of the estimate.¹¹ In addition, the predicate of the rate, the estimate that part time channels would be used one day a month, is unsupported. But if this is in error by only a few days, the part time rates might be several times too high.

42. It is also far from clear that Plan B would actually disaggregate rates in a rational, consistent way. As we see it, either cable or microwave facilities could be used for any of the local channel categories. What's more, the other characteristics distinguishing one category from another are insubstantial. For example, the only difference between full time and part time in place channels is said to be the amount of time customers use them; the facilities

themselves are identical. In-place facilities are also said to use more efficient rack-mounted facilities, but AT&T states that it encourages use of pooled, portable equipment for part time in-place use. Apparently this is the same equipment used for mobile service and if it can be used for part time, in-place service it follows that it can also be used for full time. In other words, as the comments claim, a pooled microwave facility could be used for any of the three services, but would be charged at vastly different rates depending upon whether AT&T classified it as full time, part time, or mobile. In the final analysis, then, it appears that the only solid price justification for disaggregated local channel rates is the relatively minor savings from rack mounting. Without more this seems much too slight a factor upon which to justify the enormous rate differences AT&T would implement in its Plan B.

43. To sum up, the basic purpose of suggesting disaggregation was to recognize the different technologies used for local channels and to assign costs to each in order to achieve fairer rates and greater efficiency. It is far from clear that the Plan B structure would do this, and indeed it might well be less reflective of actual costs than the present rates or Plan A, which at least are not dependent on the availability of equipment resulting from AT&T's planning and pooling practices. Although World's point is well taken that competition is not likely to develop until subsidies are eliminated, we are unable on the basis of this record reasonably to conclude that subsidies in fact exist and if so how large they are. This fact, in combination with the other concerns just discussed persuades us that we should defer efforts at disaggregation at least until we have a better understanding of the costs, facilities, and markets involved. For the time being, the rate increases which would result from immediate disaggregation of local channel rates simply are not supported by the present record. (See also our discussion in Paras. 76-78 below).

3. The Scott Study Alternative Rate Structure

44. The Scott study, supported by Hughes, INTV, Baseball, and the NHL/NBA, presents an alternative local channel rate structure. It employs rates essentially identical to those suggested by AT&T in Plan A, but increased to reflect a 12.75 percent rate of return. However, the Scott proposal has important structural differences. The rate would be based on total days of use

¹¹ The derivation of mobile investment is based on residual techniques and various assumptions. The basic assumption is that the unit investments for all non-mobile (fixed in place) channels are the same, whether full time or part time. An estimate of part-time, fixed in place local channels was made since the actual number was unknown. This was accomplished by first deriving the unit investment of station equipment associated with full time local channels. Both the numerator and denominator of the unit investment computation were based on estimated or forecasted data. The unit investment figure was then divided into the estimated part-time, fixed in place investment related to station equipment to derive a theoretical number of part-time, fixed in place local channels. These hypothetical part-time, fixed in place local channels were used to develop the central office equipment and outside plant investments to be assigned to part-time mobile in the following manner. Estimated investments in full time facilities/equipment were unitized and assumed to be the same for part-time, fixed in place local channels. The unit costs thus derived were multiplied by the estimate number of local channels computed above, resulting in total part-time, fixed in place investments. Finally, these investments were subtracted from an engineering estimate of total part-time (fixed in place plus mobile) cost to arrive at the investments related to mobile.

¹⁰ For example, during basketball season, Hughes claims it was charged \$1,450 for the first date and \$1,390 for each of 20 additional date groupings for service at the Pontiac, Michigan Silverdome for a total cost of \$29,250 in addition to the tariff rate.

a month rather than the number of consecutive days, and the surcharges would be eliminated. The Scott study contends that this rate structure would produce as much revenue as AT&T's, but would be non-discriminatory and would encourage efficient use. The first day's rate would be relatively high, to recognize frontend costs, but marginal days would be much less. It is argued that this would provide an incentive for users to take more service, but only as much as actually required, since the rate would never "top" out. Any loss of revenues (because non-consecutive days are not priced at the high first step price) is said to be relatively very small, and eliminated in any event by the stimulated increase in demand.

45. AT&T contends that the significant flaw in the Scott proposal is that it ignores the relationship of the local channel rate element to other TV service elements. The Scott proposal would, it is claimed, reduce local channel revenues which would have to be compensated for by the other elements or by raising local channel rates. AT&T also criticizes the lack of a study to show that the Scott alternative would stimulate demand, and contends that in the absence of such studies and/or changing IXC, SC, or local channel charges, the Scott alternative is unworkable.

TABLE 7.—CORRECTED AT&T RATE STRUCTURE FOR LOCAL CHANNELS TO PRODUCE EARNINGS RATIO AT 12.75 PERCENT¹

[Unassigned PSV Cable Pairs Excluded]

Step	Rate
1.....	\$582
2.....	874
3.....	1020
4.....	1093
5.....	1141
6.....	1189
7.....	1237
8.....	1285
9.....	1333
10.....	1381
11.....	1429
12.....	1476
13.....	1524
14.....	1572
15.....	1620
16.....	1668
17.....	1716
18.....	1764
19.....	1812
20.....	1860
21.....	1908
22.....	1956
23.....	2004
24.....	2052
25.....	2100
26.....	2148
27.....	2196
28.....	2244
29.....	2292
30.....	2340

¹ No consecutive use requirement to qualify for rates and no supplemental charges for temporary facilities for use exceeding four consecutive days.

46. We note at the outset that it would be premature in any case to reach any definite conclusions concerning the

Scott rate structure. Because of the pleading cycle in this investigation, AT&T was afforded only fifteen days to reply to this proposal. Other interested parties had no opportunity to comment at all. Nevertheless, our initial examination suggests that the Scott plan may significantly improve the present structure, without the defects of AT&T's Plan A noted above. For example, the Scott plan may well provide the overall revenue AT&T claims to need. AT&T itself estimates that part time demand averages only one day a month and all such single days would be priced at the high first day rate, in the Scott plan as in AT&T's Plan A. Consecutive days of use would also be priced the same way as in Plan A. One advantage of the Scott plan is that it would replace the artificial "topping" provision in a way which would prevent extremely high rates to occasional users while both stimulating additional use and placing a price on such use which would encourage efficiency. AT&T is correct, of course, that there are no studies to indicate that the Scott proposal would stimulate demand sufficient to compensate for lost revenue from non-consecutive days; but AT&T has not, itself, quantified any revenue shortfall which might result or successfully refuted Scott's projection that any revenue loss would be small even in the worst case. We do, of course, recognize the need for the carrier to remain whole with respect to revenue requirements recovery and would not arbitrarily impose rates on a carrier without adequate knowledge of revenue effects. But it is reasonable to expect some stimulation and such projections inevitably are in some degree speculative. Certainly a customer cannot be expected to provide market sensitivity studies comparable to those which AT&T might perform and, as we've seen, much of AT&T's support information is based upon unsupported estimations. If revenues are in fact adequate, there would be no need to adjust these rates or those for IXCs and SCs.

47. In short, although the Scott study lacks an adequate substantive basis for permanent prescription, it does appear to have sufficient merit to warrant further comment in the next phase of this investigation on whether it should be prescribed on a temporary basis. Temporary prescriptions would allow further inquiry to determine whether the proposed structure is in fact reasonable, based upon actual experience. In the comment period we establish below, AT&T and other parties will have an opportunity to examine this proposal more closely to judge whether it is generally within the range of

reasonableness, to suggest modifications that may be needed or to propose alternatives. We think the soundest course is to proceed in the direction of a more rational and usage sensitive rate structure, by evaluating the Scott proposal or other alternative for reasonableness and then to fine tune that structure, in light of practical experience.

C. PSV Investment

48. Polyethylene shielded video cables (PSV) are conductors developed for local video transmission. AT&T included PSV with telephone pairs in composite cables as part of its network of permanent, local television distribution facilities in most major U.S. cities. Since the installation of these cables, relocations of TV studios and transmitter locations, abandonment or moves of program source locations (e.g. Ebbets Field and the Polo Grounds) and new technologies such as mobile microwave facilities and video recorders have substantially reduced the need for PSV pairs. In its February filing, AT&T stated that \$29.7 million of its investment in PSV cable (55% of all PSV pairs) was not being used for television transmission service and had no current or foreseeable use for television services, although AT&T was exploring the use of these unneeded facilities for future private line applications. The PSV pairs cannot be retired because other cable pairs in the composite cables are still in use. The filed rates included a return for this investment but AT&T states that it is willing to remove it from the television category and assign it to all private line services. The effect of this transfer would be a 13 percent reduction in Type 7001 rates, and an increase in the revenue requirement of the remainder of the Private Line category by 0.3 percent. In the Investigation Order, we noted that this investment could arguably be disallowed as no longer used and useful property and asked for further comment.

49. Upon further examination of the nature and history of these facilities, we do not believe that disallowance would be appropriate in this case. The composite cables containing PSV pairs remain in use providing service. Thus the overall facility is clearly used and useful property. The PSV pairs were included in these cables because this was far more economical than separate video-only cables, \$.22 per pair foot compared with \$.71 per pair foot according to one study. Inevitably in this sort of planning decision for mixed-use facilities trade-offs must be made between overall economies of operation

and the possibility that particular sub-facilities may become unnecessary because of changing conditions.¹² In this case, video customers have benefitted from the economies of including PSV pairs in composite cables. It would appear unfair to disallow this investment *post facto* as not used and useful when the PSV pairs themselves cannot be retired precisely because the overall composite cable remains in useful service. Since the composite cables themselves remain used and useful we will not disallow that part of the overall investment allocated to PSV.¹³ At the same time, we also do not believe that it would be fair to spread the responsibility for these costs to all private line customers as AT&T suggests in its alternative proposal. These facilities were designed and constructed solely to serve video customers, not for other private line use. In general, facility costs should be assigned to the cost-causing customer and we see no reason to depart from this principle here. If AT&T does develop other uses for these facilities, as it suggests it may, then the costs can be reassigned to other services to the extent of such use. But no showing of that kind has yet been made. Accordingly, we conclude that unassigned PSV investment should continue to be included in the Series 7000 terrestrial video category at present.

D. Cost Issues

50. The Networks raise a number of issues concerning AT&T's costs and support information aside from unassigned PSU investment. These are discussed at length in Appendix C. Some of the Networks' arguments appear unfounded, but two problem areas should be mentioned briefly. AT&T uses depreciation reserve ratios which differ significantly from those in its 1979 FDC Report. AT&T has not justified this discrepancy or the specific ratios chosen, nor has it provided alternative ratios as it has done in various other tariff filings. Also, AT&T allocates the expense categories on the basis of revenues, despite the fact that

the revenues used to make such allocations reflect growth due to rate increases. This methodology tends to overstate expenses. In its future filings AT&T should justify its depreciation reserve factors and display the impact of using more specific reserve factors related to television services. We will also direct AT&T to develop a more realistic expense allocation scheme as discussed in Appendix C.

E. Services for Noncommercial Educational Broadcasters

51. In the Investigation Order, we separately questioned AT&T's proposal to remove certain tariff offerings for public broadcasters, noting our requirement that free and reduced rate services to public broadcasters under section 396(h) of the Act, 47 U.S.C. 396(h), be tariffed. *Public Broadcasting Service*, 63 FCC 2d 707, 722-23 (1977). In its direct case, AT&T explains that the Commission had misconstrued its proposal, which it says was not to detariff these services but to provide equivalent service under its ordinary commercial tariffs and to report such services quarterly pursuant to 47 CFR 43.74.¹⁴ AT&T also states that it is willing to accept any reasonable approach concerning reduced rate service.

52. In general, the comments agree with AT&T that the Commission misinterpreted AT&T's proposal. However, the comments do urge that Commission action is necessary to implement the reduced rate provision in section 396(h). They suggest that AT&T's proposals to charge relevant costs on a case-by-case basis is too vague and uncertain, and creates difficulties in effective long term planning. Further, it is contended that detariffing would deprive public broadcasters of notice, cost support information, and procedural rights. One commenter goes on to suggest that the Commission amend its rules to require one year's notice for increases in reduced rate services. Several of the comments urge that AT&T's proposal to maintain the February rates to existing public broadcasting customers be accepted, and call for either informal meetings or prescription to set future rates. One suggested approach is to charge rates based on incremental costs, as in Docket No. 18316, 31 FCC 2d 496 (1971) which led to the setting of rates to the

Corporation for Public Broadcasting at one third of the commercial rates.

53. As to the actual rate levels, AT&T states that it has no objection to applying a flat percentage discount to its commercial rates, and notes that this would relieve all concerned from the burden of making case-by-case studies. However, AT&T believes that the proposed two-thirds discount is too great in view of the incremental costs, the competitive environment, and AT&T's right to a fair return on its investment. AT&T suggests that a reasonable discounted rate would be on the order of 75 percent of the commercial rates.

54. It appears to us that AT&T's proposal could provide a reasonable framework for implementing section 396(h). It would not roll back the June across-the-board increase of 16 percent nor would it give the requested one year notice for increases as some comments suggest.¹⁵ However, it would protect the rights of public broadcasters in the same fashion as other customers, assure uniform treatment at reduced rates, and relieve all concerned of the burden of unnecessary case-by-case studies. To this end, therefore, we direct the Common Carrier Bureau to pursue this matter informally with AT&T and interested public broadcasters in order to resolve any further issues concerning this approach.

F. Special Construction Charges for Local Channels

55. In their comments, INTV and Hughes question AT&T's application of special-construction charges to local channels. They claim that special construction charges for occasional local channels are a significant expenditure, frequently amounting to several thousand dollars per installation. These charges may even be more than the standard tariff charges and show significant variations which INTV terms unaccountable. Hughes also argues that special construction charges do not reflect cases where there is no foreseeable alternative use for a facility, as AT&T claims, but are part of AT&T's historic facilities pooling practices. In support, Hughes presents a list of its orders for fulltime local channels at sports stadiums which indicate wide variations in the availability of full time channels and in the special construction, and other charges which were imposed. Both INTV and Hughes urge that AT&T should be required to explain and offer

¹² The Networks and Hughes contend that PSV pairs were included in composite cables without regard to future demand solely because AT&T perceived this practice as being in its best interest and because the additional cost was minimal. However, they provide no evidence that AT&T's facility planning practices were unreasonable or that the initial installation of these facilities was unwarranted. We see no substantial reason to institute an investigation of such practices.

¹³ We should point out in this regard that a carrier's rate base will normally include facilities which are not being fully utilized to meet current demand but which are, nonetheless recognized as "used and useful."

¹⁴ For example, AT&T states that Type 7003 service customers would receive Type 7000 Local Channels which are, as presently provided, identical to Type 7003 channels in all material respects.

¹⁵ Such a Commission-imposed requirement would probably conflict with section 203(b)(1) of the Act, 47 U.S.C. 203(b)(1) which requires only ninety days notice of tariff changes.

detailed justification for its special construction practices.

56. AT&T replies that an investigation of special construction charges is unwarranted, because the charges are uniformly applied to cover extraordinary construction and removal costs and, in any event, came under Commission scrutiny in Docket Nos. 11646 and 15471.

57. We find Hughes' undetailed list of charges and the other arguments insufficient to demonstrate unreasonableness. For one thing, Hughes fails to detail the costs such charges were claimed to recover. For this reason, we are not convinced that a formal inquiry or investigation of this issue is warranted. However, we will delegate authority to the staff to request further information from AT&T and other parties and will revisit this issue if necessary at a later stage in this investigation.

Conclusion and Implementation

58. The fundamental goal of this proceeding has been to achieve reasonable rate structures for IXC—SC service and for local channels. For the reasons explained above, we have concluded that major elements of the filed IXC—SC and local channel rate structures are unreasonable, or at least not properly justified. Accordingly, we find the filed rates to be unlawful and we have determined not to allow them to go into effect.

59. At the same time, we believe that significant progress has been made. As discussed, AT&T's alternative rate structure for IXCs seems to provide an equitable approach which could fairly divide front end costs from operating costs for both continuous and occasional users. Also, though more comment is needed, the variation of AT&T's filed local channel rate structures proposed in the Scott Study may provide adequate revenue while encouraging our other policies such as efficient use and avoiding potentially unfair charges.¹⁶ Alternatively, as we discuss below, the Plan B IXC structure could also be adapted for local channels. In both cases, however, certain issues remain. As we see it, the IXC service charge apparently includes some operating costs properly assigned to the hourly charge which AT&T states that it would require a 9 to 12 month study to quantify. For local channels, the

Scott study argues that any loss of revenues caused by basing rates on total days of use rather than consecutive days would be offset by the stimulation of increased demand. AT&T notes that no studies are provided to indicate that the Scott alternative would stimulate demand.

60. In addition, the proposed use of flat hourly rates in the Plan B IXC structure also raises other issues which have not yet been considered. The Networks, for example, criticize the Plan B proposal because the flat hourly rates do not reflect the different costs of peak and off-peak use. They argue that occasional users impose peak demands on the video transmission system which require AT&T to construct multiple channels to serve relatively infrequent needs, and suggests that rates should reflect this peak use. While we cannot agree with the Networks' further contention that the present full time/part time rate structure implements peak load pricing in any efficient manner,¹⁷ our tentative view is that there would be merit in pursuing a genuine peak/off-peak structure. Indeed, AT&T has also argued in the past that the capital costs of its plant are principally determined by demand for services during peak periods and that the cost of peak part-time service approaches that associated with full-time service.¹⁸ We are sufficiently persuaded by these arguments to request comments on whether any acceptable Series 7000 tariff should incorporate peak-load pricing, since the market for terrestrial television transmission service appears to have pronounced peak and off-peak periods of demand.¹⁹

¹⁷ Full time requires the customer to occupy facilities continuously whether it wants them or not in order to obtain the lower rate, through both peak and off-peak periods. Part time, on the other hand, imposes the same rate whether the use is peak or off-peak, neither offering uses a price structure which encourages efficient use by providing price incentives for off-peak use and disincentives for peak use, nor can the two offerings taken together be considered peak and off-peak.

¹⁸ Brief of AT&T, pp. 4, 10, and Proposed Findings of AT&T, Par. 38, cited in 25 F.C.C. 2d at 579, 580. See also, Docket 18128, 61 F.C.C. 2d 587, 626 (1976), where the Commission gave guarded encouragement to the notion of peak/off-peak pricing of network services. We note that peak-load pricing has already been implemented for satellite television transmission service. For example, RCA Americom charges occasional users of satellite protected service about 60 percent more during the peak period (3:00 p.m. to 1:59 a.m. (EST)) than during the off-peak period. See, *RCA American Communications, Inc. Tariff* F.C.C. No. 1, Domestic Satellite Service, at 9th revised p. 29.

¹⁹ Instead of locating single peak and off-peak periods, AT&T may find, for example, that a primary peak exists during "prime time" and that a secondary peak exists during some other period of the day. Perhaps the cost of acquiring advertising time could serve as a guide to the time, duration and

61. The Commission has shown a growing awareness of the importance of improving efficiency and equity by looking at the relationship between pricing strategies and peak demand on the network. The most recent evidence of this is the Commission's action requiring AT&T to adopt peak-load pricing in its offering of Wide Area Telecommunications Service:

There is considerable economic literature on the subject of peak/off-peak and time-of-day sensitive pricing. According to one generally accepted model, efficient time-of-day rate structures should ideally have off-peak prices which recover variable (operating) costs, and on-peak prices which recover both variable and capacity (capital) costs. The result of such a rate structure is decreased demand during peak hours and increased demand during off-peak hours so that demand is evened as much as possible throughout the day. Thus, the traffic load is leveled across the entire day, making maximum use of the capacity and reducing the need for unnecessary plant expansion. Even if peaking still occurs (the so-called "firm-peak" case), the marginal costs of capacity investment are recovered from the subscribers who cause the need for construction of additional capacity. The result is that both efficiency and equity objectives are met.²⁰ [Footnotes deleted].

62. In addition, it can also be argued that customers who use service for continuous blocks of time may generate savings to the carrier in the form of increased fill of the available facilities. Such economics could arguably justify tapered hourly rates for high volume of long duration use.

63. In our investigation Order we questioned the rate slopes proposed by AT&T, particularly the 24 to 730 hour rate step. But we recognized that some form of a tapered or curvilinear rate structure could be reasonable if justified. If AT&T believes that a tapered rate is more closely related to costs than a flat rate, it may propose such a structure in the next phase of this proceeding. A tapered rate structure should of course be justified as reflecting costs more accurately than flat rates and the specific taper should have a demonstrable basis in costs.

64. In order to resolve these various remaining issues we will request further comments on whether we should, on an

magnitude of such peaks. Fortunately, the principles of peak-load pricing are already well developed in the economic literature. For example, see P. O. Steiner, "Peak Loads and Efficiency-Pricing," *Quarterly Journal of Economics* at 585-610 (November 1957); R. Turvey, "Peak-Load Pricing," *Journal of Political Economy* at 107-113 (January/February 1968); and E. Bailey, "Peak-Load Pricing under Regulatory Constraint," *Journal of Political Economy* at 662-679 (July/August 1972).

²⁰ AT&T, Docket No. 80-765, 84 FCC 2d 158, 177 (1980).

¹⁶ However, the Scott study assumes that the unassigned PSV investment will be disallowed. Since we have concluded that this investment should continue to be included as an allowed cost of Series 7000 service an appropriate adjustment would have to be made to the Scott rates if adopted in principle.

interim basis, prescribe the Plan B IXC-SC rate structure with a corrected service charge and to prescribe for local channels either the Scott proposal or an alternative proposal developed by the staff using the Plan B IXC structure. We will also request comments on whether a peak/off-peak structure would be reasonable for hourly IXC and SC charges and what structure would be appropriate for this service. This would include delineation of when peak usage occurs and proposals for corresponding rate differentials. We will also request comments on the use of tapered rate structure.

65. Because further studies will probably be needed to fine tune these rates, for example the study AT&T states is necessary to assign front end costs, we expect that any prescription will be for an interim period of one year. We would require AT&T to perform practical studies during that year to fine tune the rates and indicate any improvements or alternations which may be necessary.

66. AT&T states in its direct case that it is willing to substitute the alternative rates for those it has filed. Nothing in our disposition of this case is intended to discourage AT&T from making a tariff filing of its own, if it desires, which comports with the principles set out in this proceeding. As we have said, we think AT&T's Plan B IXC proposal represents a significant advance in this proceeding. However, we also think it appropriate in order to resolve this long-standing set of controversies that we proceed to consider the prescription of IXC, SC, and local channel rates for a limited period. Under these circumstances, it appears to us that an orderly way to proceed will be to allow AT&T an initial opportunity to comment on the additional issues raised in this order, and on the rates set for comment. It may also submit any alternative proposals or rate structures which it believes would conform to the conclusion reached in this order. Its comments should, in particular, give its views on the use of peak/off-peak hourly rates, and AT&T is also free to propose specific peak/off-peak rates. AT&T is also requested to describe how the pending consent decree negotiated between AT&T and the Justice Department would affect the rates and terms for terrestrial video service. We will allow opportunity for further comment by interested parties on any proposals by AT&T and on the issues and specific rate structures set for comment in this order. At the conclusion of this further round of comments we should be in a position either to accept a

voluntary AT&T filing or to prescribe a reasonable rate structure, at least on a temporary basis.

67. Even if AT&T does voluntarily file an acceptable tariff, it is apparent from this proceeding that the same issues of fine tuning will remain as in the case of an interim prescription, and the same need for further studies. For that reason, we will in any event direct AT&T to file a report within 12 to 15 months of the effective date of any revised tariff, or in any subsequent tariff filing for this service before that time (except across-the-board rate changes pursuant to Commission order). This report shall contain an analysis of the effects of the revised tariffs, with an explanation and justification of any changes AT&T proposes, and such other information and material as the staff may require in order finally to resolve these issues and achieve a justified and reasonable rate structure.

68. Before describing the proposed interim prescription, we should explain why we have not chosen to adopt the one major alternative proposal before us, *i.e.*, the Networks' suggestion that the Commission proceed to a full evidentiary hearing. Basically, the Networks contend that AT&T uses separate and distinct facilities for full time and part time needs, and that this operational distinction should be reflected in the tariff structure. They assert that the Commission should undertake a "zero-based" review of this entire matter and require AT&T to provide a cost revenue analysis of the television market reflecting a full time/part time structure. Their contention is that such a cost inquiry would support substantially different part time and full time rates.

69. In our view, the proposal by the Networks would be certain to produce extensive, elaborate, and time-consuming proceeding which would inevitably delay resolution of these issues for several more years at least.²¹

²¹ The Networks suggest that AT&T could provide operational and cost data to precisely identify all the facilities used to provide commercial television service, the actual costs associated with particular facilities, and the particular costs associated with facilities for full time and part time use. This analysis would certainly require a long time to complete. For example, AT&T in this proceeding claims it does not even know how many local channels it provides, let alone their actual costs, but can only estimate them based on overall investment accounts. Any formal hearing to consider such a study, with opportunity for presenting and challenging oral testimony by all interested parties, would necessarily be lengthy and extremely expensive, and might well be obsolete by the time it were finished.

We have already undertaken one hearing on this issue, several reviews of tariffs filings, and the present investigation. In each we have placed the burden on AT&T of justifying the full time/part time rate structure. Despite numerous opportunities, AT&T has never filed adequate cost support justifying the extreme rate differences between the two offerings. Although the Networks insist that AT&T could and would supply such justification in a further proceeding,²² it is difficult to believe that a further lengthy effort to develop such information has any likelihood of success or of being worth what it would cost in time and money.

70. Moreover, we think it is far more likely that a reasonable, justified rate structure which is fair to all customers can be achieved by developing AT&T's proposed Plan B IXC-SC rate structure than by making further efforts to seek justification for full time/part time. Throughout the various proceedings on video transmission service, our primary concern has been to assure that the rates and rate structure would be cost-based and efficient. We have also been aware that AT&T may have a substantial incentive to favor high volume users such as the Networks with low rates to deter competition from microwave and satellite carriers. In the mid-1970's, for example, AT&T specifically defended a proposed rate reduction for full time service and rate increase for part time as necessary to fight off potential competition from microwave carriers. Within this context, we have on each occasion carefully scrutinized AT&T's various proposals for full time services with far lower per unit rates and requirements such as minimum service terms or special construction obligations. These rate offerings have prompted significant concern that their effect is to segment the video market, or to choose a particular set of favored customers for preferential rates. In the absence of cost information justifying the disparate rates, we have found AT&T's proposals to be unlawful. If we were to pursue the suggestion of the Networks and seek justification for a full time/part time structure, it would be tantamount to ignoring our conclusion that the services are like, and starting with the proposition that full time/part time are separate markets which must be priced out separately, which is not the case. We would then face continuing problems of market segmentation.

²² AT&T itself opposes a further hearing, contending that the Commission has before it an abundantly complete record.

Facilities and rate structures might, for example, be designed to provide lower rates for selected customers. We also fear that the full time/part time structure would be less usage sensitive and less flexible than a rate structure which reflects costs more directly. It would thus be relatively inefficient in allowing customers to obtain the specific service they wish at a rate which reflects the cost of that service.

71. Under the circumstances, we think it will be a more profitable use of our resources to develop and fine tune AT&T's Plan B for IXC and SC service rather than to institute a full rate investigation to defend full time/part time rates as urged by the Networks. If costs are properly assigned to the up-front service charge and the hourly charge, the rates for all users should reasonably reflect costs. Continuous use would be less expensive per unit because the one-time service charge would be spread over more hours of use. Peak/off-peak rates, if adopted, would further implement cost savings justified by continuous use. At the same time, elimination of the arbitrary full time/part time division should mean that customers can choose service to suit their needs more precisely and to aggregate their needs through brokers or resellers to achieve further efficiencies. In our view, this structure has significant advantages over the full time/part time structure for this service as provided to this market and should be relatively simple to implement on an interim basis, subject to any needed modifications which practical experience and further studies may dictate.

Proposed Interim Prescription

72. We are setting the following proposed rates and rate structures for comments in order both to achieve more reasonable rates in the short run and to make the first steps toward an eventual, permanent rate structure. Since we already have considered and tentatively resolved many of the IXC and SC policy issues, our primary concern in this stage of the proceeding will be to ensure that the interim rates as actually applied to customers will be reasonable.

IXC and SC Rates

73. As we discussed above, we find the Plan B IXC rate structure generally reasonable. However, it seems clear that a portion of the costs included in the development of the up-front service charge should be more properly allocated to the hourly IXC and SC rates. AT&T readily admits this (Response, p. 9) and projects that a 9 to 12 month study is required to quantify the separation of these costs between

the one-time and recurring rate elements. It is also possible that the proposed service charge of \$461 might create a barrier to the use of occasional video service for some users. Moreover, if the service charge is too high, it will discourage any use at all; if too low, usage of IXC, SC, and local channel services is likely to be encouraged, which would to some extent offset any revenue loss.

74. With this in mind we have developed an interim service charge based on the data presented in AT&T's direct case.²³ For this purpose we have assumed that 50 percent of the costs AT&T has allocated to the service charge rate element should have been allocated to the IXC and SC rate elements. Although we do not know with any degree of certainty whether 50 percent is too high or too low an allocation of front end cost we do know it is in the right direction as compared to the AT&T proposal. Even if \$230 should represent somewhat less than total front end costs, there would be no harm to the carrier, as it will still recover its revenue requirements. The rate we have developed would apply until AT&T submits tariff revisions reflecting the appropriate costs associated with the service charge and adjusted rates. Until we have the benefit of actual studies and experiences, our estimates should be reasonable on an interim basis.

75. Since AT&T is entitled to recover its total cost of providing television service, adjustments must be made to other rate elements to recover the revenues lost due to the lower interim service charge. We have followed AT&T's methodology to develop these rates as can be seen in Appendix A. The result is an increase in the SC rate from \$1.94/hr. to \$2.60/hr and in the IXC rate from \$.14 to \$.15 per channel mile hour. Thus, the overall proposed IXC and SC rate structure is as shown in Table 5:

TABLE 5.—STAFF PROPOSAL: INTERIM IXC AND SC RATES

Service Charge: (per IXC network), \$230.00
IXC (per mi./hr.), \$0.15
SC (per hour), \$2.60

NOTE.—The hourly rate is subject to modification if a peak/off-peak structure is found to be desirable.

Local Channel Rates

76. As we explained above, the variation on AT&T's Plan A local channel rates proposed in the Scott study would appear on balance to be superior to other suggested alternatives. For that reason, we will set it for comment as a possible basis for interim

prescription. However, we also believe that the two part IXC rate structure might be an appropriate model for the local channel rate structure. As in the case of IXCs, local channels are provided both on a relatively continuous basis and for occasional use. Those channels also have associated front end costs which are essentially independent of the operating costs. Thus, a local channel rate structure with a fixed service charge reflecting front-end costs and a flat daily rate might well provide a non-discriminatory rate structure which fairly assign costs to the cost-causing customer. Moreover, to the extent this structure is consistent with the IXC and SC rates, it would satisfy an important objective of sound ratemaking. In this case consistency might be particularly important, because local channels are likely to be less subject to competition from satellite carriers, and AT&T may well have an incentive to cross-subsidize IXC rates from local channel revenues. Consistent local channel and IXC rates structures should be easier to monitor to assure that rates for both are fair. Since local channel are provided on a per day basis, we do not need to consider peak/off-peak rates for these channels.

77. With this in mind the staff has developed an interim local channel rate structure reflecting the allocation of various costs to the local channel service charge in the same manner as the proposed interim IXC rates.²⁴ The cost accounts for local channels are essentially identical to those for IXCs, so the same methodology has been used to derive suggested service charge and daily rates as in the case of IXCs. Thus, 50 percent of the costs associated with revenue accounting, sales, commercial, and exchange testing have been allocated to the local channel service charge. The remaining 50 percent of these costs have been assigned to the per day rate. This methodology would produce a service charge of \$197 per occurrence and a \$95 rate for each day of use. As stated with respect to the interim IXC rates, if this rate structure is adopted on an interim basis, we would expect AT&T to conduct studies to gather the information needed to appropriately allocate costs between the two local channel rate elements. The interim local channel rates do not disaggregate the various types of local channels. As discussed above, the proposed disaggregation lacks adequate justification and could be expected to cause major disruptions among users. Until AT&T has completed its cost

²³ See Appendix A for calculations.

²⁴ See Appendix B.

studies we see no benefit to be gained by implementing disaggregated local channel rates.

78. We note that this local channel rate structure would result in different and generally lower rates for occasional local channel service than either the existing rate structure or any of the proposed alternatives. For example, the present rate for a single day of local channel service is \$610 per day. Under AT&T's Plan A and the Scott study, the rate for a single day would be \$582. Under AT&T's Plan B, the rate would be either \$1,288 or \$2,673. Using the staff's rate studies, the first day rate would be \$283. By contrast, full time local channel rates would be higher:

TABLE 6.—FULL TIME LOCAL CHANNEL RATES:
A COMPARISON OF ALTERNATIVE RATE
STRUCTURES

Existing rates, \$1,219 per month.
Plan A and Scott study, 2,340 per month.
Plan B (fixed in place facility), 1,292 per month.
Staff proposal rate, 3,047 per month.

On the other hand, this structure would provide approximately the same revenues as the Plan A or Plan B rates, and would impose generally higher rates for occasional use of several days or more. We expect the comments to provide further information on the relative merits and demerits of these rate structures.

79. Our basic reason for suggesting this rate structure, aside from rate consistency, is that it should in principle reflect and assign costs in a fair and equitable fashion, based upon an explicit methodology. If this methodology is reasonable, the specific rates should be fair as an interim matter, and can be adjusted based on further studies and operating experience. We wish to repeat that we do not intend to favor any customer group but rather to assign rates so far as possible based on costs. We will expect the comments to address the basic issues of whether this structure would in fact reflect costs in a reasonable fashion, so that it would be appropriate for interim prescription. Naturally, we will also expect the comments to specify reasons why this structure is superior or inferior to other alternatives including the Scott proposal which is also set for comment. As in the case of IXC rates, any interim local channel structure which we might prescribe would be subject to revisions and adjustments based on further studies and operating experience after one year.

Competition

80. We also will request comment on the extent to which increased

opportunities for competition—both facilities based and resale—might reduce the need for continued Commission regulation of the rate structure.²⁵ Recent evidence suggests that the intercity television transmission market enjoys substantial competition. For example, figures show that the Bell System's share of the intercity transmission market fell from 65 percent in 1979 to 60 percent in 1980.²⁶ Moreover, these numbers overstate Bell's market share because private carriage and some use of satellite transmission are excluded. Recent Commission actions in authorizing new Domestic Satellite systems in both the 4/6 and 11/12 GHz bands,²⁷ the continuing reduction in the costs of satellite terminals, the recent practice of television stations to acquire satellite terminals, and recent developments in the use of portable satellite uplinks should also increase the ability of satellite carriers to provide competitive pressure. These additional transponders will be available to provide both full time and occasional services. Resale may also impose a significant restraint upon discrimination against occasional users.

81. In the local channel market there is, at present, less evidence of facilities-based competition. Here again, however, technical and regulatory developments point the way to increased competition. Recent years have seen a major increase in the use and sophistication of private microwave equipment by local television stations. This Electronic News Gathering (ENG) equipment is frequently used to transport video signals in metropolitan areas on an "occasional" basis. The use of ENG-like microwave could provide competitive pressure on AT&T local channel rates.²⁸ The increased availability of cable television may also provide competitive pressure since cable is a potential competitor to the phone system for local channels. In addition, portable up-link earth stations for

satellite compete with terrestrial interexchange service and do not require local channels.

82. We request comments on the entire subject of the competitiveness of the television transmission market and the adequacy of competitive pressures to alleviate the need for continued, detailed regulation of the terms and conditions of the service now and in the future. We are particularly interested in specific discussion of whether any of the terms and conditions of the alternative AT&T tariff and rate structures inhibit the ability of resellers to reduce discrimination against occasional users.

Ordering Clauses

83. Accordingly, it is ordered, pursuant to sections 4(i), 4(j), and 204(a) of the Communications Act, 47 U.S.C. 4(i), (j), 204(a), that the tariff material submitted under Transmittal No. 13663 is found unlawful.

84. It is further ordered, that §§ 61.58 and 61.59 of the Commission's rules, 47 CFR 61.58 and 61.59, are waived for the purpose of allowing AT&T to make tariff changes necessary to continue the currently effective rates and regulations.

85. It is further ordered, that the rates described in paras. 44-47 and 72-79 of this order shall be set for public comment as to whether it would be just and reasonable to prescribe them for an interim, one year period.

86. It is further ordered, that AT&T shall submit its comments within 45 days of the release of this order. Comments shall be filed by interested parties within 30 days thereafter and AT&T's reply within a further 15 days.

87. It is further ordered, that in reaching its decision the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of 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.

88. It is further ordered, that this action is effective immediately.

89. It is further ordered, that the Secretary shall cause this Order to be published in the Federal Register.

90. This order is exempt from the provision of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It involves a rule applicable to a particular rates and to practice relating to such rates within the meaning of the exemption contained in 5 U.S.C. 601(2).

²⁵ Given the dominance AT&T currently possesses in the MTS/WATS markets we continue to be concerned about the possibility that MTS/WATS rate payers may be subsidizing AT&T's Series 7000 customers. However, this is not presently at issue in this proceeding. The question at hand is the appropriateness of cost allocations within the Series 7000 service.

²⁶ Data compiled by Commission staff, submitted to the House Subcommittee on Telecommunications, Consumer Protection, and Finance by letter dated July 7, 1981.

²⁷ See *Orbit Deployment Plan*, 84 FCC 2d 584 (1981).

²⁸ While not all current use of ENG microwave may provide adequate quality, more conservative operating practices and/or minor equipment modifications should provide a high quality transmission service.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix A

STAFF PROPOSAL, AT&T SERIES 7000 SERVICE, CALCULATION OF INTERIM SERVICE CHARGE, IXC RATE AND SC RATE,¹ 1982 RATE LEVELS

Service Charge	
1. IXC portion (50% of Line 4, p. B-25) ²	\$917,871
2. SC portion (50% of Line 9, p. B-25)	\$2,796,084
3. Total expenses (L.1+L.3)	\$3,713,955
4. Quantity (Line 11, p. B-25)	16,121
5. Interim Service Charge (L.3/L.4)	\$230
IXC Rate	
1. Annual Costs (L.1, p. B-26)	\$49,541,894
2. Expense associated with svc. chg. (L.1 under svc. chg.)	\$917,871
3. Net annual costs for IXC (L.1-L.2)	\$48,624,023
4. Market quantity—1982 channel mile hours (L.4, p. B-26)	332,453,340
5. Interim IXC rate per CMH (L.3/L.4)	\$0.15
SC Rate	
1. Annual costs (L.10, p. B-27)	\$13,851,785
2. Expense associated with svc. chg. (L.2 under svc. chg.)	\$2,796,084
3. Net annual costs for SC (L.1-L.2)	\$11,055,701
4. Market quantity—1982 SC hours (L.13, p. B-26)	4,258,452
5. Interim SC rate per hour (L.3/L.4)	\$2.60

¹ PSV pair investment assigned to Series 7000 Service.
² Source documents refer to Attachment B of AT&T's Direct Case.

Appendix B

STAFF PROPOSAL, AT&T SERIES 7000 SERVICE, DEVELOPMENT OF INTERIM LOCAL CHANNEL RATES¹ 1982 RATE LEVELS

Annual Costs	
1. Full Time Fixed (Line 1, p. B-59) ²	\$10,994,087
2. Part Time Fixed (Line 4, p. B-59) ²	\$1,360,073
3. Mobile (Line 7, p. B-59)	\$13,180,800
4. Total	\$25,534,960
Front-end Costs	
5. Rev. Acct. (Line 69, p. B-33) ²	\$20,859
6. Sales (Lines 65, 66, p. B-33) ²	\$223,258
7. Commercial (Line 72, p. B-34) ²	\$211,374
8. Exchange Testing (Line 3, p. 1-161, Vol. 4 Book 1) ²	\$1,169,859
9. Total	\$1,625,350
10. Allocation to service charge (50% x L. 9)	\$812,675
11. Number of occurrences (Line 1 p. 3-20, Vol. 2) ²	4,134
12. Channel days (p. 3-14, Vol. 1) ³	261,504
13. Interim service charge (L. 10/L. 11)	\$197
14. Interim daily charge (L. 4-L. 10/L. 12)	\$95

¹ PSV pair investment assignment to Series 7000 Service.
² Source documents refer to Attachment B of AT&T's Direct Case.

³ From February 13, 1981 filing

Appendix C.—Cost Issues Raised by the Networks

1. Audio/Video Investment

91. The Networks claim that AT&T has overstated the investment associated with the 7001 interexchange (IX) rate element by a total of \$8.5 million which is comprised of

\$6.4 million of central office equipment (COE-57C) and \$2.1 million of outside plant (OSP). The Networks state that these costs for circuit equipment and line haul are for an audio component of television service which is no longer required due to technological changes in the facilities used to provide television service. Thus, it is alleged by the Networks that the \$8.5 million should be removed from the rate base. The Networks rely on various AT&T materials to support their contention that although AT&T has in the past requested permission to remove the audio/video investment from its rate base, it has failed to do so herein.

92. Our review of AT&T's workpapers relating to this matter indicates that an insignificant amount of audio/video investment is included in the figures cited by the Networks. The following table depicts the investment date as set forth in AT&T's support material.²⁹

	Outside plant	COE-57C
Broadband facilities	\$2,135,257	\$6,358,734
Audio/video	8,447	17,012
Total (as shown by networks)	2,143,704	6,375,746

As can be seen less than 0.5 percent of the investment is audio/video related with essentially all the investment being associated with broadband facilities used to provide television service. In any event, the Commission has already stated that these investments are to remain in the television rate base until such plant can be used for other services.³⁰

2. Depreciation Reserve Ratios

93. The Networks next claim that the depreciation reserve ratio for 67C radio equipment is too low thereby overstating the television services rate base (Reply Case, App B p2). They believe the ratio for this equipment should be double the .2959 shown in the support material. The Networks buttress their argument by pointing out that the equipment used provides non-growth services and is several decades old. They also allege that the data for television services shown in prior central submission indicates reserve ratios exceeding .45.

94. AT&T responds by stating that the reserve ratios used for televisions service are based on overall private line services averages, which is consistent with the January 6, 1981 Report and Order in the Cost Manual proceeding, Docket No. 79-245.³¹

95. Our analysis indicates that AT&T has indeed used broad average reserve ratios to compute depreciation reserves for television services. However, the January cost manual order is silent as to how AT&T is to allocate costs, including reserves, to the individual private line services. In fact, and as a consequence of this scenario with respect to

the costs of individual private line services, AT&T has been making tariff filings for well over a year using different sets of cost factors in the presentation of cost support data. At various times, AT&T has provided data utilizing both average factors and specific factors related to a particular service or item of equipment. For example, in AT&T's support material accompanying its CCSA Access Line Filing of August 15, 1980 (Transmittal No. 13533) reserve ratios were computed for various plant items used to provide the service based on data contained in the 1979 Central Submission.³² Overall private line ratios were not used, but rather specific ratios computed from CCSA data. The same basic data source also contains data to compute reserve ratios for television service.³³ A comparison of the results of computing depreciation reserve ratios from the 1979 FDC Report and those shown in AT&T's support data herein³⁴ follows:

DEPRECIATION RESERVE

	1979 FDC report	Instant filing
Interexchange Plant		
Outside plant	0.3104	0.2021
COE-circuit [57C]	0.1482	0.2560
COE-radio [67C]	0.4879	0.2958
Buildings	¹ 0.2317	0.1879
Exchange plant		
Outside plant	0.2559	0.1371
COE	0.5457	0.2168
Station equipment	0.2775	0.2966
Buildings	¹ 0.2317	0.1582

¹ Figures not distinguished in the FDC Report.

96. As can be seen from the above there are substantial differences between the two sets of data. Although we do not know the impact of one set of figures versus the other, it certainly appears that AT&T's choice results in a greater rate base, and, thus higher rate levels. This apparent ability to pick and choose costing methods, depending on preconceived results, cannot be sanctioned by this Commission. Thus, we will require AT&T to justify its choice of factors, explain why it has not provided alternatives as in various other tariff filings, and provide the record with the impact of using more specific reserve factors³⁵ related to the television services.

3. Station Connection Cost Reductions

97. The Networks allege that AT&T's failure to discuss the impact of its station connection reduction program and any resulting cost savings is grounds for finding the proposed rates unlawful. Reply Case, App. B, page 4. To substantiate their contention the Networks compare station connection investments as derived from AT&T's various Central Submissions and a 1977 forecast with the figure presented in AT&T's direct case here. AT&T agrees that the operational efficiencies were

²⁹ February 13, 1981 tariff filing, Vol. 4, Book 1. Page 1-6 for Broadband facilities and page 1-11 for Audio/Video.

³⁰ Memorandum Opinion and Order, Transmittal No. 12293, 67 F.C.C. at 1184-1187.

³¹ 64 F.C.C. 2d 384 (1981).

³² See Section 5, page 2-18 of support material.

³³ 1979 Annual FDC Report, June 30, 1980, Vol. 3 Primary Data, p. 6-21.

³⁴ Feb. 13, 1981 tariff filing, Vol. 4, Book 1, pages 1-14.

³⁵ Accounts 171, 172, 175, and 176.

implemented in 1978 and thus the station connection investment reflects the reduction program. The higher than originally projected investment for station connections is due to implementation of the January 1981 cost manual, AT&T maintains. Our review of AT&T's support material in this proceeding³⁶ reveals that the station connection investment alluded to by the Networks is based mainly on direct assignment and separations costs as called for in the January cost manual. The investment presented in prior central submissions were derived on a different basis and thus, a strict comparison of the two sets of investments is not possible for the purpose of determining the reasonableness of a particular amount. We do not find the Network's arguments on this issue persuasive and, therefore, we will reject them.

4. Expense Allocations

98. The Networks claim, generally, that AT&T does not explain how expenses are assigned to and within the television service other than to refer to the principles enunciated in the Interim Cost Allocation Manual (ICAM) (Reply Case, App. B., p. 6). More specifically it is alleged that both sales and commercial expenses are improperly allocated because revenues are used as the allocation base. The Networks suggest using expense to investment ratios for the allocation of these costs related to the IXC rate element. For the station connection rate element the Networks suggest using a labor related measure as the allocator. The Networks also compare television operating expenses, taken from AT&T's 1978 and 1979 Central Submissions, with data presented in the instant filing. The comparison shows an 18.2 percent growth in operating expenses from 1978 to 1979 and a 20.0 percent growth from 1979 to 1981. The Networks contend that the large increase projected in 1981 relative to prior years has not been supported by AT&T and are grossly excessive. Thus they call for rejection of the proposed rates.

99. AT&T again responds by claiming that it has followed the ICAM procedures to allocate costs to television service. These procedures comprehend the direct assignment of certain expenses related to television service while prior Central Submissions used more averaging techniques to develop allocations. AT&T further states that the projected year-to-year growth in commercial and sales expenses as filed is nominal.

100. Our analysis of the support materials filed by AT&T indicates that the methodology and factors used to develop expenses are sufficiently explained to allow for a reasonable review by interested parties. However, we are troubled by certain of the allocative methods used. We do not think it is reasonable or logical to allocate revenue accounting, sales, and commercial expenses based on revenues, when the revenues used to make such allocations reflect growth due to rate increases. This methodology provides the somewhat ludicrous result that when rates increase and quantities demanded

decrease, as is the case usually, there will be an increase in total expense related to those reduced quantities. AT&T's methodology tends to overstate expenses and we will direct AT&T to develop a more realistic scheme for allocating these three expense items. Although we are not discounting the suggestions set forth by the Networks, it is our belief that these expenses should be allocated on the basis of some measure of usage of the services involved. Regarding the alleged excessive growth of operating expenses from 1978 and 1979 to 1981, we find that for the most part the differences lie in the application of the various cost manuals in existence over the time period. We do not find that AT&T has arbitrarily inflated costs.

5. Market Studies

101. The Networks contend that, since the study conducted by National Analysis, Inc. was based on only 14 percent of the television population and did not test rates at the level of those proposed, the market survey is invalid for ratemaking purposes. (Reply Case, p. 13-18). The Networks allege that the filed rates were never tested, and thus, any conclusions drawn from projections or cost/revenue analysis utilizing these rates are unreliable. The Networks also point out that AT&T's own data suggests the proposed rates are excessive because in 1983 revenues are projected to decline substantially, reflecting customer dissatisfaction with the high rates. The Networks maintain that lower than filed rate levels would be of more benefit to AT&T than the rates proposed. They cite the lower "illustrative" rates as proving their case on this point whereby in 1983 the projected rate of return shown is 9.8 percent as opposed to 3.8 percent under the proposed rates. Finally, the Networks contend that AT&T's failure to include any market analysis in connection with the rates proposed in its direct case is reason enough not to accept the proposed rates as just and reasonable.

102. AT&T responds that the National Analyst survey is statistically sound because even though it only sampled 14 percent of the population it included two network customers, 29 of the 47 medium-size customers and about 10 percent of small users. It would thus appear to us that the survey sample, as described in Section 1 of Volume 2 of the February 13 filing, represents substantially more than 14 percent of television revenues and can aid us in determining the reasonableness of the proposed rates. As to the levels of rates tested in the survey, AT&T acknowledges that because the ICAM changes and impact on television service were not known until after the survey was conducted it was unable to test higher rate levels required to recover the increased television costs. AT&T maintains that the higher rates required will have to impact on 1981 and 1982 demand but will affect 1983 demand, which has been further analyzed. (Feb. 13 filing, Vol. 1, p. 3-2). AT&T, in its direct case, (p. 40), bases the proposed rates on 1982 demand levels set forth in the February 13 filing claiming that total charges to customers under each proposal are similar even though usage patterns may shift. Indeed, as the Networks

maintain, AT&T does not provide an explicit market and revenue forecast in its direct case and in the next phase of the investigation we will require AT&T to submit forecasts along with supporting documentation. Most of the criticisms made by the Networks relative to AT&T's market projections are with regard to the February 13 filing. Since we are rejecting the rates proposed in that filing these objections are mooted. When AT&T comes forth with more detail, as mentioned above, the parties may take the opportunity to comment.

6. Facilities Available for Future Growth (FAFFG)

103. The Networks allege that AT&T incorrectly removes facilities available for future growth (FAFFG) from the rate base of the television services thereby overstating costs to television customers (Reply Case, p. 42). Although pointing out it has appealed the Commission's exclusion of the FAFFG concept³⁷ as set forth in the Report and Order in CC Docket No. 79-245, the Networks maintain that the exclusion itself was done erroneously. Their basic argument is that even though television service is not growing it is being assigned FAFFG costs caused by other services. The Networks claim that FAFFG related to their services has been expended and no more should be assigned. As a result of AT&T's improper costing procedures regarding FAFFG the Networks indicate that \$18.1 million in excessive investment has been allocated to television service.

104. Despite the Networks' statements to the contrary we find their arguments directly attacking the removal of the FAFFG concept from AT&T's cost allocation process. AT&T has allocated costs to television service in accordance with the January 1981 ICAM whereby certain costs are directly assigned to television services and other costs are assigned on a relative use basis. Since AT&T has followed the ICAM procedures, from which the FAFFG concept is excluded, we reject the Networks' contention that AT&T has erroneously accounted for FAFFG related costs. The Networks' court appeal on this matter, rather than this proceeding, is the proper vehicle for deciding the merits of the Commission's decision to eliminate the FAFFG concept.

7. Investment in Local Channel Outside Plant

105. The Networks contend that AT&T has erroneously included \$13 million of outside plant investment associated with local channels in its rate base (Reply Case page 35 and Appendix D). This allegation is based on the Networks' analysis of AT&T's FDC Annual Reports (Central Submissions) for the years 1978 thru 1979. In those reports an item of local channel investment for the TV commercial category of service is designated

³⁶Feb. 13, 1981 tariff filing, Vol. 4, Book 1, pages 1-72, 73.

³⁷The FAFFG concept was developed by AT&T during the Docket No. 18128 implementation consultative sessions held with the Common Carrier Bureau staff. It was intended to allocate certain high capacity high frequency line costs to services in the initial Datum based on projected future use of such plant. The Commission has never adopted or approved the FAFFG concept.

"unassigned." In the 1978 report \$12.9 million was shown for this item while in 1979 the figure was \$29.7 million. The Networks claim that the \$12.9 million of unassigned investment has not been properly removed from the rate base, and is not part of the \$29.7 million that AT&T removed from the TV service rates under its alternative rate proposal.

106. The flaw in the Networks' contention may result from a misunderstanding of the FDC Report data as set forth in Appendix D of their Reply Case. As a result of the Commission's decision in the MPL case (Docket No. 20814) exchange plant investment, of which TV service local channels are included, was allocated between the private line and message services in accordance with the jurisdictional separations process for the 1979 report. The impact of the new procedure was to shift substantial amounts of cost from the message services into the private line services.³⁸ Thus, the 1979 FDC report showed greatly increased exchange investments as compared to the comparable 1978 figures. As a consequence, all items of outside plant investment associated with TV service local channels, not just the unassigned portion, increased significantly as shown by the Networks' own analysis. The \$12.9 million figure alluded to by the Networks represents the 1978 amount of unassigned investment. This figure increased to \$29.7 million in 1979 because of the FDC methodology change. In its support material AT&T develops an alternative rate schedule that comprehends the removal of the \$29.7 million from the TV rate base, distributing it to all private line services. To further eliminate another \$12.9 million as the Networks suggest would be to remove an amount already included in the inflated 1979 data, namely the \$29.7 million which AT&T has already eliminated. We therefore conclude that AT&T has correctly accounted for the unassigned local channel outside plant investment and reject the Networks' contention.

[FR Doc. 82-12127 Filed 5-4-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-24; Agreement No. 9925-3]

Order of Further Investigation and Hearing and Pendente Lite Approval

Agreement No. 9925-3, a 10-year extension of the Pacific America Container Express (PACE) cooperative working arrangement, has been filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). The Agreement applies essentially to the trades between the U.S. Atlantic and Gulf Coasts and Australia, New Zealand and the South Pacific and permits Proponents to agree on matters concerning vessel utilization/scheduling,

certain conditions of operation, and the apportionment of certain revenues.¹

An Order of Conditional Approval was issued by the Commission on October 29, 1981. In that Order, the Commission approved the agreement on the condition that it be modified as provided below:

I. Article 1 is amended to read as follows:

The joint service may become a member of, and may resign or withdraw from, any lawful conference, rate agreement, pooling arrangement or other agreement subject to the Shipping Act, 1916, that may operate in the whole or any portion of the trades covered by this Agreement.

The parties agree either to belong to or operate independently from any such conference as a group. When participating in any conference or similar organization, the joint service shall act as a single member and shall be entitled to no more votes than any other single member.

II. Article 4 is amended to read as follows:

The parties will operate a joint service which may include as many as, but no more than, six (6) container vessels which shall carry no more than 1,350 TEU's per voyage (average annually). The parties shall provide equipment such as containers and related equipment by such means and in such proportions as they may determine.

III. Article 5 is amended to delete the reference to the operation of conventional vessels in the trade.

IV. Article 13 is either deleted or amended to substitute the phrase "different vessels" for "additional vessels."

V. The last sentence of Article 14 is amended to read as follows:

The parties shall also submit to the Commission a semi-annual report setting forth the name, refrigerated cargo capacity, general cargo capacity, and ownership of each vessel employed in the joint service, and the per voyage carryings of each such vessel in TEU's and revenue tons for both refrigerated and general cargo. Reports shall be filed with the Commission within 45 days following the end of each semi-annual reporting period.

VI. Articles 8 and 9 are amended to include a clear and accurate description of the Proponents' arrangement for sharing all types of revenues and costs,

¹ Proponents of Agreement No. 9925-3 are: Associated Container Transportation (Australia) Ltd., a Commission-approved joint containership service (Agreement No. 9767) among Blue Star Line, Limited, Port Line, Limited and Ellerman Lines, Limited; and, the Australian Shipping Commission, trading as the Australian National Line (ANL).

and the time and manner in which accountings will be made.

VII. Article 21 is amended to read as follows: This agreement shall be governed by and construed in all respects in accordance with the law of England and the United States statutes administered by the Federal Maritime Commission.

VIII. Article 22 is amended to provide for an expiration date of "four years from the date of Commission approval."

IX. The Commission receives within 60 days of the date of the letter transmitting this Order a complete and accurate copy of Agreement No. 9925-3 modified in accordance with the above ordering language and signed by all parties thereto.

On March 8, 1982, Proponents filed a request for a further hearing on conditions I, III and VI above.² According to Proponents, the issues to be considered in regard to condition I would be the effect on other carriers and on the trade of separate voting by the Proponents, the interests of the Australian and other foreign governments in avoiding a curtailment of such voting rights, the 15 factors set forth in the *Johnson ScanStar* decision,³ and the implication of a disenfranchisement of the parties upon their rights and obligations as conference members. With respect to condition III, the Proponents state that the Commission in imposing condition III mistakenly assumed that they did not operate conventional (non-container) ships in addition to the six container vessels. As to condition VI, the Proponents state that they intend to show that such a condition is unfair and arbitrary and that no precedent for such a condition exists. Accordingly, the request for a hearing to determine whether the Proponents should be required to comply with conditions I, III and VI is granted.

On March 25, 1982, Farrell Lines, Inc., a competing carrier filed a "Request for Modification of Conditions of Approval or, Alternatively, Counter Request for Hearing." In addition to opposing approval of Agreement No. 9925-3 without the three modifications to which Proponents object, Farrell requests modifications of or alternatively, a hearing on, conditions II and VIII of the

² On November 30, 1981, the Proponents had filed a petition for reconsideration of the Order of Conditional Approval in regard to conditions I, III, and VI above. The petition was denied on the grounds that the Order of Conditional Approval was not a final order.

³ In *Johnson ScanStar Service* (Agreement No. 9973-3), the Commission identified 15 factors associated with "single carrier" or "joint carrier" or "joint service" status. 18 SRR 807 (1978).

³⁸ Approximately \$90 million was transferred to the private line category based on 1978 data.

October 29, 1981, Order. It argues that Proponents' vessel/TEU limit (condition II) should be changed to limit Proponents to 19,000 TEU's annually in each direction. The basis for Farrell's assertion is that the U.S./Australia and New Zealand Trade has recently become heavily overtonnaged due to an increase in the number of carriers operating in the meat trade and a decrease in the amount of cargo being carried.⁴ In addition it states that permitting Proponents to carry not more than 1,350 TEU's per voyage, averaged annually, authorizes a level of carriage in excess of that provided in past years. As for condition VIII, Farrell requests that the agreement be extended for no more than one year. Although Farrell has no objection to *pendente lite* approval of the Agreement, it states that such approval should be subject to the limitations that Proponents may not carry in excess of 19,000 TEU's annually in each direction, and that PACE be restricted to one vote in conference matters.

By letter dated April 15, 1982, Proponents responded to Farrell's request by stating that a reduction of the capacity limitations below those contained in condition II would result in a TEU limitation significantly less than the number of containers annually carried by the parties to the Agreement, and that a one year extension of the Agreement is not consistent with Commission policy.

Although Farrell's request for a hearing or modification of the conditions is untimely in that its comments were not submitted during the public comment period, the overtonnaging allegation raises an issue which the Commission cannot ignore. Farrell has stated that the trade has changed in two fundamental aspects since the Commission last considered this agreement in its October 29, 1981, Order. In light of these changed circumstances, Farrell's request for a hearing will be granted regarding condition II but its request for modification or for hearing will be denied in all other respects. Although Farrell will be permitted to comment on all the issues which are to be addressed in this proceeding, because it raised the overtonnaging issue it has the burden of providing

information as to why the capacity limitations in condition II are too liberal.⁵

Pending the ultimate disposition of the agreement, the Commission has determined to grant *pendente lite* approval to Agreement 9925-3 as filed. Abrupt cessation of the PACE joint service would unnecessarily disrupt legitimate commercial expectations of the shipping public.

Therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. §§ 814 and 821), a formal investigation and hearing is hereby instituted to determine whether Proponents should be required to comply with conditions I, II, III, and VI;

It is further ordered, That the request of Farrell Lines Incorporated for a hearing with respect to condition II of the Commission's October 29, 1981, Order is granted but that its request for hearing or modification of conditions of approval is denied in all other respects;

It is further ordered, That the carriers party to Agreement No. 9925-3, Australian National Line and Associated Container Transportation (Australia) Ltd., are designated as Proponents in this proceeding;

It is further ordered, That pursuant to § 502.42 of the Commission's rules (46 CFR 502.42), the Commission's Bureau of Hearings and Field Operations (Hearing Counsel), shall be a party to this proceeding;

It is further ordered, That Farrell Lines, Inc., be designated a Protestant in this proceeding;

It is further ordered, That Agreement No. 9925-3 is granted *pendente lite* approval pending a final Commission decision in this proceeding;

It is further ordered, That Proponents and the Protestant will submit two copies each of their direct cases, to the Secretary of the Commission and one copy to each of the parties to this proceeding by June 14, 1982;

It is further ordered, That discovery shall be in accordance with the process set forth in § 502.201 of the Commission's rules (46 CFR 502.201) but shall not commence until the receipt by the Commission of Proponents' and the Protestant's direct case;

It is further ordered, That after completion of such discovery, all parties

shall have an opportunity to submit written rebuttal testimony;

It is further ordered, That this matter is assigned to an Administrative Law Judge for public hearing and decision at a date and place to be hereafter determined by the Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue otherwise requires an oral hearing and cross-examination for the development of an adequate record;

It is further ordered, That the Administrative Law Judge shall issue an initial decision by January 31, 1983;

It is further ordered, That notice of this Order be published in the Federal Register and a copy thereof be served upon all parties named herein; and

It is further ordered, That, all documents submitted by any party in this proceeding be filed in accordance with § 502.118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118) as well as being mailed directly to all parties of record.

By the Commission,⁶
Francis C. Hurney,
Secretary.

[FR Doc. 82-12254 Filed 5-4-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banking Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh

⁶ Commissioner Daschbach dissents and his dissenting opinion will be issued separately.

⁴ Farrell states that refrigerated meat northbound from Australia, the largest single category of cargo in the inbound trade, has declined from over 300,000 tons annually for 1978 to 1980, to approximately 200,000 tons projected for 1982, and that in November, 1981, two additional carriers, the joint service Bank and Savill, and ABC Containerline, were designated by the Australian Meat and Livestock Commission as additional carriers for the carriage of meat. It also states that outbound liner traffic has decreased.

⁵ By objecting to three of the nine conditions set forth in the Order of Conditional Approval, Proponents have implicitly accepted the five uncontested conditions. Therefore, final approval of Agreement No. 9925-3 is contingent upon the submission of an agreement incorporating conditions IV, V, VII, VIII and IX as well as any conditions which may result from this further investigation and hearing.

possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 25, 1982.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Alliance Corporation*, Jacksonville, Florida (mortgage banking activities; Alabama, California, Florida, Georgia, Kentucky, Louisiana, Maryland, North Carolina, South Carolina Tennessee, and Virginia): To engage in the business of making or acquiring mortgage loans for its own account or the account of others; servicing mortgage loans for others; and reselling such loans in the secondary mortgage markets in accordance with Sections 225.4 (a)(1) and (3) of the Board's Regulation Y. These activities would be conducted from offices in: Birmingham, Huntsville, and Mobile, Alabama; San Jose, California; Daytona Beach, Jacksonville, North Miami Beach, Orlando, Palm Springs, Pensacola, St. Petersburg, and Tampa, Florida; Atlanta, College Park, and Tucker, Georgia; Louisville, Kentucky; Baton Rouge and Lafayette, Louisiana; Camp Springs, Maryland; Greenville and North Charleston, South Carolina; Chattanooga and Knoxville, Tennessee; Virginia Beach, Virginia. They will serve the States of Alabama, California, Florida, Georgia, Kentucky, Louisiana, Maryland, North Carolina, South Carolina, Tennessee, and Virginia.

B. Federal Reserve Bank of Dallas (Anthony J. Montelario, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Frist National Bancorp, Inc.*, Shreveport, Louisiana (leasing; Louisiana): To engage de novo through a subsidiary, First Leasing Corporation of Shreveport, a leasing company, in the leasing of personal and real property,

including acting as agent, broker, or adviser in leasing such property, with its activities to be conducted from an office located at 400 Texas Street, Shreveport, Louisiana 71154, serving the parishes of Caddo and Bossier, Louisiana.

Board of Governors of the Federal Reserve System, April 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12152 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Bank of Tokyo International, U.S.A.; Corporation To Do Business

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Bank of Tokyo International, U.S.A., Coral Gables, Florida. Bank of Tokyo International, U.S.A., would operate as a subsidiary of The Bank of Tokyo, Ltd., Tokyo, Japan. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 28, 1982. 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 summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1982

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12153 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Commerce Bancshares, Inc.; Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under Section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge through its wholly owned subsidiary Plazco, Inc., Kansas City, Missouri, with Plaza Bancshares, Inc., Kansas City, Missouri. The factors that are considered in acting on the application are set forth in

Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12155 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02108:

1. *Bankcore, Inc.*, North Conway, New Hampshire; to become a bank holding company by acquiring 90 per cent or more of the voting shares of North Conway Bank, North Conway, New Hampshire, and indirectly acquire 24.6 percent of the voting shares of North Country Bank, Berlin, New Hampshire. Comments on this application must be received not later than May 26, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Lancaster Bancshares, Inc.*, Lancaster, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Lancaster State Bank, Lancaster, Wisconsin. Comments on this application must be received not later than May 28, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cabot Bankshares, Inc.*, Cabot, Arkansas, to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Cabot, Cabot, Arkansas. Comments on this application must be received not later than May 28, 1982.

2. *Hardin County Bancshares, Inc.*, Savannah, Tennessee; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Hardin County Bank, Savannah, Tennessee. Comments on this application must be received not later than May 28, 1982.

D. Federal Reserve Bank of Minneapolis (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Glenwood Bancshares, Inc.*, Glenwood City, Wisconsin; to become a bank holding company by acquiring 95.7 percent of the voting shares of First National Bank of Glenwood, Glenwood City, Wisconsin. Comments on this application must be received not later than May 28, 1982.

2. *Turtle Bancshares, Inc.*, Turtle Lake, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Turtle Lake, Turtle Lake, Wisconsin. Comments on this application must be received not later than May 28, 1982.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Shoeshone Financial Corporation*, Lovell, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Lovell, Lovell, Wyoming. Comments on this application must be received not later than May 28, 1982.

2. *The Walton Bancshares, Inc.*, Walton, Kansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Walton State Bank, Walton, Kansas. Comments on this application must be received not later than May 26, 1982.

F. Federal Reserve Bank of San Francisco (Harry W. Green, Vice

President) 400 Sansome Street, San Francisco, California 94120:

1. *SDN Bancorp*, Encinitas, California; to become a bank holding company by acquiring 100 percent of the voting shares of San Dieguito National Bank, Encinitas, California. Comments on this application must be received not later than May 25, 1982.

Board of Governors of the Federal Reserve System, April 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12154 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Franklin Bancorp*, Somerset, New Jersey; to become a bank holding company by acquiring 80 percent of the voting shares of Franklin State Bank, Somerset, New Jersey. Comments on this application must be received not later than May 28, 1982.

Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fulton Financial Corporation*, Lancaster, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Fulton Bank, Harrisburg, Pennsylvania. Comments on this application must be received not later than May 26, 1982.

Federal Reserve Bank of Minneapolis (Lester G. Gable, Vice President), 250

Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Commercial Holding Company*, Wagner, South Dakota; to become a bank holding company by acquiring 50.8 percent of the voting shares of Commercial State Bank of Wagner, Wagner, South Dakota. Comments on this application must be received not later than May 28, 1982.

Board of Governors of the Federal Reserve System, April 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12156 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Suburban Bancorp, Inc.; Formation of Bank Holding Company

Suburban Bancorp, Inc.; Palatine, Illinois, a Delaware Corporation, 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 following bank holding companies and thereby indirectly acquire shares of their subsidiary banks; Suburban Bancorp, Inc., Palatine, Illinois, an Illinois corporation (Palatine National Bank); Subpal Bancorp, Inc., Palatine, Illinois (Suburban National Bank of Palatine); Cary Grove Bancorp, Inc., Cary, Illinois (Suburban Bank of Cary Grove); Hoffman Bancorp, Inc., Schaumburg, Illinois (Suburban Bank of Hoffman-Schaumburg); Meadows Bancorp, Inc., Rolling Meadows, Illinois (Suburban Bank of Rolling Meadows); Elk Grove Bancorp, Inc., Elk Grove Village, Illinois (Suburban National Bank of Elk Grove Village); Woodfield Bancorp, Inc., Schaumburg, Illinois (Suburban National Bank of Woodfield). 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)).

Suburban Bancorp, Inc., Palatine, Illinois, 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 Brockway Insurance Company and Suburban Mortgage Corporation, both of Palatine, Illinois.

Applicant states that the proposed subsidiaries would engage in credit related insurance agency and mortgage banking activities. These activities would be performed from an office of Applicant's subsidiary in Palatine, Illinois, and the geographic areas to be

served are the areas served by Applicant's banking subsidiaries. Such activities have been specified by the Board in section 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 section 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 Reserve Bank not later than May 28, 1982.

Board of Governors of the Federal Reserve System, April 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12159 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Union Commerce Corp.; Acquisition of Bank

Union Commerce Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(2) of the Bank Holding Company Act (12 U.S.C. 1842(a)(2)) to retain 100 percent of the voting shares of The First National Bank of Nelsonville, Nelsonville, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 182(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any

questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12157 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-0-M

Imperial Bancorp; Proposed Acquisition of Imperial Capital Markets Group, Inc.

Imperial Bancorp, Inglewood, California, 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 acquire through its subsidiary, Imperial Securities Corporation, the voting shares of Imperial Capital Markets Group, Inc., Inglewood, California.

Applicant states that the proposed subsidiary would engage in the solicitation, underwriting, dealing in, purchase, and sale of obligations of the United States, general obligations of various States and political subdivisions thereof and such other obligations as state member banks may from time to time be authorized to underwrite and deal in. These activities would be performed from offices of Applicant's subsidiary in Inglewood and San Francisco, California, and Denver, Colorado; and the geographic area to be served in the United States. None of the proposed activities have been specified by the Board in §225.4(a) of Regulation Y as permissible for bank holding companies, but the Board has approved the activities by order.

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 San Francisco.

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 May 29, 1982.

Board of Governors of the Federal Reserve System, April 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12158 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Zappco, Inc.; Proposed Acquisition of Financorp., Inc.

Zappco, Inc., St. Cloud, Minnesota, 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 acquire voting shares of Financorp., Inc., St. Cloud, Minnesota.

Applicant states that the proposed subsidiary would engage in the activity of performing financially related data processing. These activities would be performed from offices of Applicant's subsidiary in St. Cloud, Minnesota, and the geographic area to be served is the area surrounding St. Cloud, Minnesota. 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 Minneapolis.

Any person wishing to comment on the application should submit views in

writing to the Reserve Bank to be received no later than May 28, 1982.

Board of Governors of the Federal Reserve System, April 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12160 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

April 28, 1982.

Background

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 responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's 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.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report will be published in the *Federal Register*. This information will contain the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries will be grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements. Each report description contains the following information:

- The title of the form.
- The Federal Reserve report 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, address, 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.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will provide a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—William R. Jones—Financial Reports Section, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2983)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

New Form Under Review

1. Characteristics of Ceiling-Free Deposits.
 - FR 2042a.
 - Twice—May and August.
 - Sample of insured commercial banks and mutual savings banks.
 - SIC: 602, 603.
 - Small business.
 - General government: 1316 responses; 329 hours; \$20,000 Federal cost; \$4,935 public cost; 1 form; not applicable under 3504(h).
- These data obtain information needed to calculate effective annual rates paid on ceiling-free instruments. Such data are used by the Federal Reserve to observe competitive developments between banks and thrift institutions

and to help monitor the earnings position of depository institutions. These data provide the Federal Reserve Board and the Depository Institutions Deregulation Committee (DIDC) with a basis for monitoring the impact of the gradual removal of interest rate ceilings.

Board of Governors of the Federal Reserve System, April 28, 1982.

Dolores S. Smith,

Assistant Secretary of Board.

[FR Doc. 82-12174 Filed 5-4-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of Premerger Notification Rules; Southmark Properties

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Southmark Properties is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Syntek Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 22, 1982.

FOR FURTHER INFORMATION CONTACT:

Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b) (2) of the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

By direction of the Commission.
Carol M. Thomas,
Secretary.

[FR Doc. 82-12130 Filed 5-4-82; 8:45 am]
 BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

[E-82-14]

Delegation of Authority to the Secretary of Energy

1. *Purpose.* This delegation authorizes the Secretary of Energy to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Idaho Public Utilities Commission involving electric rates, Docket Nos. U-1009-120 and U-1009-124.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in the Administrator of General Services 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 Energy to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Idaho Public Utilities Commission involving the application of the Utah Power and Light Company for an increase in its electric rates in Docket Nos. U-1009-120 and U-1009-124.

b. The Secretary of Energy may redelegate this authority to any officer, official, or employee of the Department of Energy.

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 Energy shall add GSA to its service list in this case so the GSA will receive copies of testimony, briefs, and other Department of Energy filings.

Dated: April 23, 1982.

Allan W. Beres,
*Commissioner, Transportation and Public
 Utilities Service.*

[FR Doc. 82-12171 Filed 5-5-82; 8:45 am]
 Billing Code 6820-AM-M

National Archives and Records Service

Advisory Committee on Preservation; Meetings

Notice is hereby given that the Executive Committee and the Ad Hoc Charter Subcommittee of the National Archives and Records Service Advisory Committee on Preservation will meet on May 17, 1982 from 10:00 a.m. to 4:00 p.m., and May 18 from 9:00 a.m. to noon in Room 105, National Archives Building, Washington, D.C. At this time plans will be made for a meeting of the National Archives and Records Service Advisory Committee on Preservation to be held June 14, 1982 from 10:00 a.m. to 4:00 p.m., and June 15 from 9:00 a.m. to noon in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to developing work plans for the various subcommittees.

The meetings will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: May 3, 1982.
Robert M. Warner,
Archivist of the United States.
 [FR Doc. 82-12300 Filed 5-4-82; 8:45 am]
 BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: New Routine Use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information in the system of records 09-60-0058—Master Files of Social Security Number (SSN) Holders, HHS/SSA/OEER. The proposed routine use will permit us to disclose information to the Selective Service System to enforce draft registration pursuant to provisions of the Military Selective Service Act.

We invite public comments on this proposal.

DATES: The proposed routine use will become effective as proposed without further notice on June 4, 1982, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to

the Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at 3-F-1 Operations Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Swanenburg, Chief, Records Utilization and Services Branch, Office of Enumeration and Earnings Records, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (Area Code 301) 594-3489.

SUPPLEMENTARY INFORMATION: The Selective Service System is attempting to identify and locate individuals who are required to register for the draft, but have not done so. Section 12 of the Military Selective Service Act (50 U.S.C. App. 462, as amended by section 916 of Public Law 97-86) provides that the President may require the Secretary of HHS to furnish to the Director of Selective Service the name, SSN, date of birth and address of individuals required to register for the draft. In accordance with this provision, we are proposing a routine use statement which would permit the disclosure of information as follows:

To the Selective Service System for the purpose of enforcing draft registration pursuant to the provisions of the Military Selective Service Act (50 U.S.C. App. 462, as amended by section 916 of Pub. L. 97-86).

Basically, we will disclose information to Selective Service which pertains to males within a specific age group as determined by Selective Service. Selective Service will match the records against their records and Department of Defense records to determine which individuals are required to register, but have not done so. Of course, we will disclose information only at the request of the President.

We are proposing the routine use in accordance with provisions of the Privacy Act and our disclosure regulation (20 CFR Part 401). Section 401.310 of the regulation permits us to disclose information as a routine use when the information will be used for a purpose which is compatible with the purpose for which we collected the information. It is our policy to consider disclosures which are required by statute as disclosures for compatible purposes. Since the Military Selective Service Act requires disclosure at the request of the President, the above routine use is appropriate.

Since we are proposing the routine use in accordance with all requirements of the Privacy Act, we do not anticipate that disclosure under it would result in any clearly unwarranted adverse effects on the privacy rights of individuals. The notice below contains the proposed routine use statement discussed above.

Dated: April 29, 1982.

John A. Svahn,
Commissioner of Social Security.

09-60-0058

SYSTEM NAME:

Master Files of Social Security Number Holders, HHS/SSA/OEER.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have obtained Social Security Numbers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains all of the information received on original applications for Social Security Numbers and any changes in the information on the applications that are submitted by the Social Security Number holder. Cross-reference may be noted where multiple numbers have been issued to the same individual; and indication that benefit claim has been made under this social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a) and 205(c)(2) of the Social Security Act.

PURPOSE(s):

Information in this is used for the following purposes:

- (a) By SSA components for various title II, XVI and XVIII claims purposes including usage of the social security number itself as a case control number and a secondary beneficiary cross-reference control number for enforcement purposes and use of the Social Security Number record data for verification of claimant identity factors and for other claims purposes related to establishing benefit entitlement;
- (b) By SSA as a basic control for retained earnings information;
- (c) By SSA as a basic control and data source to prevent issuance of multiple Social Security Numbers;
- (d) As the means to identify incorrectly reported names or Social Security Numbers on earnings reports;

(e) For resolution of earnings discrepancy cases;

(f) For statistical studies;

(g) By the Department of Health and Human Services Audit Agency for auditing benefit payments under Social Security programs;

(h) By the HHS Office of Child Support Enforcement for locating deserting parents;

(i) By National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974;

(j) By the SSA Office of Refugee Resettlement for administering Cuban refugee assistance payments; and

(k) by the HHS Health Care Finance Administration for administering title XVIII claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. Employers are notified of the Social Security Number of an employee in order to complete their records for reporting FICA to the Social Security Administration pursuant to the Federal Insurance Contributions Act and Section 218 of the Social Security Act.

2. To State welfare agencies, upon written request, of the Social Security Numbers of AFDC applicants or recipients.

3. To the Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.

4. To the Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens.

5. To the Department of Justice (Federal Bureau of Investigation) and the Department of Treasury (United States Secret Service) for national security matters and in connection with threats on the life of the President or other dignitaries.

6. To the Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the railroad Unemployment Insurance Act.

7. To the Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure.

8. To the Treasury Department for tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code and for investigating alleged theft, forgery, or

unlawful negotiation of social security checks.

9. To a congressional office in response to an inquiry from the congressional office made at the request of that individual.

10. To the Department of State for administering the Social Security Act in foreign countries.

11. To the American Institute on Taiwan for administering the Social Security Act on Taiwan.

12. To the Veterans Administration, Regional Office Philippines, for administering the Social Security Act in the Philippines.

13. To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands.

14. To the Department of Labor for administering provisions of title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training programs to combat poverty.

15. To the Veterans Administration for validation of the Social Security Numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration to the Social Security Administration for social security program purposes.

16. To the Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

17. To Federal agencies who use the Social Security number as a numerical identifier in their recordkeeping systems, for the purpose of validating Social Security Numbers.

18. To the Department of Justice in the event of litigation where the defendant is:

(a) the Department of Health and Human Services (HHS), any component of HHS or any employee of HHS in his or her official capacity;

(b) the United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or

(c) any HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

19. State Audit agencies for auditing State supplementation payments and medicaid eligibility considerations.

20. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

21. To Federal, State or local agencies (or agents on their behalf) for the purpose of validating social security numbers used in administering cash or noncash income maintenance programs or health maintenance programs.

22. To third party contacts in situations where the party to be contacted has, or is expected to have, information which will verify documents when the Social Security Administration is unable to determine if such documents are authentic.

23. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where appropriate, taking legal action against suspected Nazi war criminals in the United States.

24. *To the Selective Service System for the purpose of enforcing draft registration pursuant to the provisions of the Military Selective Service Act (50 U.S.C. App. 462, as amended by section 916 of Public Law 97-86.)*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as paper forms, paper lists, punchcards, magnetic tape, microfilm, microfiche files, and disk with on-line access.

RETRIEVABILITY:

Records in this system are indexed both by Social Security Number and name.

SAFEGUARDS:

All magnetic tapes and disks are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges issued only to authorized personnel. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need to know.

For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with the HHS ADP System Manual, "Part 6, ADP System Security." Safeguards include a

lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Expansion and improvement of SSA's telecommunications systems has resulted in terminals equipped with physical key locks. The terminals also are fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminals users.

RETENTION AND DISPOSAL:

All paper forms are retained until they are filmed or are entered on tape, and the accuracy verified. Then they are destroyed by shredding. All tape, disks, microfilm, microfiche files are updated periodically. Out-of-date magnetic tapes and disks are erased. The out-of-date microfiche is disposed of by the application of heat.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enumeration and Earnings Records, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by providing his or her name and Social Security Number, or if the social security number is not known, date of birth, place of birth, mother's maiden name, and father's name, and evidence of identity to the address shown under system manager above. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Also, requesters should also reasonably identify the record and specify the information they are contesting. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD SOURCE CATEGORIES:

Social Security Number applicants; or individual acting on their behalf. The Social Security Number itself is assigned to the individual as a result of internal processes of this system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-12173 Filed 5-4-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-82-666]

New York Regional Office; Designation of Order of Succession

AGENCY: Housing and Urban Development Department.

ACTION: Designation of order of succession.

SUMMARY: Updates the designation of officials who may serve during the absence, disability, or vacancy in the position of the Regional Administrator.

EFFECTIVE DATE: This designation is effective April 4, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Leonard Feller, Director, Management and Budget Division, Office of Regional Administration, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, N.Y., N.Y. 10278 (264-4078). This is not a toll-free number.

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence, disability, or vacancy in the position of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator. Provided, that no official is authorized to serve as Acting Regional Administrator unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator.
2. The Director, Office of Regional Administration.
3. Regional Counsel.
4. Regional Director of Program Coordination.
5. The Director, Office of Regional Housing.
6. The Director, Office of Community Planning and Development.
7. The Director, Office of Fair Housing and Equal Opportunity.

This designation supersedes the designation effective May 1, 1979.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Joseph Monticciolo,
Regional Administrator, Region II.

[FR Doc. 82-12249 Filed 5-4-82; 8:45 am]

BILLING CODE 4210-01-M

**Office of Assistant Secretary for
Housing—Federal Housing
Commissioner**

[Docket No. D-82-665]

**Property Disposition Committees:
Redelegation of Authority**

AGENCY: Department of Housing and Urban Development (HUD), Office of Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Notice of Redelegation of Authority.

SUMMARY: This redelegation of authority is issued to revise the procedures governing Property Disposition Committees, to abolish the Headquarters Committee, and to reserve to the Assistant Secretary for Housing-Federal Housing Commissioner or his/her designee the authority to concur with, reject, modify or suspend dispositions authorized by a Committee.

EFFECTIVE DATE: March 17, 1982.

FOR FURTHER INFORMATION CONTACT: Marvin T. Hilman, Director, Property Disposition Division, Office of Multifamily Financing and Preservation, Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410; (202) 755-7220. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: A redelegation of authority and assignment of functions with respect to the Property Disposition Committee was published on December 4, 1980 at 45 FR 80359. This Notice revises that redelegation.

Accordingly, the redelegation published December 4, 1980, 45 FR 80359, is revised to read as follows:

Section A. Property Disposition Committee. There is hereby established in each Area Office, Multifamily Service Office and combined Regional/Area Offices a Property Disposition Committee.

1. The Property Disposition Committee in a combined Regional/Area Office shall consist of the following members or their designees: Regional Administrator, Chairperson; Deputy Regional Administrator; Director of Regional Housing; Deputy Director for Housing Management; Deputy Director for Multifamily Development; and such other members as the Regional Administrator shall designate in writing. The Chief, Property Disposition Branch/Chief, Loan Management and Property Disposition Branch shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member. The Regional

counsel or designee shall serve in an advisory capacity and shall be a non-voting member.

2. The Property Disposition Committee in an Area Office shall consist of the following members or their designees: Area Manager, Chairperson; Deputy Area Manager; Director, Housing Division; Deputy Director for Housing Management; Deputy Director for Housing Development; and such other members as the Area Manager shall designate in writing. The Chief, Property Disposition Branch/Chief, Loan Management and Property Disposition Branch shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member. The Area Counsel or designee shall serve in an advisory capacity and shall be a non-voting member.

3. The Property Disposition Committee in a Multifamily Service Office shall consist of the following members or their designees: Service Office Supervisor, Chairperson; Deputy Service Office Supervisor; Deputy Supervisor for Housing Management; Deputy Supervisor for Housing Development; and such other members as the Service Office Supervisor shall designate in writing. The Chief, Property Disposition Branch/Chief, Loan Management and Property Disposition Branch shall serve in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member. The Area Counsel or designee shall serve in an advisory capacity and shall be a non-voting member.

Section B. Redelegation of Authority to Property Disposition Committees. Property Disposition Committees are hereby redelegated the following authority:

1. To pass upon and determine the action to be taken with respect to the disposition program of any property acquired by the Secretary, located within its respective jurisdiction, in connection with multifamily housing under any title of the National Housing Act (12 U.S.C. 1701, et seq.), college housing under Title IV of the Housing Act of 1950 (12 U.S.C. 1749-1749c), housing for the elderly or handicapped under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and nonresidential property under Section 312 of the Housing Act of 1964 (42 U.S.C. 1452b). The disposition programs for such properties shall include the terms of sale, manner of financing, method of carrying out of appropriate advertisement for each public offering and where appropriate, the terms, amounts, interest rates, and amortization plans of mortgages taken as security, and any special provisions

in connection with the sale of such properties.

2. To determine whether an expenditure in connection with any multifamily housing project is "necessary to carryout the provisions" of Titles, I, II, VI, VII, VIII, IX, X and XI of the National Housing Act as such term is used in Section 1 of the Act (12 U.S.C. 1702), and to approve such expenditure for and on behalf of the Assistant Secretary for Housing-Federal Housing Commissioner whenever such a determination and approval is necessary to support the legal authority of the Assistant Secretary to make such expenditure.

Section C. Procedures. The following procedures shall apply to Property Disposition Committees:

1. Any Committee action must be approved by a majority vote of all members of the Committee.

2. In order to carry out the functions of a Committee, the Chairperson is authorized to execute any deed, deed of release, assignment and satisfaction of mortgage, contract of purchase (installment contract of purchase), offer, acceptance, or other form of contract sale, or other instrument relating to such properties or any interest therein acquired by the Secretary.

3. Any employee who has been formally designated to serve in an acting capacity for a member of the Committee in connection with his/her Departmental duties shall serve as a member of the Committee in the absence of such member.

Section D. Exercise of Redelegated Authority.

1. Redelegations of authority made under Sections A through C shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Director, Office of Multifamily Financing and Preservation, Regional Administrator, Area Manager or Service Office Supervisor.

2. The Assistant Secretary may require that Committee authorizations be reviewed by the Office of Multifamily Financing and Preservation. When this is required, authorizations shall be forwarded to the Director, Office of Multifamily Financing and Preservation and shall become final disposition program 15 working days after receipt of the authorization by the Office of Multifamily Financing and Preservation, unless the authorization is rejected, modified or suspended, in writing, by the Director, the Deputy Assistant Secretary for Multifamily Housing Programs, or the Assistant Secretary or his/her designee.

3. Each Regional Administrator in a Regional/Area Office, Area Manager, or Service Office Supervisor is authorized to amend Property Disposition Committee authorizations, when required by such circumstances as estimated changes in rental rates or operating expenses, changes in the maximum FHA-insured interest rates, or other similar changes of a non-substantive nature.

Section E. Revocations of Prior Delegations.

All other redelegations of authority with respect to Property Disposition Committees are hereby revoked upon publication of this redelegation of authority.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: April 26, 1982.

Phillip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-12248 Filed 5-4-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

District Grazing Advisory Board, Susanville, Calif.; Meeting

Notice is hereby given in accordance with Pub. L. 94-570 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on June 21, 1982.

The meeting will begin at 10 a.m. in the Surprise Resource Area Office of the Bureau of Land Management, Cedarville, California.

The agenda for the meeting will include:

1. Categorizing of Allotments
2. Stock Driveway Revocation
3. Use of Grazing Fees in Stewardship Areas
4. Update on Forest Boundary Adjustment
5. Allocation of Range Funds in State of California
6. Other Items as Appropriate
7. Public Comments

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California

96130-1090, by June 11, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: April 28, 1982.

C. Rex Cleary,

District Manager.

[FR Doc. 82-12272 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-84-M

Rawlins District, Final Management Decisions, Coal; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Final Coal Management Decisions, Rawlins District.

SUMMARY: The Rawlins, Wyoming District Office of the Bureau of Land Management has reviewed and made final decisions for federal coal management in the Overland and Divide Planning Units. The purpose for the review was to update the Management Framework Plans (MFPs) for the two planning units and to make certain that the MFPs reflect current statutory requirements and policies to continue carrying out the requirements of Section 522 of the Surface Mining Control and Reclamation Act of 1977. The decisions affect known and potential coal areas in both the Overland and Divide Planning Units. These areas are located in south central Wyoming (western Carbon County and eastern Sweetwater County).

Public participation opportunities were provided by Federal Register notice of February 17, 1982; by public meetings conducted in Baggs, Wyoming on February 6; Saratoga, Wyoming on February 7; and Rawlins, Wyoming on February 8 to present the proposed decisions; by an open house and public meeting in Rawlins on March 15 to discuss the proposed decisions; by a public hearing on the evening of March 15 in Rawlins; by public review of the proposed decisions brochure of June 19, 1981; and by informal public contacts in the process of reviewing the area. Public comments were carefully considered and the final coal decisions contained in the Management Framework Plans reflect those considerations.

A brochure summarizing these final coal decisions will be available about April 26, 1982 in the Rawlins District Office. Those who attended the public

hearing or expressed interest in these decisions will be mailed a copy of each brochure.

DATES: The brochure will be available to the public on or about May 7, 1982.

ADDRESSES: The Rawlins District, located at: 1300 N. 3rd Street, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT:

The Divide Resource Area Manager or the Regional Planner at the above address; or call (307) 324-7171. Divide Resource Area Manager: Bud Holbrook, Regional Planner: Gene Kolkman.

David J. Walter,

District Manager.

[FR Doc. 82-12271 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Hungry Horse Powerplant Enlargement and Reregulating Reservoir, Hungry Horse Project, Mont.; Intent To Prepare an Environmental Statement; Correction

This notice is to correct a notice which was printed in Volume 47, Number 78 of the Federal Register on Thursday, April 22, 1982. That notice stated that a scoping meeting to help identify significant environmental issues related to increasing the capacity of power generating facilities at Hungry Horse Dam, Hungry Horse, Montana, would be held Tuesday May 19, 1982. The date should be corrected to Tuesday May 18, 1982.

Dated: April 30, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82-12288 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-09-M

Dunn-Nokota Methanol Project; Intent to Negotiate and to Prepare an Environmental Impact Statement and Announcement of Scoping Meeting

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement (EIS) on the Dunn-Nokota Methanol Project located in Dunn County, North Dakota. The proposed methanol project would involve several Federal agencies. The Bureau of Reclamation (Bureau) has been designated the lead Federal agency in the preparation of the EIS.

The Bureau intends to begin contract negotiations with the Nokota Company

for industrial water service from Lake Sakakawea. The Nokota Company has applied for a contract which would provide up to 16,800 acre-feet of annual water service for the proposed Dunn-Nokota Methanol Project. Construction is planned to begin in 1985 and to be completed early in 1991. Terms and conditions of industrial water service contracts of this type have been completed in similar contract actions for industrial water service from Lake Sakakawea. Other related Federal activities would involve the permitting activities of the Bureau of Land Management and the Corps of Engineers. The Dunn-Nokota Methanol Project is a mine-mouth, coal-to-methanol complex proposed by the Nokota Company for construction and operation in west-central North Dakota in the Fort Union Coal Region at Dunn County, North Dakota. The project would produce 86,940 barrels per stream day (BPSD) of methanol from 43,150 net short tons per stream day (STSD) of run-of-mine (ROM) lignite coal, and have an annual capacity of 29.6 million barrels (1.24 billion gallons) of methanol and 14.7 million tons of ROM coal, based on a 93 percent on-stream factor (340 stream days per year). As an alternative, Nokota is considering co-production of substitute natural gas (SNG) and methanol.

Two scoping sessions will be held on May 18, 1982, to identify significant issues for the EIS. The first will begin at 9 a.m. in the Hospitality Room of the Gate City Savings and Loan Association, 304 E. Rosser Avenue, Bismarck, North Dakota, and the second will begin at 7:00 p.m. at the Dunn Center Community Center, Dunn Center, North Dakota.

Any questions or suggestions regarding the proposed EIS should be addressed to Eley P. Denson, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, telephone number (406) 657-6558, or Rick Blaskovich, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, telephone number (406) 657-6605. Requests for copies of the draft contract may be obtained from Mr. William Crosby, Bureau of Reclamation, attention code UM-440, P.O. Box 2553, Billings, Montana 59103, telephone number (406) 657-6413.

Dated: April 30, 1982.

Eugene Hinds,

Assistant Commissioner of Reclamation.

[FR Doc. 82-12142 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Aminoil USA, Inc., Unit Operator of the East Cameron Block 195 Federal Unit Agreement No. 14-08-001-8855, submitted on April 20, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the East Cameron Block 195 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: April 28, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-12273 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production

Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4486, Block 301, Main Pass 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 Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, 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 Mineral Management Service 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: April 28, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-12274 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 7:30 p.m. (EDT), on Thursday, May 27, 1982, at the Canal Visitor Center located at 6699 Canal Road, one mile south of Rockside Road in Valley View, Ohio.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff-4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. A presentation on the new headquarters plan
2. A presentation on the Oak Hill Development
3. A presentation on the cultural programs being offered during the summer at Cuyahoga Valley
4. Update on park operations

The meeting will be open to the public. It is expected that about 100 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650-4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: April 26, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82-12253 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-70-M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 8:30 a.m., CDT, on Friday, May 28, 1982, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat.

1309, 16 U.S.C. 460u-7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Benz
Ms. Anna R. Carlson
Mr. R. M. Gacki
Mr. James Holland
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Ms. Celia Nealon
Ms. Gail H. Pugh
Dr. John A. Rackauskas
Mr. John Tucker
Mr. Norman Tufford

Matters to be discussed at this meeting include:

1. Chairman's Quarterly Report
2. Status of land acquisition
3. Quarterly Status Report of planning and development for Indiana Dunes National Lakeshore
4. Quarterly Status Report of 1982 operations

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219-926-7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: April 26, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82-12252 Filed 5-4-82; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that by June 4, 1982, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with National Park Concessions, Inc., authorizing it to

continue to provide lodging, food and beverage, merchandising, automobile service stations, trailer village and boating facilities and services for the public at Big Bend, Isle Royale, Mammoth Cave and Olympic National Parks and on the Blue Ridge Parkway for a period of twenty (20) years from date of execution of the contract.

The proposals at Blue Ridge Parkway and at Isle Royale and Mammoth Cave National Parks involve no significant change in the present level or scope of services, and are categorically excluded from requirements for preparation of an environmental impact statement. The proposals at Big Bend and Olympic National Parks involve construction and/or improvement programs previously evaluated in environmental assessments prepared for development concept plans in each park; and Findings of No Significant Impact were made in conformance with the Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508).

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1981, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants National Park Concessions, Inc., the opportunity to meet or equal the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by National Park Concessions, Inc. If National Park Concessions, Inc., amends its proposal and the amended proposal meets or equals the better offer, then the proposed new contract will be negotiated with National Park Concessions, Inc.

The Secretary will consider and evaluate all proposals received as a result of this Notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before June 4, 1982 to be considered and evaluated.

Interested parties should contact the Director, National Park Service, 18th & "C" Streets NW., Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 29, 1982.

Russell E. Dickenson,
Director, National Park Service.
[FR Doc. 82-12250 Filed 5-4-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearings, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable

provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as states below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto files within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Dated: April 26, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.
Agatha L. Mergenovich,
Secretary.

MC-F-14837 filed April 9, 1982. Authority sought by ARNOLD BROS. TRANSPORT, LTD., Suite 200, 851 Lagimodiere Blvd., Winnipeg, Manitoba R2J 3K4, to purchase Certificate No. MC-125628 (Subs 1, 5 and 6X) from S.S. Baird & Sons, Ltd., 155 Whiting Road, Fredericton, New Brunswick E3B 565, and for control by Frank E. Arnold and Gerald R. Arnold, (same address as first given above), of said operating rights through the transaction. Representative: Bernard J. Kompare, Suite 1700, 180 N. Michigan Ave., Chicago, IL 60601. Operating rights transferred authorize lumber and wood products between ports of entry on U.S./Canada Boundary Line located in ME, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, and NJ; and (1) commodities the transportation of which because of size or weight require use of special equipment, (2) materials, equipment, supplies, and parts for commodities in (1) above when their transportation is incidental to transportation of commodities in (1)

above, (3) Self-propelled articles, each weighting 15,000 lbs. or more, and (4) equipment, machinery, tools, parts and supplies for commodities in (3) above when their transportation is incidental to transportation of commodities in (3) above, between ports of entry on U.S./Canada Boundary Line located in ME, on the one hand, and, on the other, points in the U.S. (except AK and HI). Transferee is a common carrier (MC-118806) operating in all states.

Note.—Transferee presently controls transferor, as approved in MC-F-13582. Transferee will be liquidated upon approval of proposed transfer.

MC-F-14813, Republish VIKING LINE, INC.—Purchase (Portion) TRAILWAYS, INC., republish to correct error made by member Joyce concerning Certa in Kansas intrastate operating rights. The Federal Register publication of April 6, 1982 Vol. 47, No. 66 Page 14792 should be corrected in the following manner: By inserting the words "and properties including certain Kansas intrastate operating rights," before the phrase "of Trailways" and after the phrase "a portion of the operating rights" and by deleting the phrase "is published in another section of the Federal Register." and inserting in lieu thereof the following: "Was published in at page 14793 of the Federal Register of April 6, 1982. This should correct all errors."

Volume No. OP2-87A

Decided: April 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC-F-14838, filed April 8, 1982. ARKANSAS BEST CORPORATION (ABC) (Applicant), 1000 South 21st St., Fort Smith, AR 72901—Continuance in control—CPI, INC. (CPI), 5411 South 31st St., Fort Smith, AR., 72903. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR., 72902. Applicant seeks authority to continue in control of CPI upon the institution by CPI of operations in interstate or foreign commerce, as a motor common carrier. Applicant seeks to acquire control of said rights and property through the transaction. Applicant, a non-carrier, controls through stock ownership, Arkansas Best Freight System, Inc., a motor carrier operating pursuant to authority issued in MC-29910 and subs thereto, and Container Carrier Corporation, a motor carrier operating pursuant to authority issued in MC-135419 and subs thereto. Applicant also indirectly controls Trans-States Lines, Inc., a moto carrier operating pursuant to authority issued in MC-149026 and subs thereto.

Note.—CPI has filed as a directly related application its initial common carrier application, docketed MC-161412, published in this same Federal Register issue.

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved

fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application or any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MCF-14008—Worster Motor Lines, Inc.—Merger—Worster Michigan, Inc. et al.

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a common carrier, over irregular routes transporting:

(1) *food and kindred products*, and (2) *such commodities* as are dealt in by grocery and department stores, between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI,

MN, MO, NC, NV, ND, NE, HI, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, MN, WI, and DC;

(2) *building materials and contractor's supplies* (a) between points in NJ, on the one hand, and, on the other, points in PA, NY, and NJ, (b) between points in Erie, Niagara and Chautauqua Counties, NY, on the one hand, and, on the other, points in PA and OH, (c) between points in Cuyahoga County, OH and points in PA, and (d) between points in Erie County, PA, on the one hand, and, on the other, points in NY, and OH;

(3) *agricultural, industrial and construction machinery and equipment, and parts and supplies* for agricultural industrial and construction machinery and equipment, (a) between McKean County, PA, on the one hand, and, on the other, points in Cuyahoga County, and in NY, OH, and PA; (b) between points in Erie, Crawford, Warren, Mercer, Venango, Clarion, and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Niagara and Chautauqua Counties, NY, and Cuyahoga County, OH, and (c) between points in McKean County, PA, and points in NY;

(4) *lumber and wood products*, (a) between points in NY and MD, on the one hand, and, on the other, points in VT, NH, CT, RI, NY, NJ, PA, DE, MD, WV, OH, IN, IL, MI, ME, MA, VT, and DC, and (b) between points in Erie, Crawford, Warren, Mercer, Venango, Clarion and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Chautauqua and Niagara Counties, NY and Cuyahoga County, OH;

(5) *primary and fabricated metal products*, between points in Erie, Niagara, Cattaraugus, Allegany, Steuben, Wyoming, Livingston, Ontario, Yates, Genesee, Orleans, Monroe, Wayne and Seneca Counties, NY, on the one hand, and, on the other, points in NY,

(6) *petroleum, petroleum products and coal*, (a) between points in PA, on the one hand, and, on the other, points in CT, IL, IN, ME, MA, MD, NH, NJ, NY, RI, VT, and the port of Erie, PA, (b) between points in Erie, Crawford, Warren, Mercer, Venango, Clarion, and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Niagara and Chautauqua Counties, NY, and Cuyahoga County, OH, and (c) between points in McKean County, PA and points in NY;

(7) *leather, leather products, and waste and scrap materials*, (a) between Cattaraugus County, NY, on the one hand, and, on the other, points in PA, ME, and MA, and (b) between points in

Potter County, PA and Cattaraugus County, NY;

(8) *containers and related parts and attachments*, (a) between points in Benton and Washington Counties, AR, on the one hand, and, on the other, points in CT, IA, MA, MI, NE, NH, NJ, NY, PA, RI, and VT, (b) between points in Cook, DuPage, Kane, Lake, LaSalle, Livingston, McHenry, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in CT, RI, and VT, (c) between points in Dearborn, Elkhart, Grant Hamilton, Huntington, Kosciusko, Madison, and Wabash Counties, IN, Boone County, KY, and Hamilton County, OH, on the one hand, and, on the other, points in AR and MI, (d) between points in Johnson, Leavenworth and Wyandotte Counties, KS, and Cass, Clay, Jackson and Platte Counties, MO, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, PA, RI, VT, and WV, (e) between points in Bullitt, Jefferson Oldham, Shelby and Spencer Counties, KY, and Clark, Floyd and Harrison Counties, IN, on the one hand, and, on the other, points in CT, MA, MI, NH, NJ, NY, OH, PA, RI, VT, and WV, (f) between points in ME, on the one hand, and, on the other, points in NY and PA, (g) between Anne Arundel, Baltimore, Carroll, Hartford, Howard, Kent, Montgomery and Prince Georges Counties, MD, on the one hand, and, on the other, points in AR, IL, IN, MI, NY, OH, and PA, (h) between points in MA, on the one hand, and, on the other, points in AR, IL, IN, MI, NY, OH, PA, WV, and WI, (i) between points in MI, on the one hand, and, on the other, points in AR, CT, NH, NJ, NY, PA, RI, VT, WV, and WI, (j) between points in MN, on the one hand, and, on the other, points in Rock County, WI and Boone and Winnebago Counties, IL, (k) between points in Cass, Clay, Franklin, Jackson, Jefferson, Platte, Ray, St. Charles and St. Louis Counties, MO, Johnson and Wyandotte Counties, KS, Calhoun, Jersey, Macoupin, Madison, Monroe, and St. Claire Counties, IL, on the one hand, and, on the other, points in CT, MA, MI, NH, NJ, NY, PA, RI, VT, and WV, (l) between points in NH, on the one hand, and, on the other, points in IL, IN, NY, OH, and PA, (m) between points in NJ, on the one hand, and, on the other, points in AR, IL, IN, NY, OH, PA, and WI, (n) between points in NY, on the one hand, and, on the other, points in AR, CT, IL, IN, NY, OH, PA, RI, VT, WV, and WI, (o) between points in OH, on the one hand, and, on the other, points in CT, MI, PA, RI, and VT, (p) between points in PA, on the one hand, and, on the other, points in CT, IL, IN,

PA, RI, VT, and WI, (q) between points in Harrison, Marion, Marshall, Monongalia, Ohio and Taylor Counties, WV, and Belmont County, OH, on the one hand, and, on the other, points in AR, CT, MA, MI, NH, NJ, RI, and VT, and (r) between points in WI, on the one hand, and, on the other, points in CT, NH, RI, and VT;

(9) *parts, materials, ingredients, supplies and equipment* used in the manufacture, production, sale or distribution of the above named commodities, between all named points.

[FR Doc. 82-12162 Filed 5-4-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the

decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-78872, correction. By decision of April 16, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to W.C. HALL GENERAL HAULING, INC., of Callao, VA, of a portion of Certificate NO. MC-99213 (Sub-No. 1) issued December 23, 1968, and all of Certificate No. MC-99213 (Sub-No. 11 issued October 2, 1969, MC 00213 (Sub-No. 12) issued February 13, 1970, MC 99213 (Sub-No. 13) issued January 5, 1970, MC-99213 (Sub-No. 18) issued June 21, 1977, and MC-99213 (Sub-No. 20) issued July 28, 1977, to Virginia Freight Lines, of Kilmarnock, VA, authorizing in Sub-No. 1 the transportation of named commodities (1) from Bound Brook and Jersey City, NJ, and Philadelphia and Reading, PA, to points in Essex, Richmond, Lancaster, Northumberland, and Westmoreland Counties, VA, (2) from Perth Amboy and Manville, NJ, to points in Essex, Richmond, Lancaster, King and Queen, King William, Middlesex, Northumberland, and Westmoreland Counties, VA, (3) from points in King and Queen, King William, Middlesex, and Essex Counties, VA (except Tappahannock), to Baltimore, MD, (4) from points in Essex, King William, and Middlesex Counties, VA, to points in the US (except Baltimore), (5) from Tappahannock, VA, to points in NY and OH, (6) from points in Essex, and King and Queen Counties, VA, to Baltimore, MD, and Washington, DC, (7) from Urbanna, VA, to Philadelphia, PA, and Mullica Hill and Woodstown, NJ, (8) from Baltimore, MD, to points in Essex, and King and Queen Counties, VA, (9) from Baltimore, MD, to points in Essex, King and Queen, and Caroline Counties, VA, (10) from Manville, NJ, to Tappahannock, VA, (11) from Tappahannock, VA, to points in the US (except Baltimore), (12) from Norristown, PA, and Newark, NJ, to Lottsburg, VA, (13) from Lottsburg, VA, to Norristown, PA, and Newark, NJ, (14) from points in Lancaster and Northumberland Counties, VA, to Richmond and West Point, VA, (15) from Richmond and West Point, VA, to points in Lancaster and Northumberland Counties, VA, (16) from points in

Gloucester, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland Counties, VA, to points in the US (except from points in Gloucester, Mathews and Middlesex Counties, VA, to Baltimore, MD), (17) from the destination points specified next above, to points in Gloucester, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland Counties, VA, (18) between points in Gloucester, Mathews, Middlesex, Lancaster, and Northumberland Counties, VA on the one hand, and, on the other, points in the US, and (19) between points in Lancaster, Northumberland, Richmond, and Westmoreland Counties, VA, on the one hand, and, on the other, points in MD within 25 miles of Baltimore, not including Baltimore, and points within 25 miles of Washington, DC, not including Washington, DC or points in MD within 25 miles of Baltimore; (Sub-No. 11) (1) *Wooden boxes, furniture frames, appliance bases, pallets, and crates* and (2) *lumber* (except plywood and veneer), in mixed loads with one or more of the commodities in (1), from points in Richmond, Lancaster and Northumberland Counties, VA, to points in DE, PA, NJ, NY, OH, MD (except Baltimore), WV and NC; (Sub-No. 12) named commodities between the plant site and storage facilities of Haynie Products, to Cape Charles and Reedville, VA, Morehead City, NC, Baltimore, MD, Wildwood, NJ, and Moss Point, MS; (Sub-No. 13) named commodities, serving the plant site of Mount Rose Canning Co., Inc., at or near Office Hall, VA, as an intermediate point in connection with carrier's presently authorized regular-route operations between Baltimore, MD and Burgess Stores, VA, restricted to the transportation of traffic originating at or destined to the plant site of Mount Rose Canning Co., Inc., at or near Office Hall, VA; (Sub-No. 15) named commodities, from Reedville, VA, to points in CT and OH; (Sub-No. 18), *fish oil*, in bulk, in tank vehicles, from points in Northumberland County, VA, to points in the US and Memphis, TN, from points in the US (except Charlotte and Wilson), and VA, (except Smithfield and Crozet), to points in Northumberland County, VA; and (Sub-No. 20) *fish solubles*, in tank vehicles, from Cambridge, MD, to points in NY, NC, PA, and VA.

Note.—Notice published October 1, 1981, being corrected to show proper sequence of pages and description. In original publication pages 3 and 4 of Certificate in (Sub-No. 1) had been reversed.

MC-FC-79676. By decision of April 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the

transfer to PACIFIC NATIONAL LINES, INC., of Tacoma, WA, of Certificate No. MC-152682 (Sub-No. 1), issued to THOUSAND TRAILS, INC., of Seattle, WA, authorizing the transportation, as a common carrier, of *passengers and their baggage*, in special and charter round-trip operations, between points in WA, on the one hand, and, on the other, points in the U.S. (Except HI). Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055.

Note.—TA has not been filed. Transferee is a carrier, operating under MC-134099.

MC-FC-79695. By decision of April 21, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Samuel L. Campbell, dba Campbell Enterprises, of P.O. Box 144 Greensburg, IN 47240, of Permit No. MC-152632 issued to Samuel C. Campbell, Samuel L. Campbell, and Gary W. Campbell, dba Campbell Enterprises (same address) authorizing: General commodities, between points in the U.S., under continuing contract(s) with Greensburg Milling, Inc., and Kora Fertilizer, Inc., both of Greensburg, IN. TA lease is not sought.

MC-FC-79713. By decision of April 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Car-Go Express, Inc., of Avon, MA, of Certificate No. MC-15821 issued October 15, 1956, MC-15821 (Sub-No. 1) issued August 25, 1981, MC-15821 (Sub-No. 11) issued June 26, 1969, MC-15821 (Sub-No. 12) issued September 1, 1966, MC-15821 (Sub-No. 13) issued December 10, 1971, MC-15821 (Sub-No. 14) issued September 13, 1973, and MC-15821 (Sub-No. 15G) issued October 23, 1975, issued to Graf Bros., Inc. (Debtor-in-Possession) of Salisbury, MA, authorizing the transportation of (1) general commodities (with exceptions) over a network of regular routes between points in ME, NH, MA, and RI; (2) general commodities (with exceptions) over irregular routes, between points in CT, MA, ME, NH, NJ, NY, PA, RI and VT; and (3) specified commodities, over irregular routes, such as lumber, brick, shoes, machinery, household goods, fish, fishermen's supplies and equipment, agricultural commodities, paint, lead, jute, salt, plumbers' hardware and fittings, paper and paper products, supplies and materials used or useful in paper mills, electrical signs and display material and equipment, bakery and bake-shop equipment, and fixtures, and boats, between points in ME, NH, MA, CT, RI, NJ, NY, and PA. Representatives: Frank

J. Weiner, 15 Court Square, Boston, MA 02108; Peter S. Plumb, 30 Exchange Street, Portland, ME 04101. TA lease is sought.

MC-FC-79738. By decision of April 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Albert H. Warrington, Jr. of Berlin, NJ, of Certificate No. MC-133290 issued to Warrington Trucking Co., Inc. of Berlin, NJ, authorizing the transportation of (1) *reinforced concrete products*, from Berlin and Williamstown Junction, NJ to points in CT, DE, MD, NY, PA, VA, and DC, and (2) *materials, supplies and equipment* used in the manufacture of reinforced concrete products, and *damaged and defective shipments* of such commodities, from Washington, D.C., and Greensboro, NC, and points in CT, DE, MD, NY, PA, and VA to Berlin and Williamstown Junction, NJ. The Board has also approved the substitution of Transferee's name in lieu of Transferor's name on Docket No. 133290 (Sub-1-1TA). Applicant's representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. TA lease is not sought. Transferee is not a carrier.

MC-FC-79750. By decision of April 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BILL WOLTER INC., of Springfield, MO, of Certificate No. MC-153067 (Sub-No. 1), issued to BILL LUTZ, D/B/A J & B TRUCKING, also of Springfield, MO, which authorizes the transportation of *general commodities* (except classes A and B explosives), between points in Greene County, MO, on the one hand, and, on the other, points in AR and MO. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804.

Note.—TA has not been filed. Transferee is not a carrier.

MC-FC-79753. By decision of April 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Sun Motor Lines, Inc., of Oklahoma City, OK, of Permit No. MC-154271 issued August 26, 1981, to Bluebonnet Transit, Inc., of Dallas, TX, authorizing: the transportation of *food and related products*, between points in the US, under continuing contract(s) with Lone Star Company, of Dallas, TX, Swift Independent Packing Company, of Chicago, IL, Vernon Calhoun Packing Company, Inc., of Palestine, TX, and Iowa Beef Processors, Inc., of Dakota City, NE. Applicant's representative:

William Sheridan, P.O. Drawer 5049,
Irving, TX. TA lease is sought.
Transferee is a carrier.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-12166 Filed 5-4-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-2-87]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application

or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Decided: April 26, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

Agatha L. Mergenovich
Secretary.

MC 161412, filed April 8, 1982.

Applicant: CPI, INC., 5411 South 31st St., Fort Smith, AR 72903. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Over Regular Routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Fayetteville, AR, and Greenwood, MS: from Fayetteville over U.S. Hwy 71 to junction AR Hwy 22, then over AR Hwy 22 to junction AR Hwy 27, then over AR Hwy 27 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Greenwood, and return over the same routes, serving all intermediate points.

Note.—This application is directly related to MC-F-14838, published in the same Federal Register issue.

[FR Doc. 82-12163 Filed 5-4-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-068]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: April 28, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49

U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.
Agatha L. Mergenovich,
Secretary.

MC 161285, filed March 30, 1982.
Applicant: MULTI-MODAL TRANSPORTATION, LTD., 6844 West 111th St., Worth, IL 60482.
Representative: Larry Koschke (same address as applicant), (202) 659-4407.
Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in AZ, AR, CA, IL, IN, IA, LA, MI, MN, MO, NV, NM, OH, TX, and WI.

Note.—This application is directly related to MC-F-14834, published in the same Federal Register issue.

[FR Doc. 82-12164 Filed 5-4-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-068-A]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: April 28, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the

protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.
Agatha L. Mergenovich,
Secretary.

MC F-14834, filed March 30, 1982.
THOMAS MOORE (MOORE) (4924 South 13th Street, Milwaukee, WI 53221)—Continuance in Control—Multi-Modal Transportation, Ltd. (Multi-Modal) (6844 West 111th Street, Worth, IL 60482).

Representative: Thomas H. Kritner, 4924 South 13th Street, Milwaukee, WI 53221.

Moore, an individual, seeks authority to continue in control of Multi-Modal upon the institution by Multi-Modal of operations, in interstate or foreign commerce as a motor common carrier. Multi-Modal is a newly formed corporation and holds no interstate operating rights. Moore, also controls Express Freight Lines, Inc., a motor common carrier pursuant to certificates issued in MC-76993 and sub-numbers thereunder, which authorize the transportation of *general commodities*, with the usual exceptions, over regular routes in WI, IL, IN, MI, OH and MN.

Note.—Multi-Modal has filed as a directly related application its initial common carrier application. This application docketed No. MC-161285, is published in this same Federal Register issue.

[FR Doc. 82-12165 Filed 5-4-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-067]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: April 28, 1982.

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.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

W 534 (Sub-3), filed April 14, 1982. Applicant: CUMBERLAND & OHIO COMPANY, INC., 1136 Second Ave., North, Nashville, TN 37208. Representative: Peter A. Greene, 1920 N St., NW., Suite 700, Washington, DC

20036, (202) 331-8800. Transporting, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities* and by towing vessels in the performance of *general towage*, between ports and points on the Cumberland, Tennessee, Ohio, Mississippi, Mobile, Alabama, Tombigbee, Black Warrior and Illinois Rivers, the McClellan-Kerr Arkansas Waterway System, the Illinois Waterway, Lake Michigan between Chicago, IL and Burns Harbor, IN, the Gulf of Mexico and the Gulf Intracoastal Waterway between Brownsville, TX and Apalachicola, FL, and tributary and connecting waterways and channels.

MC 1515 (Sub-308), filed April 16, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson, (same address as applicant) (602) 248-5016. Over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Phoenix, AZ, and Prescott, AZ, from Phoenix over Interstate Hwy 17 to junction AZ Hwy 69, then over AZ Hwy 69 to Prescott, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing authority in MC-1515.

MC 16334 (Sub-19), filed April 16, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888-3386. Transporting (1) *clay, concrete, glass or stone products*, and (2) *containers*, between points in Rock Island County, IL, Hennepin County, MN, Polk County, IA, Douglas County, NE, Johnson County, KS, Oklahoma County, OK, Bexar, Dallas, Harris, and Webb Counties, TX, Orleans Parish, LA, Denver County, CO, Maricopa County, AZ, Orange and Alameda Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 111045, filed April 20, 1982. Applicant: REDWING CARRIERS, INC., P.O. Box 30063, Tampa, FL 33630. Representative: Stephen F. Wilkens (same address as applicant) (813) 621-2046. Transporting *steel and steel products*, between points in AL, on the one hand, and, on the other, points in AR, FL, GA, LA, MS, NC, SC, TN, and TX.

MC 115554 (Sub-46), filed April 19, 1982. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, RR 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501 (402) 475-

6761. Transporting (1) *food and related products and (2) pulp, paper and related products*, between points in the U.S. (except AK and HI).

MC 134035 (Sub-51), filed April 16, 1982. Applicant: DOUGLAS TRUCKING COMPANY, P.O. Box 698, Hwy 75 So., Corsicana, TX 75110. Representative: Jack K. Williams (same address as applicant) (214) 872-3017. Transporting *plastic, fiberglass, wood and metal products, furniture and fixtures and electrical equipment*, between points in New Haven County, CT, Los Angeles County, CA, Bell County, TX and Jefferson County, WI, on the one hand, and, on the other, points in the U.S. (except HI).

MC 134614 (Sub-7), filed April 19, 1982. Applicant: SELLAND AUTO TRANSPORT, INC., 5622 First Ave., South, Seattle, WA 98108. Representative: Clyde H. MacIver, 1700 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, WA 98171, (206) 624-1940. Transporting (1) *new and used automobiles*, and (2) *light duty trucks*, in secondary movements in truckaway service, between points in the U.S. (except HI).

MC 141274 (Sub-11), filed April 19, 1982. Applicant: C. C. ANKENY, INC., 20809 Currier Rd., Walnut, CA 91789. Representative: C. C. Ankeny (same address as applicant), (213) 620-0607. Transporting (1) *thermal and weatherproofing products and related articles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Thermwell Products Co., Inc., of Patterson, NJ, and (2) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with DSI-Dairy Specialties, Inc., of St. Louis, MO.

MC 144615 (Sub-1), filed April 16, 1982. Applicant: CARLOS J. STILWELL, d.b.a. STILWELL TRUCK SERVICE, Detroit, IL 62332. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *petroleum and petroleum products*, between points in MO and IL.

MC 150105 (Sub-2), filed April 15, 1982. Applicant: KING ASSOCIATED ENTERPRISES, LTD., P.O. Box 253, Butler, WI 53007. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *such commodities* as are dealt in by manufacturers and distributors of scales, between points in the U.S., under continuing contract(s) with Cream City Scale Co., Inc., of Menomonee Falls, WI.

MC 152355 (Sub-3), filed April 16, 1982. Applicant: THE PRICE

TRANSPORTATION SYSTEM, INC., 203 Brooke Dr., West Chester, PA 19380. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735-3090. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MD, NJ, NY, PA, and DC.

MC 156354 (Sub-2), filed April 20, 1982. Applicant: FICEL SALES, INC., 4678 Big Tree Rd., Hamburg, NY 14075. Representative: Michael A. Wargula, 128 Sherburn Dr., Hamburg, NY 14075, (716) 648-04810. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Weyerhaeuser Company of Chicago, IL.

MC 157955, filed April 19, 1982. Applicant: DON BROWNING, d.b.a. BROWNING TRUCKING, 9325 Malad, Boise, ID 83709. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336-5955. Transporting *lumber and wood products*, between points in CA, CO, ID, MT, NV, OR, UT, WA, and WY.

MC 158024, filed April 16, 1982. Applicant: TRIPLE R TRANSPORT, 807 S. Bundy Ave., Rice Lake, WI 54868. Representative: R. Revel Rustong (same address as applicant), (715) 234-1386. Transporting *used automobiles*, between points in WI, IL, MN, and IA, under continuing contract(s) with J.R. Auto Sales, Skars Auto Sales, and Discount Motors, all of Rice Lake, WI, and Southside Auto, of Cameron, WI.

MC 160785, filed April 16, 1982. Applicant: CASTAR TRUCKING, 7840 "F" St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397-9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with The Coca-Cola Company, Foods Division, of Omaha, NE.

MC 161515, filed April 15, 1982. Applicant: METROPLEX TOURS, INC., d.b.a. METROPLEX RACING CLUB, 1903 6th Ave., P.O. Box 7093, Fort Worth, TX 76111. Representative: Rudy J. Wedgeworth (same address as applicant), (817) 654-3455. As a *broker*, at Fort Worth, TX, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161535, filed April 16, 1982. Applicant: FT. INCORPORATED, 2209 S.W. 152nd, Seattle, WA 98166. Representative: Edward A. Francom, P.O. Box 1970, Lake Oswego, OR 97034, (503) 635-4239. Transporting *such commodities* as are dealt in and distributed by manufacturers of building materials, metal products, pulp, paper, and related products, stone, clay, and glass products, between points in AZ, CA, NV, OR, and WA.

MC 161544, filed April 16, 1982. Applicant: D. L. MacLEOD, INC., 14 Warren Lane, Weston, MA 02193. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Zayre Corp., of Framingham, MA.

MC 161545, filed April 16, 1982. Applicant: NORTHWEST PLYWOOD SALES, INC., Rt. 3, Box 296, Caldwell, ID 83605. Representative: Jay B. Hatfield (same address as applicant), (208) 459-4200. Transporting *construction materials and metal products*, between points in ID, OR, and MT.

MC 161554, filed April 19, 1982. Applicant: BERT MATTER, INC., TRUCKING, 1155 Van Wyk Rd., P.O. Box 661, Bellingham, WA 98227. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228-3807. Transporting (1) *construction materials*, (2) *metal products*, and (3) *clay, concrete, glass and stone products*, between points in Skagit and Whatcom Counties, WA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 161565, filed April 19, 1982. Applicant: GARRETT TRANSPORTATION CO., INC., Route 1, Box 216, Springville, AL 35146. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201 (205) 254-3880. Transporting *metal articles*, between points in St. Clair County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161594, filed April 20, 1982. Applicant: ACCO BUS SERVICE, 17608 Livingston Rd., Accokeek, MD 20607. Representative: Thomas W. Johnson (same address as applicant) (301) 283-3108. Transporting *passengers and their baggage*, in charter and special operations, between Alexandria, VA, points in Fairfax County, VA, MD and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 16334 (Sub-17), filed March 29, 1982, previously published in the Federal Register issue of April 19, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212 (913) 888-3386. Transporting *food and related products*, between points in the U.S.

Note.—This republication is due to an erroneously inclusion under the *fitness only* category.

[FR Doc. 82-12167 Filed 5-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-75]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of petitions for leave to intervene must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleadings shall address specifically the issue(s) indicated as the purpose for republication.

MC 124230 (Sub-45) (Republication) filed January 15, 1982, previously noticed in the Federal Register issue of February 5, 1982. Applicant: C. B. JOHNSON, INC., P.O. Box Drawer S, Cortez, CO 81321. Representative: David E. Driggers, 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, CO 80264. A Decision by the Commission Review Board Number 1, decided April 12, 1982 and served April 22, 1982 finds that the present and future public convenience and necessity require operation by applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Mercer commodities*, (2) *machinery*, and (3) *such commodities as are used in connection with mining and drilling operations*, between points in AZ, CO, KS, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to show that applicant has been authorized service to meet shippers needs.

MC 157541 (Republication) filed November 20, 1981, previously noticed in the Federal Register issue December 15, 1981. Applicant: WILLIAM WALKER d.b.a. WALKER TRUCK LINE, 5807

South Wabash Avenue, Chicago, IL 60637. Representative: Abraham A. Diamond, 29 South LaSalle Street, Chicago IL 60637. A Decision by the Commission Review Board Number 1, decided March 18, 1982 and served March 29, 1982, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, (2) *packaging materials*, (3) *chemicals*, and (4) *machinery* (except commodities in bulk), between points in Rensselaer County, NY, and Hillsborough County, NH, and Chicago, IL, Albany, NY, 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. (except AK and HI). Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to omit the facility limitation.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-12168 Filed 5-4-82; 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-168

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 161497 (Sub-3-1TA), filed April 23, 1982. Applicant: NORTH CAROLINA TOURS, INC., Star Route, Box 145, (N.C. Highway 28), Bryson City, NC 28713. Representative: Robert C. Boozer, 1400 Candler Building, 127 Peachtree Street, N.E., Atlanta, GA 30043. *Passengers and their baggage (unchecked), in charter and special operations*, between points in Graham and Swain Counties, NC on the one hand, and on the other, points in Knox and Blount Counties, TN. There are five support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 151215 (Sub-3-3TA), filed April 23, 1982. Applicant: FACTORY SERVICES, INC., P.O. Box 11040, 625 Kennedy Rd., Lexington, KY 40511. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Recyclable materials*, between (1) Huntington and St. Albans, WV, Shelbyville, IN and Wilmington, OH, on the one hand, and, Cincinnati, OH and Louisville, KY, on the other, and (2) between points in KY, on the one hand, and Cincinnati, OH, on the other. Supporting shipper(s): Continental Can, 4745 East River Rd., Chicago, IL 60631.

MC 161498 (Sub-3-1TA), filed April 23, 1982. Applicant: VAN-RIDE, INC., Route 1, Box 305E, East Bernstadt, KY 40729. Representative: Marcus Daly, same address as applicant. *Common carrier, regular route; Passengers and baggage of passengers in same vehicle as passengers; special or charter operations, or both, are proposed*, from London and Corbin, KY area to the World's Fair site in Knoxville, TN via Interstate 75 and return to point of origin. Supporting shipper(s): London/

Laurel County Chamber of Commerce, P.O. Box 524, London, KY 40741.

MC 85530 (Sub-3-3TA), filed April 23, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, N.W., Washington, DC 20005. *Contract Carrier; Irregular; Lumber and wood products*, between points in the U.S. on and east of the Mississippi River, under continuing contract(s) with Tolleson Lumber Company, Inc., Perry, GA. Supporting shipper: Tolleson Lumber Company, Inc., P.O. Drawer E, Perry, GA 31069.

MC 145855 (Sub-3-4TA), filed April 23, 1982. Applicant: JOHN RAY TRUCKING CO., INC., P.O. Box 206, Eastaboga, AL 36260. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract Carrier; Irregular Routes; Chemicals, and Materials, Supplies, Equipment and Containers therefor* between Calhoun and Etowah Counties, AL and points in the U.S. except AK and HI under continuing contract with Monsanto Company. Supporting shipper: Monsanto Company, P.O. Box 249, Anniston, AL 36201.

MC 154541 (Sub-3-2TA), filed April 26, 1982. Applicant: SEA ISLAND STAGES OF BEAUFORT/HILTON HEAD, P.O. Box 4031, Beaufort, SC, 29902. Representative: D. R. Wismer, 605 Broad River Drive, Beaufort, SC, 29902. *Passengers and Baggage in the same vehicle, in Special and Charter operations*, between points and places in Beaufort, Jasper, Colleton, and Hampton Counties in SC, and Chatham, Bryan, Effingham and Liberty Counties in GA, on the one hand, and Knoxville, TN, on the other hand. Supporting shippers: The Bank of Beaufort Travel Agency, Beaufort, SC, U.S. Naval Hospital Special Services, Beaufort, SC, and Abba/Yellow, Inc., Savannah, GA.

Note.—Applicant requests authority to tack this authority with authorities granted under Docket No. 154541, Lead Docket.

MC 31389 (Sub-3-15TA), filed April 27, 1982. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same address as applicant). *Contract Carrier; Irregular; General Commodities (except Classes A & B explosives, household good as defined by the Commission, and commodities in bulk)*, between Houston and Texas City, TX and Taft, LA on the one hand, and, on the other, points in the U.S., under continuing contract or contracts with Union Carbide Corporation, of Danbury, CT. Supporting

shipper: Union Carbide Corporation, Old Ridgebury Road, Danbury, CT 06817.

MC 129712 (Sub-3-18TA), filed April 27, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract, irregular, Building materials and supplies, including plywood, paneling, lumber and hardware items used in the installation of these products, between Oakland County, MI, on the one hand, and, on the other, points in OH, IN, IL and WI, under continuing contract(s) with Markey Forest Products, Inc. Supporting shipper: Markey Forest Products, Inc., P.O. Box 535, Walled Lake, MI 48088.*

MC 2934 (Sub-3-45TA), filed April 27, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract: Irregular: Electronic diagnostic equipment; between points within the Continental U.S. under continuing contracts with Adac Laboratories, 255 San Geronimo Way, Sunnyvale, CA 94086. Supporting shipper: Adac Laboratories, 255 San Geronimo Way, Sunnyvale, CA 94086.*

MC 148671 (Sub-3-2TA), filed April 28, 1982. Applicant: HARLAND QUACKENBUSH, An Individual, 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. *Contract, Irregular, Corrugated Shipping Containers, from Tampa, FL to GA, SC, NC, MD, VA, AL under continuing contract(s) with Weyerhaeuser Company. Supporting shipper: Weyerhaeuser Company, Post Office Box 16909, Tampa, FL 33687.*

MC 143185 (Sub-3-1TA), filed April 27, 1982. Applicant: CHARLES G. LAWSON TRUCKING, INC., Post Office Box 2805, Montgomery, AL 36105. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Food and related products, between Pike County, AL, Sussex County, DE, Vigo County, IN and Baltimore, MD, and points in its commercial zone; between Baltimore, MD, and points in its commercial zone, on the one hand, and, on the other, points in AL; and between Pike County, AL, on the one hand, and, on the other points in AR, AL, FL, GA, KY, LA, MS, OK, NC, SC, TN, TX and VA. Supporting shipper: Doxsee Food Corporation, 8840 Kelso Dr., Baltimore, MD 21221.*

The following applications were filed in Region 4. Send protests to: Interstate

Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 111310 (Sub-4-14TA), filed April 21, 1982. Applicant: MILLIS TRANSFER, INC., Box 352, Black River Falls, WI 54615. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Food and related products from Louisville, KY, Battle Creek, MI, and Lancaster and Sharonville, OH to points in WI, MN, IL, IA, MO, KS, AR, OK, TX, PA, and NY. Supporting shipper: Ralston Purina Co., Ralston Purina Company Checkerboard Sq., St. Louis, MO 63164.*

MC 144506 (Sub-4-1TA), filed April 14, 1982. Applicant: KOLLER PETROLEUM PRODUCTS, INC., 241 N. Baltimore St., Spring Green, WI 53588. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Petroleum, natural gas and their products, from Chicago, IL, and points within the Chicago, IL commercial zone, Dubuque, IA, and points within the Dubuque, IA commercial zone, and Minneapolis-St. Paul, MN, and points within the Minneapolis-St. Paul, MN commercial zone to Evansville, Monticello, Blanchardville, Darlington, Lynxville, Dodgeville, Shullsburg, Mount Horeb, Highland, Lancaster, Barneveld, and Mineral Point, WI. Underlying ETA seeks 120 day authority. There are 12 shippers supporting this application.*

MC 146108 (Sub-4-6TA), filed April 20, 1982. Applicant: BIG T TRANSFER, INC., 2414 Jacobs Drive, New Albany, IN 47150. Representative: Harold C. Joliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379-2556. *Containers (Drums), empty, Between Louisville, KY, on the one hand, and, on the other, Little Rock and Fort Smith, AR, and Memphis, TN. An underlying ETA seeks 120 days authority. Supporting shipper: Allied Drum Service, Inc., 401 Colorado Ave., Louisville, KY, 40208.*

MC 148787 (Sub-4-1TA), filed April 21, 1982. Applicant: HOME DELIVERY CORPORATION, 422 North 27th Street, Milwaukee, WI 53208. Representative: Lawrence P. Kahn, 633 West Wisconsin Avenue, Milwaukee, WI 53203. *Contract irregular: toilet preparations and commodities used in the sale of toilet preparations (except commodities in bulk) between Glenview and Morton Grove, IL, on the one hand, and, on the other hand, points in Brown and Outagamie Counties, WI. Supporting shipper: Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053.*

MC 161426 (Sub-4-1TA), filed April 21, 1982. Applicant: RYAN TRANSFER CORPORATION, P.O. Box 820A, Green

Bay, WI 54305. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *(1) Pulp, paper and related products and (2) materials, equipment and supplies used in the manufacture and distribution of commodities named in (1) between points in Brown, Outagamie and Winnebago Counties, WI, on the one hand, and, on the other, Munising, MI. Supporting shipper: Kimberly-Clark Corporation, 1414 W. Larsen Road, Neenah, WI 54956.*

MC 161615 (Sub-4-1TA), filed April 21, 1982. Applicant: SONN LINE TRANSPORT CO., INC., 4320 North 126th Street, Brookfield, WI 53005. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Machinery and metal products, between the facilities of the Rose Company at Milwaukee, WI, on the one hand, and, on the other, points in CA, CO, MT, ND, NM, OK, SD, TX, and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Rose Company, 7044 North Teutonia Avenue, Milwaukee, WI 53209.*

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-12169 Filed 5-4-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29341]

Port of Pend Oreille Operation of a Line of Railroad in Pend Oreille and Spokane Counties, WA

PORT OF PEND OREILLE (Applicant), represented by Fritz R. Kahn, Esq., Verner, Liipfert, Bernhard and McPherson, Chartered, 1660 L Street NW., Suite 1100, Washington, D.C. 20036, hereby gives notice that on the 31st day of March, 1982, it filed with the Interstate Commerce Commission at Washington, D.C., an application pursuant to 49 U.S.C. 10901 for a certificate of public convenience and necessity authorizing the operation of a line of railroad in Pend Oreille and Spokane Counties, WA.

Applicant is a public port authority of the State of Washington created in 1978 by referendum vote of the registered voters of Pend Oreille County, WA.

The operating rights sought by Applicant were formerly held by the bankrupt Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). Pursuant to orders of the MILW reorganization court, Applicant acquired ownership of a line formerly owned by MILW beginning at milepost 43.6 at Newport, Pend Oreille County, WA, and

extending in a northwesterly direction to milepost 104.7 at Metaline Falls, Pend Oreille County, WA. In addition, MILW conveyed to Applicant its trackage rights over a line owned by the Burlington Northern, Inc., (BN) beginning at milepost 1479.5 near East Spokane, Spokane County, WA, and extending in a northerly direction to milepost 1432 at Newport, Pend Oreille County, WA. Since October 1, 1979, Pend Oreille Valley Railroad, pursuant to an operating agreement with Applicant has interchanged with BN at Newport and provided service between Newport and intermediate points. The purpose of the present application is to establish Applicant's authority to engage as a common carrier in interstate and foreign commerce over the Spokane Metaline Falls line. While Applicant has no immediate plans to operate the subject line itself, it may determine to do so at some future date.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 22), Revision of National Environmental Policy Act Guidelines, 363 L.C.C. 653 (1980) any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-National Environmental Policy Act*, 1969, supra, at p. 487.

Pursuant to 49 U.S.C. 10901 the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, or take any other specified action with respect to such application.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-12170 Filed 5-4-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATIONS AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a closed meeting on Wednesday, May 5, in Room 1008, 1750 Pennsylvania Avenue, NW., to discuss matters relating to Mr. Arthur Imperatore's role as Ombudsman of the International Communication Agency. Mr. Imperatore will meet with the Commission at 11:30 a.m. Director Charles Z. Wick and several associates will meet with the Commission at 4:30 p.m.

The emergency meeting is being held on short notice due to the imminent publication of the Commission's annual report, overseas travel plans made by Commission members, and the unexpected resignation of Mr. Imperatore.

The meeting of the Commission will relate to the internal personnel rules and practices of the Agency. Disclosure of the information to be discussed could result in the invasion of personal privacy and could significantly frustrate the implementation of proposed Agency actions (5 U.S.C. 552b(c)(2), (6), and 9(B)).

Dated: May 3, 1982.

Charles Z. Wick,
Director.

[FR Doc. 82-12342 Filed 5-4-82; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-99]

Certain Molded-In Sandwich Panel Inserts and Methods for Their Installation; Issuance of Exclusion Order and Cease and Desist Orders

AGENCY: International Trade Commission.

ACTION: Issuance of exclusion order and cease and desist orders.

SUPPLEMENTARY INFORMATION: On April 9, 1982, the Commission issued a general exclusion order and four cease and desist orders in the above-captioned investigation. The Commission ordered that molded-in sandwich panel inserts that infringe U.S. Letters Patent 3,182,015 be excluded from entry into the United States and that respondents The Young Engineers, Inc., Hitco Corporation, Weber Aircraft Division of Kidde, Inc., and Aerospace Division of UOP, Inc., cease and desist from certain activities

that infringe U.S. Letters Patents Nos. 3,271,498 or 3,392,225 where such activities involve imported sandwich panel inserts.

Notice of this investigation was published in the *Federal Register* on April 29, 1981 (46 FR 24034).

The Commission Action and Order, the Commission opinion in support thereof, and all other nonconfidential documents on the record of the investigation are available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E. Street NW., Room 161, Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Clarence E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

By order of the Commission.

Issued: April 29, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12258 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-118]

Certain Sneakers With Fabric Uppers and Rubber Soles; Amendment of Notice of Investigations To Add Respondent

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add one new respondent pursuant to § 210.22(a) of the Commission's rules of practice and procedure (19 CFR 210.22(a)).

SUMMARY: On April 27, 1982, the Commission granted in part a motion (Motion No. 118-2) to amend the notice of investigation in this investigation to add Genesco, Inc., as an additional respondent.

SUPPLEMENTARY INFORMATION: On March 23, 1982, complainant Van Doren Rubber Co., Inc., moved (Motion No. 118-2) to amend the complaint and the notice of investigation to add as a new respondent Genesco, Inc. Genesco is alleged by complainant to be engaged in unfair competition, common law trademark infringement, false designation of origin, and passing off with respect to the sneakers in controversy. On March 31, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 5) insofar as it requests amendment of the notice

of investigation. After consideration of Motion No. 118-2 and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add Genesco, Inc., Genesco Park, Nashville, Tennessee 37202, as respondent with regard to the unfair competition and common-law trademark infringement allegations.

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, telephone 202-523-0079.

By order of the Commission.

Issued: April 27, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12259 Filed 5-4-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-155 Through 163 (Preliminary)]

Certain Steel Products From Spain; Investigation and Scheduling of Conference

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and the scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: April 26, 1982.

SUMMARY: On April 26, 1982, the U.S. Department of Commerce notified the United States International Trade Commission that, in accordance with section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a), it was commencing investigations to determine whether producers, manufacturers, or exporters in Spain of certain steel products receive benefits that qualify as subsidies within the meaning of the Act. Accordingly, effective April 26, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), instituted preliminary countervailing duty investigations Nos. 701-TA-155 through 163 (Preliminary) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the

United States is materially retarded, by reason of imports from Spain of the merchandise which is the subject of the investigations by the Department of Commerce. The products covered in these investigations are as follows: Hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (1982)(TSUSA); hot-rolled carbon steel sheet, provided for in TSUSA items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400; cold-rolled carbon steel sheet, provided for in TSUSA items 607.8320 and 607.8344; galvanized carbon steel sheet, provided for in TSUSA items 608.0730 and 608.1300; carbon steel angles, shapes, and sections, provided for in TSUSA items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045; hot-rolled carbon steel bar, provided for in TSUSA items 606.8310, 606.8330, and 606.8350; hot-rolled alloy steel bar, provided for in TSUSA items 606.9700; cold-formed carbon steel bar, provided for in TSUSA items 606.8805 and 606.8815; and cold-formed alloy steel bar, provided for in TSUSA item 606.9900.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, International Trade Commission; telephone 202-523-0312.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 1982, petitions were filed with the Department of Commerce by the United States Steel Corp. and by counsel for Republic Steel Corp., Inland Steel Co., Jones & Laughlin Steel, Inc., National Steel Corp., and Cyclops Corp. alleging that producers, manufacturers, or exporters in Spain of certain steel products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). As Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), there was no requirement for the petitions to be filed with the Commission pursuant to section 702(b)(2) and no requirement for the Commission to conduct preliminary injury investigations pursuant to section 703(a).

On April 14, 1982, however, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 FR 16697). Accordingly, Commerce terminated its investigations under section 303 and initiated investigations under section 702. The Commission must make its determinations in these investigations within 45 days after the date on which its received notification by the

Department of Commerce of its action, or by June 10, 1982 (19 CFR 207.17). The investigations will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457), and particularly subpart B thereof.

Written submissions

Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before May 28, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR Part 201.6).

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10:00 a.m., e.d.t., on May 24, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigations, Mr. Robert Eninger, telephone 202-523-0312, not later than May 17, 1982, to arrange for their appearance. It is anticipated that parties in support of the imposition of countervailing duties in the investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Record

The records of Commission investigations Nos. 701-TA-86 through 144 (Preliminary), 701-TA-146 (Preliminary), 701-TA-147 (Preliminary), and 731-TA-53 through 86 (Preliminary), Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, will be incorporated in the records of

investigations Nos. 701-TA-155 through 163 (Preliminary).

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Mr. Eninger.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR Part 207.12).

By order of the Commission.

Issued April 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-12260 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-154
(Preliminary)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Spain

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-154 (Preliminary) to determine, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of hot-rolled stainless steel bar, provided for in item 606.9005 of the Tariff Schedules of the United States Annotated (TSUSA), cold-formed stainless steel bar, provided for in TSUSA item 606.9010, and stainless steel wire rod, provided for in TSUSA items 607.2600 and 607.4300 upon which bounties and grants are alleged to be paid.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel F. Leahy, Jr., Office of Investigations, U.S. International Trade Commission; telephone 202-523-1369.

SUPPLEMENTARY INFORMATION:

Background

On February 17, 1982, a petition was filed with the Department of Commerce by counsel for Al Tech Specialty Steel Corporation, Armco Stainless Steel Division, Carpenter Technology Corporation, Colt Industries, Inc. (Crucible Materials Group), Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels, and Republic Steel Corporation alleging that producers, manufacturers, or exporters in Spain of stainless steel bar and wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act). As Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act, there was no requirement for the petition to be filed pursuant to section 702(b)(2) and no requirement for the Commission to conduct a preliminary material injury investigation pursuant to section 703(a).

On April 14, 1982, however, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 FR 16697). On April 26, 1982, Commerce notified the Commission that it had terminated its investigation under section 303, and that, in accordance with section 702 of the Act, it was commencing a new countervailing duty investigation. Accordingly, the Commission is instituting its investigation.

The Commission must make its determination in the investigation within 45 days after the date on which it receives notice by the administering authority of an investigation commenced under section 702(b) of the Act, or by June 10, 1982 (19 CFR 207.17 (1981)). The investigation will be subject to the provisions of part 207 of the Commission's rules of practice and procedure (19 CFR 207 (1981), as amended by 47 FR 6190 (February 10, 1982)), and particularly subpart B thereof.

Written submissions

Any person may submit to the Commission on or before May 24, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of section 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data".

All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.d.t., on May 19, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Mr. Daniel Leahy, telephone 202-523-1369, not later than May 14, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982), and Part 201, Subparts A through E (19 CFR Part 201 (1981), as amended by 47 FR 6188 (February 10, 1982)). Further information concerning the conduct of the conference will be provided by Mr. Leahy.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12 (1981)).

By order of the Commission.

Issued: April 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-12257 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-92 (Preliminary)]

Stainless Steel Sheet and Strip From West Germany; Investigation and Scheduling of Conference

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-92 (Preliminary) to determine, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from West Germany of stainless steel sheet, provided for in items 607.7610, 607.9010, and 607.9020 of the Tariff Schedules of the United States Annotated (TSUSA), and stainless steel strip, provided for in TSUSA items 608.4300 and 608.5700 which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel F. Leahy, Jr., Office of Investigations, U.S. International Trade Commission; telephone 202-523-1369.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition filed by members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America. The Commission must make its determination in the investigation within 45 days after the date of receipt of petition, or by June 10, 1982 (19 CFR 207.17 (1981)). The investigation will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR Part 207 (1981), as amended by 47 FR 6190 (February 10, 1982)), and particularly Subpart B thereof.

Written Submissions

Any person may submit to the Commission on or before May 20, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted (19 CFR 201.6 (1981), as amended by 47 FR 6188 (February 10, 1982)).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules of practice and

procedure (19 CFR 201.6). All written submissions, except for confidential business data will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.d.t., on May 17, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Mr. Daniel Leahy, telephone 202-523-1369, not later than May 12, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207, as amended by 47 FR 6188 (February 10, 1982)), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188 (February 10, 1982)). Further information concerning the conduct of the conference will be provided by Mr. Leahy.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12 (1981)).

By order of the Commission.

Issued: April 29, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12261 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-3 (Final)]

Sugars and Sirups From Canada

Determination

Based on the record¹ developed in investigation No. 731-TA-3 (Final), the Commission determines² that as of

¹The "record" is defined in § 207.2(i) of the Commission's rules of practice and procedures, 47 FR 6190, February 10, 1982.

²Commissioners Frank and Haggart did not participate.

Vice Chairman Calhoun affirms his earlier determination that an industry in the United States is materially injured by reason of the importation of sugars and sirups from Canada sold, or likely to be sold, at LTFV.

Commissioner Stern determines that as of March 6, 1980, Revere Sugar Corp. was materially injured by reason of the importation of sugars and sirups from Canada sold, or likely to be sold, at LTFV.

March 6, 1980, the date of the Commission's initial determination regarding sugars and sirups from Canada, producers of all, or almost all of the production within the Northeastern regional market were materially injured by reason of the importation of sugars and sirups from Canada sold, or likely to be sold, at less than fair value (LTFV). The determination in this matter is made pursuant to the order of the U.S. Court of International Trade entered December 28, 1981, in the case of *Atlantic Sugar, Ltd., et al. v. United States*.

Background—First Remand

In March 1980 the Commission determined that an industry in the United States is being materially injured by reason of imports of sugars and sirups from Canada which the Department of the Treasury had determined are being, or are likely to be, sold in the United States at less than fair value. The Commission's determination was appealed to the United States Customs Court (now known as the U.S. Court of International Trade) on May 6, 1980.

Subsequent to the Commission's determination and the appeal of that determination to the Court of International Trade, errors were discovered in the information considered by the Commission relating to (1) the regional demand supplied by domestic productive facilities located outside the Northeastern States region, and (2) the financial performance of one of the sugar producers located in the region in question.

In an order issued on July 8, 1981, the Court of International Trade directed that within 90 days the Commission—issue a new determination after considering the corrected data regarding the regional demand supplied from elsewhere and, if it is reached, the evidence regarding the profitability of the producers in the region * * *

On October 5, 1981, the Commission affirmed its prior determination (Commissioner Stern dissenting and Commissioners Bedell, Eckes, and Frank not participating) that as of March 6, 1980, an industry in the United States was materially injured by reason of the importation of sugars and sirups from,

Commissioner Stern also affirms her earlier determination that circumstances were not appropriate for consideration of the Northeastern geographic area as a separate and isolated region and that an industry in the United States was not materially injured or threatened with material injury by reason of the importation of sugars and sirups from Canada sold, or likely to be sold, at LTFV.

³*Atlantic Sugar, Ltd., et al. v. United States*, Slip Op. 81-62, 15 Cust. Bull. & Decisions 69, 75-76 (Ct. Int'l. Trade 1981), July 8, 1981.

Canada sold, or likely to be sold, at LTFV.

Second Remand

On December 28, 1981, the Court of International Trade remanded the case to the Commission for a second time and directed the Commission to—

determine whether the Revere Sugar Corp. suffered injury within the meaning of this statute and if not, whether there is any reason to conclude that those who were injured are the producers of all or almost all the production in the region. The ITC shall report its determination to the Court within 120 days of the date of entry of this order.

In arriving at its determination in response to the second remand, the Commission gave due consideration to information obtained during the course of investigation No. 731-TA-3 (Final), as later corrected.

By order of the Commission.

Issued: April 26, 1982.

Kenneth R. Mason,
Secretary.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Alfred Eckes⁴

These views are submitted in response to the December 28, 1981, order of the United States Court of International Trade⁵ remanding to the Commission investigation No. 731-TA-3 (Final), *Sugars and Sirups from Canada*. In October of 1981, the Commission^{6,7} on the basis of corrected data affirmed its original determination that there was a regional industry in the Northeastern states region. Although the corrected data demonstrated that the Revere Sugar Corporation, one of the largest producers in the region, had a profit rather than a loss, the Commission went on to reaffirm its original finding that the producers of all or almost all of the production within the region were materially injured. The Commission found that the reported aggregate profits for the seven regional producers had continued to decline, noting that the decline had simply not been as steep as

the original data had indicated.⁸ The Commission also took the position that in determining whether the producers of all or almost all of the production within a regional market are materially injured, it can rely on aggregate data.

On December 28, 1981, the Court of International Trade affirmed the Commission's determination that a Northeastern states region exists, but took exception with the Commission's analysis regarding material injury. Specifically, the Court (per Judge Watson) disagreed with the Commission's use of aggregate data to determine whether producers of all or almost all of the production within the region were materially injured. Instead the Court determined that in a regional industry case the Commission must make an individual injury determination for each producer within the region and then determine whether the injured producers are the producers of all or almost all of the production within the region.

Injury to an industry cannot be determined without first finding injury to individual producers. That is the unalterable and logical progression of the statutory determination. * * * It seems to the Court that individual firm data are the foundation of this determination and it is only when the facts show injury to individual producers that they may be utilized for broader conclusions about the industry. Furthermore, a conclusion about injury to the industry cannot be made until it is determined that those who are injured individually are, in the aggregate, the producers of "all or almost all" of the region's production. Thus, the only aggregation permitted by the law is that of the production of those who have been injured individually. If their production represents all or almost all of the region's production then the industry has been injured within the meaning of the law. [Emphasis in the original.]⁹

The Court went on to order the Commission to determine specifically whether the Revere Sugar Corporation was materially injured by Canadian imports. The Court also stated that, if the Commission determines that Revere was materially injured, "it may be linked with those other producers who were injured. If the entire injured group produces all or almost all of the production, then a finding of injury to the industry is proper."¹⁰

In response to this order, we will first separately examine the individual producers within the region to determine whether each was materially injured. We will then combine the data for the injured producers and determine

whether they account for all or almost all of the production within the region. We will then discuss our interpretation of the statute.

*Revere Sugar Corporation Was Materially Injured by Reason of Less-Than-Fair-Value (LTFV) Imports From Canada*¹¹

On December 28, 1981, the Court of International Trade ordered the Commission to determine whether as of March 6, 1980, the Revere Sugar Corporation was materially injured by reason of Canadian LTFV imports of sugars and sirups. We determine that Revere was materially injured.

The data in the record concerning injury to Revere covers a period of only two years—1978 and 1979. Profit-and-loss data for 1978 covered the partial accounting year from December 15, 1977, to July 1, 1978, and for 1979 the full accounting year from July 2, 1978, to June 30, 1979.

* * * 12 13 14

Revere was consistently undersold by one or both of the Canadian producers from 1978 to 1980, sometimes by substantial margins. This indicates that Canadian imports were a cause of the material injury experienced by Revere.¹⁵ Revere also argued strongly that it was being materially injured by Canadian imports.¹⁶

¹¹ Commissioner Stern joins the majority in this section of the views.

¹² The data for production, capacity, person-hours worked, worker production and profits from Revere's questionnaire include data for Revere's Chicago plant.

¹³ Revere Sugar Corporation acquired the business of the Sweetener Division of Sucrest Corporation on Dec. 14, 1977, under the terms of an agreement dated July 30, 1977. After the sale, Sucrest changed its name to the Ingredient Technology Corporation. Revere responded to the Commission's questionnaire, but only provided data for operations subsequent to this acquisition. Although the Staff made inquiries concerning operations prior to the acquisition, Revere officials indicated that data for operations prior to acquisition were not available and probably were still being held by Ingredient Technology Corporation.

¹⁴ There is no alternative to this estimate as Revere did not give the Commission data that could be broken down by month or quarter which would enable the Commission to make a six month comparison.

¹⁵ Commissioner Stern notes: I have reached the above finding regarding Revere to satisfy the Court's remand order. My finding that the Canadian imports are a causal factor of material injury to Revere depends in part on the fact that both the Canadian imports and Revere are competing in the same Northeastern states geographical area. As explained in my separate views which follow, I do not believe that the circumstances are appropriate for a regional industry treatment.

¹⁶ Letter of Leroy Gross, Vice President & Controller, Revere Sugar Corp., to Mr. Fry, Director of Investigations, USITC, dated January 11, 1980 with attached telex (Exhibit 11 of public documents submitted to U.S. Court of International Trade).

⁴ Commissioner Stern joins in the finding that the Revere Sugar Corporation is materially injured by reason of the subject imports and in its additional views on regional industry, making these findings unanimous. Commissioner Stern dissents from the majority finding that the producers in the Northeastern states geographical area constitute an appropriate regional industry for the purposes of this investigation and reaches a negative determination with respect to the national industry.

Commissioners Frank and Haggart did not participate in this determination.

⁵ Atlantic Sugar, Inc. v. United States, Slip Op. 81-119, Dec. 28, 1981.

⁶ Commissioner Eckes did not participate in that determination or the original determination.

⁷ Commissioner Stern dissenting.

⁸ Sugars and Sirups From Canada, Inv. No. 731-TA-3 (Final), October 1981 (hereinafter cited as October 1981 decision) at 14.

⁹ Atlantic Sugar v. United States, *supra*, at 9, 10.

¹⁰ *Id.* at 11.

The Canadian producers have argued that Revere's prices were the lowest in the market and the cause of injury to the domestic industry, and have alleged that Revere's ability to reduce prices was due to an agreement with the Philippine Exchange Company, Inc. (Philex) for a 5-year period which allegedly guaranteed Revere a profit. The auditors' report attached to the Revere questionnaire noted * * * It is not all clear that Revere was guaranteed a profit by the terms of the agreement. This state of affairs, in combination with the actual prices of both the Canadian producers and Revere, indicate that Revere was, in fact, not the price leader.

Amstar Corporation Was Materially Injured by Reason of LTFV Imports From Canada

* * * This combined with substantial margins of underselling by the Canadian producers and confirmed lost sales indicate that Amstar was materially injured by reason of Canadian LTFV imports.

* * * * *

When weighted average prices are examined for 1978 and 1979, it is apparent that both Canadian producers consistently undersold Amstar by substantial margins. Sales lost by Amstar to Canadian sugar were also confirmed.

National Sugar Refining Co. Was Materially Injured by Reason of LTFV Imports From Canada

We determine that National Sugar Refining Co. was materially injured by reason of Canadian LTFV imports because * * * Causation is demonstrated by the substantial margins of underselling and confirmed lost sales.

* * * * *

During 1978 and 1979 both Canadian producers undersold National by substantial margins and lost sales were confirmed to Canadian producers.

Refined Syrups and Sugars, Inc. Was Materially Injured by Reason of LTFV Imports From Canada

We determine that Refined Syrups and Sugars (Refined Sugars) was materially injured by reason of Canadian LTFV imports because of * * * and the fact that the two Canadian producers consistently undersold Refined Sugars by substantial margins.

* * * Furthermore, during 1978 and

1979 both Canadian producers consistently undersold Refined Sugars by substantial margins. We conclude, therefore, that Refined Sugars was materially injured by Canadian LTFV imports.

Michigan Sugar Co. Was Not Materially Injured or Threatened With Material Injury by Reason of LTFV Imports From Canada

* * * The Commission concludes that this company was not materially injured by reason of Canadian LTFV imports. There is nothing on the record to suggest a threat of material injury to the Michigan Sugar Co. by reason of Canadian LTFV imports.

Monitor Sugar Co. Was Not Materially Injured or Threatened With Material Injury by Reason of Canadian LTFV Imports

* * * The Monitor Sugar Co., therefore, was not materially injured by Canadian LTFV imports. There is nothing on the record to suggest threat of material injury to Monitor Sugar Co.

Northern Ohio Sugar Co. Was Materially Injured by Reason of LTFV Imports From Canada

* * * Although we do not have any specific price information from Northern Ohio, during October 1978 to March 1979, the Canadian producers were the consistent price leaders in the region.¹⁹ We, therefore, conclude that Canadian imports caused material injury to Northern Ohio.

Producers of all or Almost All of the Production Within the Regional Market Were Materially Injured

Revere, Amstar, National, Refined Syrups and Sugars and Northern Ohio which account for over * * * percent of the production within the region were materially injured by Canadian imports. Therefore, we determine that producers of all or almost all of the production within the region were materially injured. The only two companies that were not materially injured or threatened with material injury were Michigan and Monitor Sugar Companies which are located on the perimeter of the Northeastern Region and account for less than * * * percent of the production within the region.²⁰

¹⁹ Northern Ohio did not supply requested information on production, pricing, capacity, employment, wages, inventories, capital expenditures, and research and development expenditures.

²⁰ * * * *

*Additional Views on Regional Industry Analysis*²¹

Having addressed what we understand to have been the Court's request of us, we nevertheless feel obliged to express our strong reservation regarding the Court's interpretation of Section 771(4)(c). In its reading, the Court has found that the language " * * * producers of all, or almost all, of the production within that market are being materially injured * * * " requires us first to determine whether each individual producer in the region is materially injured by reason of LTFV imports, then to combine the injured producers to determine whether they account for all or almost all of the production within the region. Clearly, this methodology is consistent with the statutory language.

The language of section 771(4)(c), however, may also be read as permitting a somewhat different analytical approach. This alternative methodology is to examine the aggregate data from the various combinations of producers which represent all or almost all of the production in the region and determine whether, as a group, they suffer material injury by reason of imports. This is the approach we have used in each of our regional industry investigations thus far. Not only do we find that this approach is also consistent with the statutory language and the legislative history,²² it is, as well, free of the administrative burdens and conflicts with other statutory provisions which accompany the Court's approach.

Indeed, in our view, the Court's reading of section 771(4)(c) presents three serious problems. First, all of our determinations prior to the 1979 Trade Agreements Act relied on aggregate data.²³ We strongly believe that this approach, while greatly different from the Court's view, does no violence to the language of the statute. If the Congress wanted that practice to change in order to make individual determinations in regional cases, it would have made it intent clearer in the statutory language

²¹ Commissioner Stern joins the majority in this section of the views.

²² The Reports of the Ways and Means and Senate Finance Committee address this issue only by way of reciting the statutory language. See Committee on Way and Means, U.S. House of Representatives, Report No. 96-317, 96th Cong., 1st Sess., p. 73, and Committee on Finance, U.S. Senate, Report No. 96-249, 96th Cong., 1st Sess., p. 83.

²³ Chairman Alberger notes that in the Commission's historical practice of primarily relying on aggregate data, it often looks at data from individual producers to help assess the impact of LTFV or subsidized imports on the domestic industry. Aberrations from aggregate trends often provide valuable insights into the overall problems facing an industry.

¹⁷ Profits for Amstar's sugar operations include its cane sugar operations outside the Northeastern region.

¹⁸ The 1978 figures include data for only 10 months.

and would have addressed the change in Commission reports which address other significant changes. Instead, the Congress indicated its concern for other policy considerations, including the need for a speedy, open decisionmaking process with a minimum burden on both the Commission and the public. Second, the Court's analysis poses a substantial administrative burden on the Commission and on the public. Third, it has a serious adverse impact on the Commission's mandate to undertake an open decisionmaking process.

Regarding the second point, in a case such as this in which there are fewer than ten producers in the region, the individual determinations required by the Court's interpretation can usually be made. But in those regional cases in which there are a greater number of producers, it may become administratively impossible to make such individual determinations. For example, in *Fish, Fresh, Chilled, or Frozen, Whether or Not Whole, But Not Otherwise Prepared or Preserved, From Canada*, Inv. No. 701-TA-40 (Final), USITC Pub. 1066, the Commission found an Eastern regional industry consisting of 700 New England fishing vessels and 71 Atlantic Coast processing firms. Plainly, it would have been prohibitive as a practical matter for the Commission to make individual material injury and causation determinations for 700 separate fishing vessels and 71 separate fish processors in the preliminary and final investigations.²⁴ Even if this analysis could be made, the statutory time constraints and the unavailability of data would have made such a task impossible.

A number of other cases involving a large number of domestic producers in which regional considerations were present demonstrate even further the frequency and magnitude of the potential problem with the Court's analysis causes. In *Tomato Products from the European Community*, Inv. Nos. 701-TA-42-50, USITC Pub. 1076, the domestic tomato processing industry consisted of more than 200 firms, and in *Fresh Cut Roses from the Netherlands*, Inv. No. 701-TA-21, USITC Pub. 1041, the domestic rose industry consisted of over 400 individual producers.

It has long been accepted Commission practice that in cases with a large number of producers, such as *Fresh Cut Roses*, our data are gathered by sampling. Sampling lessens the administrative burden on both the Commission and the public. It allows us to conduct as complete and factual an

analysis as is possible given the statutory deadlines within which we must reach these determinations. The Court's interpretation of our responsibilities in regional cases would deny us this investigative tool.

In addition, injury and causation determinations for individual producers create a burden on the public. Producers which account for only a fraction of a percent of the production within the region would be required to answer questionnaires even though it is clear that only a few of the domestic producers account for the bulk, but not "all or almost all," of the production within the region. The recently enacted Paperwork Reduction Act charges the Commission with reducing the administrative burden on the public. Section 3507(a)(1)(B) states: "An agency shall not conduct or sponsor the collection of information unless, in advance of the adoption or revision of the request for collection of such information—the agency has taken actions . . . to reduce to the extent practicable and appropriate the burden on persons who will provide information to the public."²⁵ It is our experience that the Court's requirement is in direct conflict with this provision. Since individual injury and causation determinations of each producer effectively preclude the use of sampling, the Court's decision will significantly increase rather than decrease the volume of information required from the public.

Furthermore, there are instances during an investigation in which producers, often the smaller companies, do not respond to Commission questionnaires and the Commission often cannot, within the short statutory time limits, utilize its subpoena authority.²⁶ When questionnaires are not returned in preliminary cases, the Commission relies on the best information available, that is the aggregate data. Under the regional industry standard compelled in this remand, if the Commission does not receive data from producers of all or almost all of the production, the entire industry might be deprived of relief because of the recalcitrance of a few producers.

In our view, given the strict time limitations imposed by the Trade Agreements Act of 1979 and in the absence of clearly compelling language to the contrary, the drafters of the Act

surely did not intend to hamper the Commission with the requirement of numerous separate individual determinations in regional industry investigations. An administrative agency always has the authority to respond to the administrative difficulties of implementing the commands of the substantive statute. As the United States Court of Appeals for the District of Columbia has stated:

Considerations of administrative necessity may be a basis for finding implied authority for an administrative approach not explicitly provided in the statute. The relevance of such considerations to the regulatory process has long been recognized. Courts frequently uphold streamlined agency approaches or procedures where the conventional course, typically case-by-case determinations, would, as a practical matter, prevent the agency from carrying out the mission assigned to it by Congress.²⁷

In this connection, because of administrative impracticality and the added burden on the public, we have in all regional industry cases relied on aggregate data from questionnaires. In some instances, this data has represented fewer than all of the producers within the regional industry. As a practical matter, without such a practice, we may not be able to carry out the statutory mandate.

The third problem the Court's requirement poses is that it runs afoul of one of the goals of the Trade Agreements Act of 1979. From the legislative history it is clear that in passing this legislation Congress attempted to balance the public and the international interest in open hearings against the interest in keeping business information confidential. The Senate Committee on Finance Report states that one of the principal elements of both the Subsidy and Antidumping Agreements was:

Provisions for "transparency" in all phases of a countervailing duty or dumping case, including publication of laws and regulations, investigations, and decisions, and access to information on which decisions are based, subject to protection of legitimately confidential information, S. Rep. No. 96-249, 96th Cong., 1st Sess. at 41.

Furthermore, section 774(b) provides: "Procedures—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public." (Emphasis added.) Thus, Congress intended that hearings in antidumping and countervailing duty cases be open to the

²⁵ Pub. L. 96-511, 94 Stat. 2820 (Dec. 11, 1980).

²⁶ See *Fish, Fresh, Chilled, or Frozen, Whether or Not Whole, But Not Otherwise Prepared or Preserved, From Canada*, Inv. No. 701-TA-40 (Final), USITC Pub. 1066, at 11.

²⁷ *Alabama Power Co. v. Costle*, 636 F.2d, 323, 358 (D.C. Cir. 1979).

²⁴ In the entire United States, there were more than 1,000 fishing vessels and 100 fish processors.

public. Derogations ought to be exceptional in nature and few in number.

If, as the Court has suggested, individual determinations are required in regional industry cases, most of the conferences and hearings now open would have to be closed to the public. Commission reports would contain substantial amounts of confidential data. Commission opinions would be equally limited. Such a circumstance would be contrary to the United States position in our trade negotiations with foreign countries in which the executive branch has been advocating greater transparency in the decisionmaking process. Closing the decisionmaking process would also be inconsistent with Congressional intent. We cannot believe that Congress could have intended such a result without specifying more clearly the changes in Commission practice it desired.

Views of Commissioner Paula Stern

In response to the December 28, 1981, order of the United States Court of International Trade,²⁸ I have determined that as of March 6, 1980, the Revere Sugar Corporation was materially injured by reason of the importation of sugars and sirups from Canada sold, or likely to be sold, at less than fair value.

I also reiterate my earlier conclusion that circumstances are not appropriate for the consideration of the Northeastern geographic area as a separate and isolated region.²⁹ Accordingly, I reaffirm my previous determination that an industry in the United States was not materially injured or threatened with material injury by reason of the importation of sugars and sirups from Canada.

Revere Sugar Corporation is Materially Injured

On December 28, 1981, the Court of International Trade ordered the Commission to determine whether as of March 6, 1980, the Revere Sugar Corporation was materially injured by reason of Canadian imports of sugars and sirups. I determine that Revere was materially injured. I have fully joined the majority analysis on this finding and will not repeat it here. I also concur in the "Additional views on regional industry analysis" of the majority.³⁰

²⁸ Atlantic Sugar, Inc. v. United States, Slip Op. 81-119, Dec. 28, 1981.

²⁹ See Sugar and Sirups from Canada, Inv. No. 731-TA-3 (Final), October 1981, Views of Commissioner Stern (hereinafter cited as October 1981 decision) at 18.

³⁰ See "Views of the Commission" at pp. 3-5 and pp. 9-14.

Reaffirmation of Previous Determination

In my October 1981 decision, I determined that the Northeastern area was not a separate and isolated regional market and therefore, went on to examine the entire nation's sugar production as a whole. In that opinion, I stated:

A careful reexamination of the regional industry issue in light of the corrected data has been primarily responsible for my negative determination in the remanded case. Because U.S. producers in the Northeastern states area are not sufficiently separate or isolated to constitute a regional industry, the relevant domestic industry should encompass the entire nation and not the region found by the Commission in the original case or the majority in the present one.³¹

I have found that no natural or commercial reasons outside the control of the sugar producers themselves severely limit the quantities of sugar that can flow between geographical areas. Rather, the pattern of supply seems to reflect the historical distribution practice which in and of itself is not a sufficient basis to find that the market is isolated or separate as required by law. (Emphasis in original.)³²

In his December 28 opinion, however Judge Watson did not determine that the Northeastern states are a separate and isolated region. Rather, he determined that the majority's finding of a region was supported by substantial evidence and not at variance with the law. Therefore, my original finding on regionality was not at variance with the Court's order.

Under section 771(4)(C) the application of a regional industry definition is discretionary. The language of the section provides that "In appropriate circumstances * * * the producers within each market each market may be treated as if they were a separate industry * * *" (emphasis added). The Commission does not have a statutory obligation to make a regional industry finding even in cases where "appropriate circumstances" for such a finding exist. As I noted in my October 1981 determination, I do not believe appropriate circumstances for regional industry treatment exist in this case where the sole basis for the geographic distribution of supply is historical marketing practices.

Accordingly, my analysis of injury and causation have once again been made on a national basis. The national data have not changed in any significant fashion. (Corrections to the data primarily affected only the results for the Northeastern states geographic

area.) Therefore, the analysis I made in the two prior determinations remains intact: although the raw sugar processing industry was injured, Canadian imports were not a cause of material injury to the nationwide domestic industry, as I continue to believe that industry is most appropriately defined.

[FR Doc. 82-12282 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-46]

Tubeless-Tire Valves; Investigation and Hearing

AGENCY: International Trade Commission.

ACTION: Following receipt of a petition on April 16, 1982, filed on behalf of three U.S. manufacturers of tubeless-tire valves, the U.S. International Trade Commission on April 29, 1982, instituted an investigation (No. TA-201-46) under section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) to determine whether tubeless-tire valves, provided for in items 692.32 and 692.33 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

EFFECTIVE DATE: April 16, 1982.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator, U.S. International Trade Commission, Washington, D.C. 20436 (202-523-0439).

SUPPLEMENTARY INFORMATION:

Public hearing ordered. A public hearing in connection with this investigation will be held in Washington, D.C., at 10 a.m. on Wednesday, July 14, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission at his office in Washington no later than the close of business Friday, July 2, 1982.

Prehearing procedures. To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business Wednesday, July 7, 1982. Copies of any prehearing briefs

³¹ October 1981 decision at 18.

³² *Id.* at 19.

submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Wednesday, July 7, 1982, at 10 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Other written submissions. Other written submissions, except for posthearing briefs, should be filed with the Secretary to the Commission prior to the public hearing. Commercial or financial data which are confidential should be clearly marked "Confidential Business Information" and should be submitted in accordance with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Submissions should also conform to the general requirements of § 201.8 of the Commission's rules (19 CFR 201.8).

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

By order of the Commission.

Issued: April 30, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12263 Filed 5-4-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 22, 1981, and published in the *Federal Register* on December 31, 1981 (46 FR 63409), Aerojet Strategic Propulsion Company, Highway 50 at Hazel Avenue, P.O. Box 15699C, Sacramento, California 95813, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Tetrahydrocannabinol (7370), a basic class of controlled substance listed in Schedule I.

No comments or objections having been received and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Acting Administrator

hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 28, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-12149 Filed 5-4-82; 8:45 am]

BILLING CODE 4410-09-M

National Institute of Justice

Research on the Utilization of Forensic Evidence in Courts; Grant Solicitation

The National Institute of Justice announces a competitive grant solicitation for research on the utilization of forensic evidence in courts. This research will investigate the use and impact of physical evidence for prosecutors, defense counsels, and courts. The research results are needed to guide law enforcement and criminal justice practitioners on their decisions regarding the use of crime laboratories and physical evidence on criminal cases.

The solicitation requests submission of proposals which will then be considered by a peer review panel. In order to be considered, proposals must be postmarked no later than June 18, 1982. A total of \$200,000 has been allocated for this research.

Additional information and copies of the solicitation may be obtained by contacting: Police Division, National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531, 202/724-2953.

Please enclose a self-addressed mailing label.

Dated: April 29, 1982.

James L. Underwood,

Acting Director, National Institute of Justice.

[FR Doc. 82-12275 Filed 5-4-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel Composers; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers) to the National Council on the Arts will be held on May 25-27, 1982, from 9:30 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on May 26, 1982, from 4:00 p.m.-5:30 p.m. to discuss policy.

The remaining sessions of this meeting on May 25th from 9:30 a.m.-5:30 p.m., May 26th from 9:30 a.m.-4:00 p.m. and on May 27th from 9:30 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-12276 Filed 5-4-82; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Panel on Future Military Technologies; Meeting

Notice is hereby given that the panel named above will meet at 9:00 a.m. on May 19, 1982, in the Pentagon, Washington, D.C.

The panel will discuss research and development of future military programs.

The meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1): All material under discussion is classified defense information. Authority for closing: Director, Office of Science and Technology Policy.

Contact: Dr. Alf L. Andreassen, Office of Science and Technology Policy, 726 Jackson Place NW., Washington, D.C. 20500, Phone: (202) 395-5684.

Robert D. Linder,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 82-12151 Filed 4-30-82; 2:20 pm]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18680; File No. SR-NYSE-82-6]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

In the matter relating to proposed rules for the trading of options on mini stock groups.

Comments requested on or before
May 26, 1982

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 9, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for options on small groups of stocks constituted either on an intra- or inter-industry basis and requiring the delivery of the component stocks ("mini stock group options").

The Exchange currently has pending with the Commission proposed rule changes respecting Treasury security options, File No. SR-NYSE-81-5 (the "Treasury security option filing") and index stock group options, File No. SR-NYSE-82-2 (the "index stock group option filing") (collectively, the "pending option filings"). The pending option filings consist primarily of modifications of and additions to the Exchange's present 700 series rules, which pertain to the "upstairs" regulation of stock options trading. Consequently, the proposed rule change consists for the most part of changes to the pending option filings that are designed to make the Treasury security option rules and index stock group option rules apply to options on mini stock groups as well.

The principal departures from the pending option filings are as follows:

"Pro Forma" Modifications to Rules to Accommodate Mini Stock Group Options—Many of the proposed changes simply seek to apply the concepts of the Treasury security options rules and index stock group options rules to mini stock group options. These changes include:

1. Several new terms are defined by the proposed rule change in order to

accommodate mini stock group options. "Stock-related option contract" refers to individual stock options, mini stock options or index stock options. "Stock group option contract" refers only to mini stock options or index stock options. "Kind of option" can describe either an individual stock option, a Government security option, a mini stock group option, an index stock group option or a GNMA option. The proposed rule change adds several other terms to facilitate reference to mini stock group options.

2. Several existing terms are amended by the proposed rule change to accommodate mini stock group options. For example, the proposed rule change provides that the exercise price for mini stock group options be stated as an average of the prices of the stocks included in the mini group. The aggregate exercise price is determined by multiplying the exercise price by the aggregate number of shares covered by the option.

When writing a call in mini group options, the call is "covered" if the writer owns as to each stock included in the mini group the number of shares of the stock covered by the option.

"Underlying security" is amended to include any of the component stocks delivered on exercise of a mini stock group option. Several additional terms are amended to facilitate reference to the mini stock group option.

3. The proposed rule change provides that bids and offers for mini stock group options be expressed as the premium divided by the aggregate number of shares covered by the option.

4. The proposed rule change proposes minimum fractional changes equal to one-sixteenth (in the case of bids or offers under \$3 per underlying share) and one-eighth (in the case of higher bids or offers). Such minimum fractional changes correspond to the minima for bids and offers for individual stock options and index stock group options.

5. To regulate the trading activity of Competitive Options Traders, the same trading restrictions imposed on Competitive Options Traders registered in index stock group options are proposed to be imposed on Competitive Options Traders registered in mini stock group options.

6. The prohibitions on concurrent proprietary transactions in both stock options and their underlying stocks (Rules 96, 102 and 105) are modified by supplementary material to make clear that mini stock group options, but not index stock group options, fall within the prohibitions. This reflects the view that a transaction in a mini stock group option on a group that includes a

particular stock achieves the same effect as to that stock as does a transaction in an individual stock option on the same number of shares of the same stock. The modifications' inclusion notwithstanding the Exchange's still-pending 1976 filing regarding these rules, which seeks to confine the prohibitions to options other than those issued by The Options Clearing Corporation, reflects only the inability of the Commission and the Exchange to agree on the appropriateness of the 1976 proposal and is not intended to constitute any modification by the Exchange of the 1976 proposal.

Designation of Mini Stock Group Options—The proposed rule change provides for groups of up to 20 stocks, but initially specific groups of five stocks each. Each five-stock group would have two units of trading: 100 shares (20 shares per component stock) and 500 shares (100 shares per component stock). Assuming an average price per share of \$30, this will result in contract sizes of \$3000 and \$15,000, respectively. Thus, the Exchange proposes to offer one contract size tailored for individual investors ("mini-100 stock group option") and a contract size five times larger for institutions ("mini-500 stock group option"). The smaller contract's 20 shares per stock will result in delivery of odd-lots upon exercise. The larger contract will not. Thus, an institution using the larger contract to hedge an equity position will not be subject to the cost and inconvenience of odd-lot deliveries.

Expiration cycle—As in the case of individual stock options, the proposed rule change provides that mini stock group options will normally have three expiration months. Successive series on mini stock groups will be opened so that series of three, six and nine months' duration will be trading at all times. Such series may follow any three-month expiration cycle (i.e., January-April-July-October, February-May-August-November and March-June-September-December).

Position and Exercise Limits—The proposed rule change provides for the aggregation of mini stock group options and individual stock options in applying position and exercise limits and reporting requirements to affiliated accounts. As proposed, the position limit and the exercise limit for a mini-500 stock group option would be 2000 contracts if the affiliated accounts include (1) no other mini stock group option having one or more component stocks in common with the referent option and (2) no more than 1000

individual stock options on any stock underlying the referent option.

Restrictions on Options

Transactions—The proposed rule change imposes certain restrictions on opening writing transactions (modeled on AMEX Rule 909's provisions applicable to individual stock options) if, during a public distribution of a stock included in an underlying mini stock group or a security convertible into the stock, the underwriters are making a stabilizing bid.

Selection of Mini Stock Groups—The proposed rule change provides guidelines for the approval and withdrawal of approval of stocks to be included in an underlying mini stock group. The guidelines are modeled after those applied to individual stock options by Amex Rules 915 and 916. Each component stock must meet initial and maintenance requirements regarding number of publicly held shares, number of shareholders, trading volume, market price per share and other specifications. The fact that a stock may meet the guidelines established by the Exchange does not necessarily mean that it will be approved, or that its approval will not be withdrawn, as a stock qualified for inclusion in a mini stock group.

Trading Halts or Suspensions—The proposed rule change provides for a trading halt or suspension in a mini stock group option whenever trading in a component stock has been halted or suspended in its primary market, the stock's opening has been delayed, or the Exchange has been advised that the issuer of the stock is about to make a significant announcement. These are the same criteria applicable to stocks underlying individual stock options under AMEX Rule 917. The proposed rule change permits the Exchange at its discretion to resume trading in a mini stock group option if the halt or suspension in that option's trading results from the halt or suspension in trading in only one component stock.

Supervisory and Customer-Contact Rules—The proposed rule change also provides that approval of an account for the trading of options on individual stocks will constitute approval of the account for the trading of options on mini stock groups as well as on index stock groups. The OCC prospectus delivery requirement will apply to mini stock group options so that either the OCC prospectus or a supplement thereto containing the requisite material regarding mini stock group options must be delivered.

Exchange Trading of Underlying Stocks—Since the Exchange is likely to be the primary market for most if not all

of the stocks included in mini stock groups, the Exchange proposes rule changes and other steps designed to detect and prevent manipulation through concurrent activity in both a mini stock group option and in a stock included in the underlying group. For example, the proposed rule change provides that a specialist cannot act as either an options specialist or a Competitive Options Trader in any mini stock group option whose underlying group includes any of his specialty stocks.

In addition, in order to detect and deter manipulation by means of concurrent activity in mini stock group options and in stocks included in underlying mini stock groups, individual options on such stocks and other mini stock group options (no matter where traded) on any stock group that includes any such stock, the proposed rule change expands the pending option filings' requirements (1) for account identification, and transaction and order reporting, by specialists and Competitive Options Traders and (2) for members' making available books, records and other information to cover all of the above-listed securities. The Exchange also proposes to trade mini stock group options at a location different from that of the underlying stocks.

Specialists and Competitive Options Traders—The proposed rule change carries forward the approach of the index stock group options filing that establishes an independent scheme of affirmative and negative obligations depending upon whether an options specialist or a Competitive Options Trader is registered in Treasury security options, in mini stock groups options or in index stock group options. Thus, for example, a mini stock group options specialist or a mini stock group options Competitive Options Trader would not be required to undertake the obligations of his counterpart registered in index stock group options.

Delivery—The practical difficulties inherent in delivering all underlying shares in the index stock group option context (e.g., delivery of fractional shares and delivery of odd-lots for most or all of the stocks included in the index group) are absent in the mini stock group option context. Therefore, the proposed rule change requires that for mini stock group options, exercise results in delivery of the required number of shares of each stock included in the underlying group.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The Text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) **Purpose.** The purpose of the proposed rule change is to permit the Exchange to establish a market for options on small groups of stocks constituted either on an intra- or inter-industry basis and requiring delivery of the component stocks. These proposed options will provide benefits to investors that are not presently available through the trading of individual stock options and that will not be afforded by the trading of index stock group options. Generally, individual stock options allow investors to protect against the risk of short term price fluctuations in the underlying stocks. Index stock group options provide a broad instrument to holders of stock portfolios that permits them to transfer the risk of market- or sector-wide changes in stock prices. The proposed mini stock group options provide a narrow instrument, permitting investors to transfer the risk of select intra- or inter-industry changes in stock prices. The mini stock group options will allow investors to simultaneously hedge against both of these risks through strategic purchases and/or sales of options. For example, a holder of a particular stock who believes that the stock will outperform the stock of other companies in the same industry may be concerned that the price of the stock could decline as a result of factors affecting the industry as a whole. The investor can hedge against the industry risk by buying a put option on a mini stock group comprised only of stock of that industry.

Specific purposes of the various changes to the pending option filings made by the proposed rule change in order to add mini stock group options are noted in Item I above.

(2) *Statutory Basis.* The proposed rule change relates to section 6(b)(1) of the Act in that it would provide a regulatory framework for a market on the Floor in options on mini stock groups. The proposed rule change would give the Exchange the capacity to carry out the purposes of the Act, to comply with the provisions of the Act, the rules and regulations thereunder and the rules of the Exchange, and to enforce compliance therewith by Members and persons associated with Members.

Except for the changes necessary to accommodate mini group options trading on the Floor, the Exchange's existing rules, and hence the same bases and policies underlying those rules, apply to the Exchange's proposed market in mini stock group options. Thus, the proposed rule change contemplates the application to Exchange trading of mini stock group options of long-established regulatory principles and techniques that are designed to assure the fairness, orderliness and quality of the Exchange's stock and bond markets.

In particular, the proposed rule change would create rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in mini stock group options, all as required by section 6(b)(5) of the Act. The Exchange believes that its proposed market for options on mini stock groups will be consistent with the standards of section 6(b)(5), since the Exchange expects such a market to provide increased investment flexibility with respect to individual stocks and portfolios of stocks similar to that provided by the present options markets on other national securities exchanges with respect to individual stocks. Consequently the Exchange believes the public interest will be advanced by Exchange trading of mini stock group options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. Quite to the contrary, the Exchange believes that significant benefits will flow to the U.S. economy, to market professionals and to investors from the creation of a free and open market for the trading of standardized options on mini stock groups. The Exchange believes that the proposed rule change will permit the creation of such a market—a market

designed to prevent fraudulent and manipulative acts and practices, to permit just and equitable principles of trade, to protect investors and the public interest and to provide appropriate disciplinary procedures applicable to its members and persons associated with its members who violate the rules of the Exchange.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not received or solicited any written comments from members or other interested parties. The Exchange is forming a users advisory committee to assist it in designing its market in options on mini stock groups and will incorporate any appropriate comments suggested by the committee into the proposed rule change by amendment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-

mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before May 26, 1982.

For the Division of Market Regulation, pursuant to delegated authority.

Dated: April 26, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12144 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M.

[Release No. 18690; File No. SR-MSE-82-4]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 15, 1982, the Midwest Stock Exchange, Inc. ("MSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The rule proposal states that, under Article XXX, Rule 6, of the MSE Rules, independent dual issue openings on the MSE will not be permitted solely as an accommodation to member firms.¹ Such openings are prohibited unless the specialist or the firms involved are willing to provide continuous two-sided aftermarkets subsequent to the openings. The MSE states that the purpose of this rule proposal is to remind MSE members of a long-standing policy of the MSE. The MSE further states that the rule proposal is consistent with Section 6 of the Act.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before May 26, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and

¹ An independent dual issue opening occurs where a dually traded security opens on a regional exchange before it has opened on the primary market (typically the New York Stock Exchange).

Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-SE-82-4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12138 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 22-11622]

Petro-Lewis Corp.; Application and Opportunity for Hearing

Notice is hereby given that Petro-Lewis Corporation (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of United States Trust Company of New York (the "Trust Company") under the five indentures hereinafter described is not so likely to involve a material conflict of interest under the Act as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as trustee under all five indentures.

Section 310(b) of the Act provides, in part, that if an indenture trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined therein) it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture and is trustee under another indenture of the same obligor. However, an issuer may sustain the burden of

proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indentures and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one or more of such indentures.

The Applicant alleges that:

1. It has outstanding, among others, the following five issues of unsecured debentures:

(a) \$25,000,000 principal amount of its 11% Subordinated Debentures due 1997 issued under an Indenture dated as of January 1, 1978 (the "11% Debenture Indenture") and executed by the Applicant and the Trust Company, as Trustee. These debentures were registered under the Securities Act of 1933 (File No. 2-60256) and the 11% Debenture Indenture was qualified under the Act.

(b) \$35,000,000 principal amount of its 12 1/4% Subordinated Debentures due 1998 issued under an Indenture dated as of August 1, 1978 (the "12 1/4% Debenture Indenture") and executed by the Applicant and the Trust Company, as Trustee. These debentures were registered under the Securities Act of 1933 (File No. 2-61875) and the 12 1/4% Debentures Indenture was qualified under the Act.

(c) \$52,000,000 principal amount of its Variable Rate Subordinated Debentures due 2000 issued under an Indenture dated as of July 1, 1980 (the "Variable Rate Debenture Indenture") and executed by the Applicant and the Trust Company, as Trustee. These debentures were registered under the Securities Act of 1933 (File No. 2-67986) and the Variable Rate Debenture Indenture was qualified under the Act.

(d) \$125,000,000 principal amount of its Zero Coupon Subordinated Notes due 1989 issued under an Indenture dated as of August 15, 1981 (the "Note Indenture") and executed by the Applicant and the Trust Company, as Trustee. These notes were registered under the Securities Act of 1933 (File No. 2-73406) and the Note Indenture was qualified under the Act.

(e) \$129,000,000 principal amount of its Zero Coupon Subordinated Serial Notes in four series, the Series A Notes in the aggregate principal amount of \$21,000,000 and the Series B Notes, Series C Notes and Series D Notes, each in the aggregate principal amount of \$36,000,000 and Series A Notes due on March 15, 1985, Series B Notes due on March 15, 1986, Series C Notes due on March 15, 1987 and Series D Notes due on March 15, 1987 issued under an

Indenture dated as of March 16, 1982 (the "New Indenture") and executed by the Applicant and the Trust Company, as Trustee. These notes were not registered under the Securities Act of 1933 and the New Indenture was not qualified under the Act in reliance on the exemption contained in Section 304(b)(1) of the Act.

2. The debentures and notes issued and outstanding under the 11% Debenture Indenture, the 12 1/4% Debenture Indenture, the Variable Rate Debenture Indenture, the Note Indenture and the New Indenture are wholly unsecured and are of equal rank as to each other.

3. The Applicant is not in default under any of the five Indentures.

4. With minor exceptions, these five Indentures contain substantially the same provisions, except for variations in aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption dates, prices and procedures and sinking fund provisions (which are not provided for in the Note Indenture and the New Indenture) and, with respect to the Note Indenture and New Indenture, variations in the provisions relating to events of default and original issue discount. In addition, under the terms of the New Indenture, there are a number of provisions which become operative only upon the qualification of the New Indenture under the Act.

5. In the opinion of the Applicant, any difference in the provisions of the five Indentures is unlikely to cause a conflict of interest in the trusteeship of the Trust Company under said five Indentures.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than May 24, 1982 submit to the Commission, in writing, his views or any substantial facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information

or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. At any time after such date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporate Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12134 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22478; (70-67270)]

Central Appalachian Coal Co., et al.; Proposal To Lease Certain Coal Mining Equipment

April 28, 1982.

Central Appalachian Coal Company ("CACCo"), Southern Appalachian Coal Company ("SACCo"), Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company ("SOCCo"), Windsor Power House Coal Company ("WPHCCo"), c/o American Electric Power Service Corporation, 161 West Main Street, Lancaster, Ohio 43130, and Simco Inc. ("SIMCO"), coal mining subsidiaries of American Electric Power Company, Inc., a registered holding company, have filed an application, pursuant to Sections 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act").

The applicants each propose to enter into a separate Master Leasing Agreement ("Leases") with The Commonwealth System, Inc., of San Mateo, California, (the "Lessor") to lease mining equipment. The Leases will provide for the rental to each Lessee of various types of equipment for surface and underground mining of coal for amortization periods of 3, 5, 7 or 10 years. The total Lessor's Cost (the total price paid by the Lessor for such equipment, including all freight charges, taxes and installation costs) of all equipment to be leased under the Leases shall not exceed an aggregate amount of \$16,000,000.

The mining equipment to be leased is necessary for the applicants' mining operations and for the fuel supply operations of Appalachian Power Company, Ohio Power Company and Columbus and Southern Ohio Electric

Company. Approximately \$14,778,000, or 93% of the mining equipment expected for delivery in 1982, is replacement equipment. In addition, of the \$1,222,000 for new equipment, only \$225,000 is for actual mining production equipment. The remaining \$997,000 is for new equipment which is ancillary to the production equipment.

During the primary term, rent will be payable quarterly in arrears. Rentals will provide for the amortization of Lessor's cost over periods of 12, 20, 28 or 40 calendar quarters. The amortization period of each item will be determined by the Lessee at the time the item is placed under lease. Each quarterly rental payment with respect to an item of equipment under lease will consist of (i) one calendar quarter's amortization of the Lessor's cost of the item on a level basis over the lease term for that item, plus (ii) as an additional rental factor, the Monthly Lease Interest Rate applied to Lessor's unamortized cost of the item on the first day of the calendar quarter. If an item of equipment is placed under lease other than on the first day of a calendar quarter, the rent will be prorated. The Monthly Lease Interest Rate for such quarter shall mean the lowest of the then Base Rate, LIBO Rate or Domestic Money Market bid Rate. The Base Rate will be the rate of interest, as determined by Citibank, in effect on the first day of such calendar quarter, plus 0.15%. The LIBO Rate will be Citibank's 90-day LIBO Rate, as adjusted and determined by the Bank on the first day of such calendar quarter plus .65%. The domestic Money Market Bid Rate will be Citibank's 90-day Domestic Money Market Bid Rate, as adjusted and determined by the Bank, on the first day of such calendar quarter plus .80%.

Assuming a Base Rate of interest of 16% over the term of the leased equipment, the equivalent effective annual interest rate would be 16.15% or lower if the LIBO Rate or Domestic Money Market Bid Rate is less than 16.15%.

With respect to any equipment which is obsolete or no longer useful to Lessee, upon written notice, the Lessee may terminate the lease of all of the equipment thereunder, or of any item of equipment, by purchasing such equipment from the Lessor for the Unamortized Value plus any accrued but unpaid rent and other amounts owing with respect to such equipment and all taxes and charges upon such sale. The Lessee will be required to purchase all items of equipment at the end of the lease term for \$1.00. If, during the term of the Lease, the coal supply agreement (the "Coal Supply

Agreement") between the Lessee and its immediate parent is terminated for any reason or modified in any way that, in the Lessor's judgment, will materially and adversely affect the ability of the Lessee to perform its obligations under the Lease, the Lessor will have the right to immediately terminate the Lease; in which case the Lessee will be required to pay the Lessor or its Assignee the Unamortized Value of all equipment then under lease plus the prorated lease rate thereon. References in the Leases to the Coal Supply Agreement shall have no effect until such time as a Coal Supply Agreement between Ohio Power and WPHCCo is prepared and all regulatory commission approvals of said agreement where required have been obtained. The Coal Supply Agreement Letter to the Lessor from Ohio Power and WPHCCo will be executed and delivered after all necessary regulatory commission approval has been received. Lessee will not without the prior written consent of Lessor, assign this lease or any interest therein, or sublease or transfer its interest in any of the equipment.

Investment tax credits and accelerated cost recovery system deductions will be for the account of the Lessee. The Leases are structured as net leases, and, accordingly, all costs of operation, maintenance, taxes, (excluding, however, taxes on or measured by the net income or the capital stock or the capital, surplus, undistributed profits and reserves of Lessor), insurance and other affiliated costs are to be borne by the Lessees. The Lessor will be indemnified by the Lessees against all liabilities and risks of loss.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 21, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12132 Filed 5-4-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. 500-11]

International Metals and Petroleum Corp.; Order of Suspension of Trading

April 29, 1982.

It appearing to the Securities and Exchange Commission ("Commission") that there are questions concerning the adequacy and accuracy of the International Metals and Petroleum Corporation ("IMPCO") Form 10-K filing with the Commission with respect to IMPCO's failure to disclose in the Form 10-K the existence of an Order of Permanent Injunction entered against it on November 12, 1981; the suspension of IMPCO's auditor from practicing or appearing before the Commission; and the financial statements contained therein, the Commission is of the opinion that the public interest and the protection of investors requires a summary suspension of trading in the securities of IMPCO.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. on April 29, 1982 through midnight May 8, 1982.

By the Commission.
George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12133 Filed 5-4-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-11423]

R. J. Reynolds Industries, Inc.; Application and Opportunity for Hearing

April 29, 1982.

Notice is hereby given that R. J. Reynolds Industries, Inc. (the "Company") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that: the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an Indenture dated as of May 15, 1980 of the Company (the "Indenture"), which was qualified under the Act, and the trusteeship of Chase under a First Supplemental Indenture dated November 15, 1981 (the "Guarantee") to an Indenture of R. J.

Reynolds Tobacco Company ("Tobacco"), dated as of May 1, 1969 (the "Tobacco Indenture"), whereby the Company guarantees the Debentures issued pursuant to the Tobacco Indenture, is not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Irving Trust from acting as trustee under any of said Indentures.

The Company alleges that:

(1) Tobacco is a wholly-owned subsidiary of the Company. At November 1, 1981, Tobacco had outstanding \$10,900,000 of its 7% Subordinated Debentures, due June 1, 1989, issued pursuant to the Tobacco Indenture. The 7% Subordinated Debentures were issued in 1969 in a "Rule 133" transaction and the Tobacco Indenture was qualified under the Trust Indenture Act of 1939 (File No. 22-5497). The Company has provided for its guarantee of these Debentures by the Guarantee;

(2) At November 1, 1981, the Company had outstanding \$150,000,000 of its 10.45% Notes due May 15, 1990 (the "Notes") issued under the Indenture executed by the Company and Chase, as Trustee. The Indenture was registered under the Securities Act of 1933 (File No. 2-67800) and qualified under the Trust Indenture Act of 1939;

(3) The Indenture and the Guarantee are wholly unsecured, and rank *pari passu* inter se;

(4) The Company's guarantee of the Debentures is neither superior nor inferior in right of payment to the Notes;

(5) Tobacco is not in default under the Tobacco Indenture or the Debentures. The Company is not in default under the Indenture or the Notes;

(6) Such differences as exist between the Indenture and the Guarantee are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee thereunder.

The Company has waived notice of hearing any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with the matter.

For a more detailed statement of the matters of fact and law asserted here, all persons are referred to said application, which is a public document on file in the offices of the Commission, at 1100 L Street, N.W., Washington, D.C. 20005.

Notice is further given that any interested person no later than May 25, 1982 may submit to the Commission in writing his views or any substantial

facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12135 Filed 5-4-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18175 (SR-Amex-81-16)]

Self-Regulatory Organizations; American Stock Exchange, Inc., Order Approving Proposed Rule Change

October 16, 1981.

On August 17, 1981, the American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which provides for the implementation and operation for options of its Opening Automated Report Service ("OARS"), which is an electronic system to store and automatically report executions of market orders received before the opening of trading. The rule change also provides for special trade comparison and clearing procedures to be used in conjunction with OARS.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-18068, August 28, 1982) and by publication in the Federal Register (46 FR 44544, September 4, 1981). No written statements with respect to the proposed rule change were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the

requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12136 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18464; SR-Amex-81-23; SR-CBOE-81-29; SR-PSE-81-24; SR-Phlx-81-22]

**Self-Regulatory Organizations;
American Stock Exchange, Inc., et al.;
Filing of Proposed Rule Change and
Order Approving Proposed Rule
Change**

February 2, 1982.

The American Stock Exchange, Inc., ("Amex"), 86 Trinity Place, New York, New York 10006,¹ the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604,² the Pacific Stock Exchange, Incorporated ("PSE"), 618 South Spring Street, Los Angeles, California 90014,³ and the Philadelphia Stock Exchange, Incorporated ("Phlx"), 1900 Market Street, Philadelphia, Pennsylvania 19103,⁴ have filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4, proposed rule changes to modify the options allocation plan that the options exchanges use to allocate options on eligible stocks.⁵ Among other things, the proposed changes would establish the Options Clearing Corporation as an arbitrator to administer certain parts of the allocation process.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the Amex and CBOE proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof, because the rule changes relate solely to a procedural modification in the method by which the existing options exchanges allocate new options, and do not involve matters of broad public interest. Approval of the proposed rule changes before the full notice period will also enable the options exchanges to implement the rule change and conduct allocation procedures for the selection of new options classes as soon as possible. Finally, the fact that no comments were received within the 21 days provided for written comments illustrates the procedural and non-controversial nature of the rule changes. Accordingly, the Commission finds it unnecessary to wait the full statutory period prior to approving the rule changes. The Commission finds good cause for approving the PSE and Phlx proposed rule changes, for which previous notice has not been provided, in that their terms are identical to those of the Amex and CBOE rule changes.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12137 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18689; (SR-NASD-79-1)]

**Self-Regulatory Organizations;
National Association of Securities
Dealers ("NASD"); Order Approving
Proposed Rule Change**

April 28, 1982.

On March 8, 1982, the NASD filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, Amendment No. 1 to a proposed rule change originally filed on January 22, 1979 (SR-NASD-79-1). The proposed rule change, as amended ("amended proposal"), would amend Schedule D, Part I, section C.3(e) of the NASD's By-Laws to require a registered market maker to clear and settle through the facilities of a registered clearing agency transactions in all securities in which that market maker makes quotes available through the National Association of Securities Dealers

Automatic Quotation System ("NASDAQ securities transactions") when such facilities are located within 25 miles of the market maker. The amended proposal, however, would permit a market maker to clear and settle such transactions through any registered clearing agency using a continuous net settlement system; to enter into a correspondent clearing arrangement with an NASD member that clears through a continuous net settlement clearing facility; to settle such transactions "ex-clearing" provided both parties to the transaction agree; or to use direct mail settlement.

Notice of the amended proposal, together with the terms of substance of the amended proposal was given by publication of a Commission Release (Securities Exchange Act Release No. 18575, March 19, 1982) and by publication in the Federal Register (47 FR 12896, March 25, 1982). No comments on the amended proposal were received by the Commission.

The NASD's original proposed rule change (Securities Exchange Act Release No. 15559, February 9, 1979; 44 FR 10163, February 16, 1979) ("original proposal") provided without exception that a registered market maker would have to clear and settle NASDAQ securities transactions through the facilities of a registered clearing agency if such facilities were located within 25 miles of a market maker. Unlike the amended proposal, however, the original proposal did not provide for alternative ways to satisfy the requirement.

The Commission received public comments concerning the original proposal and the NASD forwarded to the Commission comments that it received, including comments received in response to a survey conducted by the NASD to assess the likely impact of the original proposal on market makers. Comments on the original proposal generally were favorable. Commenters noted, for example, that the original proposal would reduce the delays and costs involved in resolving uncompleted trades involving market makers that did not participate in the national clearance and settlement system, would reduce the number of fails in the over-the-counter market during higher volume periods, would facilitate the development of a more efficient national clearance and settlement system, and would strengthen the role of the over-the-counter market in the national market system.¹ A few commenters

¹ Letters from Jerry Williams, Jerry Williams, Inc. to NASD (June 6, 1978); Edward W. Wedbush,

Continued

¹ File No. SR-Amex-81-23.

² File No. SR-CBOE-81-29 as amended January 6, 1982.

³ File No. SR-PSE-81-24.

⁴ File No. SR-Phlx-81-22.

⁵ Notice of the Amex and CBOE proposed rule changes together with their terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 18382, January 4, 1982 and by publication in the Federal Register, 47 FR 1226. No comments were received.

asserted, however, that the proposed rule change as originally filed (i) would require market makers within the 25-mile radii to use the particular clearing facilities close to them, rather than the facilities of their choice; and (ii) would require market makers that currently do not use any clearing agency to change their clearing arrangements, which they argued would increase their costs of doing business and thereby reduce their ability to compete effectively as market makers.²

As a general matter, the Commission believes that the amended proposal either eliminates or substantially reduces any potentially adverse effects of the original proposal. As the NASD's survey results suggests, only a small percentage of NASDAQ market makers are likely to be affected by the amended proposal,³ and those market makers will be able to satisfy the requirements of the rule in a number of alternative ways. For example, the amended proposal would permit market makers to participate in any registered clearing agency, to establish correspondent clearing arrangements with an NASD member that clears trades through a continuous net settlement clearing facility, to clear and settle transactions "ex-clearing" whenever both sides to the trades agree, or to use direct clearing services.

The Commission does recognize that the amended proposal will require some market makers to enter into new arrangements for clearing and settling NASDAQ securities transactions and that such a requirement arguably may increase those market makers' costs for

clearing and setting transactions.⁴ If so, the Commission appreciates that the amended proposal may provide a disincentive to NASDAQ market making by those firms. Nonetheless, the Commission believes that any theoretical burden that may be imposed on competition by the amended proposal is necessary and appropriate to further other purposes of the Act, including purposes articulated in Sections 15A and 17A of the Act.⁵ Currently, absent the proposed rule change, market makers that are not members of clearing agencies force *Contra* parties that trade with them to process trades "ex-clearing", even if the *contra* parties participate in the national clearance and settlement system through a registered clearing agency. That result, in effect, means that *contra* parties must use inconvenient, time-consuming and often costly manual processing methods for some over-the-counter trades, notwithstanding their preference to process such trades through registered clearing facilities. Moreover, as a general matter, that forced reliance on antiquated clearance and settlement mechanisms during high volume periods delays trade completion, increases the industry's cost of executing and processing trades, and reduces the percentage of trades that are settled on time.⁶ Such results frustrate development of the prompt, accurate, and efficient national system for the clearance and settlement of securities transactions called for by Congress in Sections 17A and 15A of the Act.⁷

⁴ As a factual matter, however, the Commission questions whether use of clearing agencies would increase the aggregate clearing costs for any particular NASDAQ market maker. The Commission believes that, in general, the efficiencies inherent in clearing agency usage provide significant clearing economies to broker-dealers. Indeed, the Commission expects that market makers affected by the amended proposal may well find their aggregate clearance and settlement costs reduced through direct or indirect participation in the national clearance and settlement system.

⁵ When enacting the Securities Acts Amendments of 1975, Congress intended the Commission to evaluate proposed rules by balancing any perceived anticompetitive effects of the rule against other regulatory objectives of the Act that the rule would further. H.R. Rep. No. 94-229, 94th Cong., 1st Sess. 100 (1975).

⁶ See e.g., letters from Herbert J. Levitt, Spear, Leeds & Kellogg to NASD (December 5, 1980) and Edward W. Wedbush, Wedbush, Noble, Cooke, Inc. to NASD (June 5, 1978).

⁷ Section 17A of the Act recognizes the need to extend the use of automation and reduce inefficient procedures in securities processing. Section 15A of the Act provides that the rules of a registered securities association must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and facilitating securities transactions.

Finally, the Commission notes that the requirements of the amended proposal would not apply to all NASD members, but only to market makers in NASDAQ securities. Because NASDAQ market makers play a central role in defining the relative efficiency of the nation's over-the-counter securities markets, the Commission believes the focus of the amended proposal is particularly appropriate. In our view, market makers should not be able to compel parties that deal with them to clear and settle trades inefficiently. Indeed, absent the proposed rule change, market participants may decline to trade with an "ex-clearing" market maker that displays the best bid or offer in a NASDAQ security, simply because those participants do not wish to incur the added incremental costs of processing such trades "inefficiently." Such a result, of course, frustrates the statutory goals of ensuring best execution of public orders and enhancing competition among brokers and dealers.⁸

Accordingly, the Commission believes that the proposed rule change would foster the use of efficient clearing arrangements and thereby facilitate the establishment of a prompt, accurate and efficient national system for the clearance and settlement of securities transactions. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations, and in particular, the requirements of Sections 11A, 15A, and 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12140 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18688; File No. SR-NSCC-82-6]

Self-Regulatory Organizations Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corporation

April 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

⁸ See Sections 11A(a)(1)(C) and 15A(b)(6) of the Act.

Wedbush, Noble, Cooke, Inc. to NASD (June 5, 1978); Jack Rubens, Monroe Securities, Inc. to NASD (May 31, 1978); Herbert I. Levitt, Spear, Leeds & Kellogg to NASD (December 5, 1980); Herbert I. Levitt, Spear, Leeds & Kellogg to the Commission (May 11, 1981); Herbert I. Levitt, Spear, Leeds & Kellogg to the Commission (October 9, 1981); S. Muir Atherton, Pacific Clearing Corporation and Pacific Securities Depository Trust Company to the Commission (May 15, 1980); and Edward I. O'Brien, Securities Industry Association to the Commission (September 30, 1981).

² Letters from Gene S. Olson, Securities Clearing of Colorado, Inc. to NASD (June 19, 1978); Joseph F. Dugos, Omega Securities, Inc. to NASD (June 14, 1978); Kenneth W. Cole, First Colorado Investments & Securities, Inc. to NASD (June 18, 1978); Randall Vanek, Harper, McLean & Co. to NASD (June 7, 1978); and John J. Carroll, John J. Carroll & Co. to NASD (May 30, 1978). The NASD also received some unfavorable comments on the original proposal in response to its survey of NASDAQ market makers.

³ NASD, [Results of] Questionnaire on Market Makers' Use of Clearing Facilities, attached to letter from Frank J. Formica of the NASD to the Commission (October 7, 1980) (File No. SR-NASD-79-1). The survey indicated that 12 of the 225 firms responding to the NASD survey would have to establish new clearing arrangements to comply with the terms of the original proposal.

"Act), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 29, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

The proposed rule change allows NSCC to expand the number of compared trades in Balance Order Securities to be included in NSCC's Balance Order System. Under the rule change, trades in Balance Order Securities that are compared during the first three days after trade date will be netted, allotted and included in Balance Orders generated by NSCC and distributed to NSCC members on the fourth day after trade date. A Compared Summary for Balance Order securities will be available to NSCC members on the fourth day after trade date, detailing the compared trades and Balance Order securities due for settlement on the next day. Previously, NSCC's procedures only allowed trades compared on the first two days after trade date to be netted and allotted in NSCC's Balance Order System. Under the rule change, trades in Balance Order Securities that are not compared by the third day after trade date will be designated as "special trades" and, as such, will be settled on a broker-to-broker basis.

The proposed rule change also allows NSCC to include in this netting and allotting procedure compared trades in Balance Order When-Issued Securities and off-lot trades in Balance Order Securities. Previously, NSCC's procedures excluded from the netting and allotting operation of the Balance Order System compared odd-lot trades executed over-the-counter and on national securities exchanges other than the New York and American Stock Exchanges. Under the rule change, odd-lot trades, other than those executed on the New York and American Stock Exchanges, will be aggregated into round lots to the extent that the odd-lots involve the same *contra* broker. Odd-lots that cannot be aggregated and those shares remaining after aggregation will be separately netted and allotted, to the extent possible.

Finally, the rule change makes several procedural amendments to NSCC's procedures. A new formula for "Uniform Settlement Price" is included and the "Clearance Cash Adjustment," which adjusts the Uniform Settlement Price to the price at which the trades were executed, now will appear on the

Compared Summary for Balance Order Securities. Also, the rule change adds NSCC RULE 44(2), which requires that physical deliveries pursuant to Balance Orders be made at the receiver's "specified location," that new term being defined in NSCC Rule 1 as "the location where a Member or Non-Member Bank receives envelope deliveries."

The purpose of the rule change, according to NSCC, is to begin implementation of the Physical Inter-Posed Net Settlement System ("PINS"). This rule change is the first in a series that eventually will enable NSCC to be the *contra* side of each Balance Order and will therefore allow NSCC to control open Balance Orders beyond settlement date. NSCC, thus, will be able to provide guarantees and dividend protection for Balance Order Securities similar to the guarantees and dividend protection for securities eligible for inclusion in NSCC's Continuous Net Settlement System.

NSCC believes that the rule change is consistent with the Securities Exchange Act of 1934, in that it will provide for the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the *Federal Register*. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5

U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-12139 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—George G. Kundahl—202-272-2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services Washington, D.C. 20549.

Revision

Notice pursuant to Rule 17f-2(e) (17 CFR 240.17f-2(e)) Sec. File No. 270-37.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance the proposed revision of Rule 17f-2(e), (17 CFR 240.17f-2(e)) which requires every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency to make and keep current a statement entitled "Notice Pursuant to Rule 17f-2" (the "Notice").

The potential respondents are members of a national securities exchange, brokers, dealers, registered transfer agents and registered clearing agencies. The effects of the rule change on these respondents include clarifying the content requirement for Notices, eliminating the Notice "filing" requirement and exempting certain low volume registered transfer agents from the Notice requirement.

Submit comments to OMB Desk Officer: Robert Veeder 202-395-4814.

George A. Fitzsimmons,
Secretary.

April 30, 1982.

[FR Doc. 82-12287 Filed 5-4-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION**Small Business Investment Company;
Maximum Annual Cost of Money to
Small Business Concerns**

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the Federal Register the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to Section 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective May 1, 1982, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.895% per annum.

Dated: April 29, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-12270 Filed 5-4-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/517]

**Advisory Committee on International
Investment, Technology, and
Development; Meeting**

The Department of State will hold a joint meeting on June 2, 1982, of the Working Groups on Multilateral Investment Standards for MNEs and U.N. Activities and Transfer of Technology of the Advisory Committee on International Investment, Technology, and Development. The two Working Groups will meet from 3:00 p.m. to 5:00 p.m. The meeting will be held in room 1105 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The principal purpose of the meeting will be to review the U.S. position on the U.N. Code of Conduct Relating to Transnational Corporations in

preparation for the eighth meeting of the U.N. Commission on TNCs to be held in Manila in August. The meeting will also discuss the Interim Committee meetings on the Transfer of Technology Code, specifically chapter 4 on Restrictive Business Practices and Chapter 9 on Applicable Law, and discuss proposed changes in the status of UNIDO and the implications for U.S. multinationals.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

As time permits, members of the public attending the meeting may make comments.

Dated: April 21, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-12277 Filed 5-4-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/516]

**Joint Working Party of the National
Organizations of the International
Radio Consultative Committee and the
International Telegraph and Telephone
Consultative Committee; Meeting**

The Department of State announces that the Joint Working Party of the U.S. Organizations for the International Radio Consultative Committee (CCIR) and the International Telegraph and Telephone Consultative Committee (CCITT), in preparation for the Plenipotentiary Conference of the International Telecommunication Union, September 28-November 5, 1982, Nairobi, Kenya, will meet on May 19, 1982 at 9:30 a.m. in Room 1408, Department of State, 2201 C Street, NW., Washington, D.C.

The main purposes of the meeting will be:

1. To assist the Government in analyzing proposals submitted to the Plenipotentiary Conference by foreign administrations;
2. To assist the Government in rationalizing the ITU's technical cooperation role and the nature and objectives of our interests in this area of the Union's activities;
3. To backstop, generally, the further development of U.S. positions for the

Plenipotentiary Conference;

4. Any other business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the building is controlled; all persons wishing to attend the meeting must inform their names to Mr. Arthur L. Freeman, Department of State; telephone 202-632-3405. Attendees must use the C Street entrance to the building.

Arthur L. Freeman,

Director, Office of International Communications Policy.

April 15, 1982.

[FR Doc. 82-12278 Filed 5-4-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/519]

**Study Group B of the U.S. Organization
for the International Telegraph and
Telephone Consultative Committee
(CCITT); Meeting**

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 19, 1982 at 2:00 p.m. in Room 2722B of the Department of State, 2201 C Street, NW., Washington, D.C. This Study Group deals with international telegraph operations.

The purpose of this meeting is to review four proposed U.S. contributions to CCITT Study Group VIII in the area of recommendations for Group 3 and Group 4 facsimile equipment. The proposed contributions were developed by Committee TR. 29 of the Electronic Industry Association.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to May 19, members of the general public who plan to attend the meeting so advise Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632-1007. All non-Government attendees must use the C Street entrance to the building.

Dated: April 20, 1982.

Richard H. Howarth,
U.S. CCITT National Committee.

[FR Doc. 82-12279 Filed 5-4-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/518]

**Shipping Coordinating Committee,
Subcommittee on Safety of Life at Sea;
Meeting**

The Shipping Coordinating Committee (SHC) will conduct an open meeting on June 9, 1982, at 9:30 a.m., in Room 3201 of the U.S. Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C.

The purpose of this meeting is to finalize preparations for the 48th Session of the Council of the Intergovernmental Maritime Consultative Organization (IMCO), which is scheduled for June 14-18 in London. In particular, the SHC will discuss development of U.S. positions dealing with, inter alia, the following topics:

- Reports of the various committees
- Implementation of conventions and other multilateral instruments
- Personnel matters
- Financial matters

Members of the public may attend up to the seating capacity of the room.

Interested persons may seek information by writing Mr. G. P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 2nd Street, SW., Washington, D.C. 20593. Telephone (202) 426-2280.

Dated: April 21, 1982.

John Todd Stewart,
Chairman, Shipping Coordinating Committee.

[FR Doc. 82-12280 Filed 5-4-82; 8:45 am]

BILLING CODE 4710-07-M

**SUSQUEHANNA RIVER BASIN
COMMISSION**

**Special Studies on Project for Storage
and Release of Waters at Cowanesque
Reservoir; Public Hearing**

The Susquehanna River Basin Commission will hold a public hearing on Thursday, June 10, 1982 at the Holiday Inn—Downtown, 1 Holiday Plaza, Elmira, N.Y. beginning at 10:30 a.m. This hearing will deal with the scope and methodology of certain special studies to be conducted by the Commission in connection with a possible project for storage and release of water at the Cowanesque Lake Project. As required under Article 4 of the Susquehanna River Basin Compact, the studies will: (1) Review pertinent

rights, plans and programs of the signatory parties, their political subdivisions and private users; (2) evaluate storage project impacts, if any, on rights, plans, programs, the environment, and existing water users; and (3) develop an operational and management plan for the storage project. The Commission will consider other reasonable subjects for study as may be suggested at this hearing.

The Cowanesque Lake Project is a Corps of Engineers flood control-recreational reservoir located on the Cowanesque River about 2.2 miles upstream of its confluence with the Tioga River near Lawrenceville in northcentral Tioga County, Pennsylvania. The Tioga River flows into New York State where it joins the Cohocton River at Painted Post, New York to form the Chemung River. The Chemung then flows through the Corning-Elmira, New York areas before entering Pennsylvania in the vicinity of Athens-Sayre.

Growing residential, commercial, industrial, agricultural and other water uses in the Susquehanna River Basin prompted the Commission to recommend to the Corps of Engineers an analysis of the full water supply potential of the Cowanesque Lake Project for all likely downstream users. With the Commission's recommendation, and with the receipt of letters from potential downstream users expressing an interest in purchasing water supply storage, the Corps undertook a Reformulation Study of the Project in June 1979. Following completion of the Study, the Corps recommended that the Project be modified to include water supply storage at elevation 1,080 feet. Water supply storage at Cowanesque would be added under the authority of the Water Supply Act of 1958, 43 U.S.C. 390b.

A joint Corps-Commission public hearing was held on the so-called "1080 Plan" in November 1981 at Tioga Junction, Pennsylvania. In January 1982, the Commission adopted the 1080 Plan into the Early Action Section of its Comprehensive Plan for funding and completion as soon as possible. This action was conditioned upon the favorable outcome of special studies to be carried out on the impacts of the storage project. If the studies prove favorable, and participating downstream users fulfill certain obligations to the Commission, the Commission may, at some future time, enter into an agreement with the Federal government for the storage and release of waters for downstream users.

At the hearing, the public will have an opportunity to express directly to the

Commission their ideas and opinions regarding the scope and methodology of the proposed special studies. The hearing itself will be informal in nature. Interested parties are invited to participate in the hearing by making oral or written statement presenting their data, views and comments on the proposed special studies. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given an opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will consider all relevant material and decide on the scope and methodology to be employed in the proposed special studies.

For additional information on this hearing, contact the Secretary, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391, (717) 238-0423.

Dated: April 27, 1982.

Robert J. Bielo,
Executive Director.

[FR Doc. 82-12281 Filed 5-4-82; 8:45 am]

BILLING CODE 7040-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

**Hazardous Substance Liability
Insurance: Feasibility of Private
Insurance for Post-Closure Financial
Responsibility**

AGENCY: Office of the Secretary, Office of Financial Institutions and Capital Markets Policy, Treasury.

ACTION: Request for public comments and opportunity for public hearing.

SUMMARY: The Comprehensive Environmental Response, Compensation and Liability Act of 1980 requires the President to make a determination, after a public hearing, on the feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities. A public hearing on this issue will be held on June 2, 1982 in Room 4121 of the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C., if interested persons desire to make an oral presentation at that time. The Department will also consider any written data that interested persons may wish to submit in lieu of making a presentation at a hearing.

DATES: All communications regarding a request to appear at a hearing must be

in writing and be received by May 24, 1982. All written material that persons may wish to be considered in this matter must be received by June 9, 1982, whether or not persons submitting such material desire to participate in a hearing.

ADDRESS: All comments should be sent to Gordon Eastburn, Acting Deputy Assistant Secretary, Office of Financial Institutions and Capital Markets Policy, Room 3025, Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mark G. Bender, Senior Economist, Office of Financial Institutions and Capital Markets Policy, Room 2206, Department of the Treasury. Telephone (202) 566-2505.

SUPPLEMENTARY INFORMATION: Under Section 107(k)(4)(A) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510), the Secretary of the Treasury was required to study the "feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities." A notice requesting public comment on relevant issues was published on July 9, 1981, 46 FR 35604. The study has since been completed and transmitted to Congress (see, *Hazardous Substance Liability Insurance*, Department of the Treasury, March 1982).

Section 107(k)(4)(B) of the Act also requires that the President of the United States make a determination on this question after a public hearing. The Department intends to hold a public hearing on June 2, 1982, in Room 4121 of the Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C., only if interested parties desire to make an oral presentation at that time. Otherwise, interested parties are invited to submit written data, views and arguments on this question, which will be considered in lieu of information presented at a hearing. In addition, written comments on this question are requested whether or not a public hearing is held.

The issues to be addressed by written comments and/or in oral presentations at a hearing are as follows:

A. Feasibility of private post-closure insurance coverage under current market conditions;

B. Feasibility of private post-closure coverage under future market conditions;

C. Incentives and disincentives for private insurance coverage;

D. Comparability of private insurance to the Federal Post-Closure Trust Fund;

E. Costs; factors affecting premiums;

F. Minimum standards:

1. Policy endorsement
2. Cancellation restrictions
3. Duration and coverage amounts
4. Exclusions
5. Other

Parties desiring to make oral presentations at a hearing should submit the following information to be received by May 24, 1982, in letter form.

1. Name and address of party or organization to be represented;
2. Name(s) of individual(s) to make the oral presentation;
3. A summary of the information to be presented;
4. A description of any of the information that has been previously submitted by the party;
5. Telephone number where the party can be reached;
6. A statement of whether there will also be written submissions.

Parties desiring to make written submissions, whether or not they wish to participate in a hearing, should see that their materials are received by June 9, 1982.

Dated: April 30, 1982.

Gordon Eastburn,
Acting Deputy Assistant Secretary.

[FR Doc. 82-12150 Filed 5-4-82; 8:45 am]

BILLING CODE 2510-25-M

Public Information Collection Requirements Submitted to OMB for Review

During the period April 26 through April 29, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer,

by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; and to the OMB reviewer listed at the end of each entry.

Date Submitted: April 28, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: DIR-DET 1-201.

Type of Submission: New.

Title: Consent or Request for Disclosure.

Purpose: Provides for taxpayer to designate another person to receive confidential tax information concerning himself/herself.

OMB Reviewer: Karen P. Sagett, (202) 634-6880. Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 82-12175 Filed 5-4-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on May 20, 1982, at 10:30 a.m., the Muskogee Station Committee on Educational Allowances shall at Room 2A20, 125 South Main Street, Muskogee, Oklahoma, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Southwest Automotive and Machinist School, 1520 South Central, Oklahoma City, Oklahoma, should be discontinued, as provided in 38 CFR 21.4134, because of requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: April 27, 1982.

Ray E. Smith,
Director, VA Regional Office.

[FR Doc. 82-12282 Filed 5-4-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 87

Wednesday, May 5, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., May 7, 1982.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by Notation.
2. *Regulatory Flexibility Act*, definition of "small business". (Memo 1255, OGC).
3. Report to Congress on Airline Mergers. (Memo 1260, OGC)
4. Antitrust Policy for the Airline Industry. (OGC)
5. Docket 39975, *Trenton Hub Express Airline, Inc.*, Order Dismissing Petition for Reconsideration. (OGC)
6. Docket 40603, Application of Air Niagara, Inc. under Subpart Q of the Board's Regulations for a determination of fitness and a certificate of public convenience and necessity to provide scheduled air transportation. (BDA)
7. Docket 32542, 32543, 33362, 30699, 30790, 34579, 36004, 36962, 34485, *Applications of Aeroamerica, Inc., Former Large Irregular Air Service Investigation, Oakland Service Case, U.S.-Benelux Low-Fare Proceeding, Applications of Aeroamerica, Inc. for sections 408 and 409 Approval, for Certificate Authority and for an Exemption.* (OGC)
8. Docket EAS-432, Petition for Reconsideration of the essential air service determination of Augusta/Waterville, Maine. (Memo 261-B, BDA, OCCCA)
9. Docket 40274, Notice of Republic Airlines to terminate scheduled service at Thief River Falls, Minnesota. (BDA, OCCCA)
10. Dockets 40481 and 40484, Cascade's notice to terminate service at Astoria/Seaside, Oregon, and request to suspend early. (Memo 1267, BDA, OCCCA)
11. Dockets 40608 and 40609, Republic Airlines, Inc.'s notice to reduce service at

Twin Falls, Idaho below essential level and request for exemption to permit early reduction (Memo 1263, BDA, OCCCA)

12. Docket 34774, Selection of Carrier for Essential Air Service at McAlester, Oklahoma and Paris, Texas. (Memo 507-B BDA, OCCCA)

13. Dockets 36445 and 36538, Air Pacific's Notice of Intent to suspend service at Chico, California. (Memo 867-B BDA, OCCCA, OC)

14. Dockets EAS-633 and 40340, 90-day notice of Continental Airlines to terminate its Honolulu-Pago Pago service. (Memo 227-F, BDA, BCAA, OCCCA)

15. Docket 34681, Application of USAir for compensation for losses for providing interim essential air service at Plattsburgh, Massens, Watertown, Saranac Lake/Lake Placid, and Ogdensburg, New York, and Rutland, Vermont. (Memo 1259, BDA, BCAA, OC, OCCCA)

16. Petitions of Tyee Airlines, Inc., Docket 40516, LAB Flying Service, Inc., Docket 40517, and Channel Flying, Inc., Docket 40519 for a Temporary Mail Rate. (Memo 1256, BDA)

17. Docket 38623, Agreement CAB 28720, R-1 through R-19, IATA agreement establishing a new U.S.-Africa fare structure for the period beginning June, 1982, through March, 1983. (Memo 1254, BIA)

18. Dockets 40576 and 40602, Applications of World Airways and Capitol Air for Newark-London exemption authority. (Memo 1268, BIA, OGC)

19. Docket 40294, Final order in the *United States-Latin America All-Cargo Show Cause Proceeding*. (Memo 960-A BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-604-82 Filed 5-3-82; 3:50 pm]

BILLING CODE 6320-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting,
Wednesday, May 12, 1982 Following
Oral Argument

The Commission will hold a closed meeting Wednesday, May 12, 1982, for the purpose of issuing instructions to the staff following scheduled oral arguments on Exceptions to Supplemental Initial Decision in the City of New York Municipal Broadcasting System AM radio proceeding (Docket Nos. 11227, 17588, 19403) and Exceptions to the Initial Decision of the Administrative Law Judge granting the renewal application of Radio Station WABZ in the Albemarle, North Carolina, FM radio proceeding and denying the competing application of Victor Broadcasting, Inc.

for a construction permit (Docket Nos. 78-63 and 78-64).

Oral Argument in the case of City of New York Municipal Broadcasting System (WNYC), Docket Nos. 11227, 17588 and 19403 is scheduled to start at 9:30 a.m. The parties are to present oral argument as follows:

Midwest Radio-Television, Inc.—Twenty (20) minutes
City of New York Municipal Broadcasting System—Twenty (20) minutes
The State of Minnesota—Five (5) minutes
Aircraft Owners and Pilots Association and National Business Aircraft Association—Five (5) minutes
Chief, Broadcast Bureau—Twenty (20) minutes

Oral Argument in the case of Radio Station WABZ, Inc. and Victor Broadcasting, Inc., Docket Nos. 78-63 and 78-64 is scheduled to start at 10:40 a.m. The parties are to present oral argument as follows:

Victor Broadcasting, Inc.—Twenty (20) minutes
Radio Station WABZ, Inc.—Twenty (20) minutes
Broadcasting Bureau—Twenty (20) minutes

The closed meeting will take place in Room 856 at the same address after the conclusion of the oral arguments. This meeting is closed to the public because of the disposition of adjudicatory proceedings (See 47 CFR 0.603(j)).

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office; telephone number (202) 254-7674.

Issued: April 27, 1982.

William J. Tricarico,
Federal Communications Commission.

[S-658-82 Filed 5-3-82; 10:22 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:40 a.m. on Friday, April 30, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Pacific Coast Bank, San Diego,

California, which was closed by the Superintendent of Banks of the State of California on Thursday, April 29, 1982; (2) accept the bid for the transaction submitted by Commonwealth Bank, Hawthorne, California; (3) approve the application of Commonwealth Bank, Hawthorne, California, for consent to purchase the assets of and assume the liability to pay deposits made in Pacific Coast Bank, San Diego, California; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsection (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 30, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-659-82 Filed 5-3-82; 12:50 pm]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

April 30, 1982.

TIME AND DATE: 10 a.m. May 7, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Mid Louisiana Gas Company, et al. v. FERC*, 5th Cir. Nos. 80-3804 and 80-4010.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

Kenneth F. Plumb,
Secretary.

[S-655-82 Filed 4-30-82; 4:25 pm]

BILLING CODE 6717-02-M

5

FEDERAL HOME LOAN BANK BOARD "FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 47 FR 18982, Monday, May 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, May 6, 1982.

PLACE: Board room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting:

FSLIC Insurance Coverage of Deferred Compensation Plans and Trust Accounts Amendments Relating to Change in Control [No. 29, May 3, 1982]

[S-663-82 Filed 5-3-82; 3:40 pm]

BILLING CODE 6720-01-M

6

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 47 FR 16701, April 19, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Wednesday, May 12, 1982.

CHANGES IN THE MEETING: Additional agenda item.

4. (a) Miniature, battery-operated, all-terrain wheeled vehicles (Docket No. 818).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-654-82 Filed 4-30-82; 4:08 pm]

BILLING CODE 7020-02-M

7

LEGAL SERVICES CORPORATION

Committee on Operations and Regulations

TIME AND DATE: 9 a.m.-5 p.m., Friday, May 14, 1982.

PLACE: Atlanta Biltmore Hotel, 817 West Peachtree Street, NE., Atlanta, Georgia 30308.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Subcommittees and Membership Thereof.
2. Revision of Regulation Re Board Meetings.
3. Review of Existing Regulations.
4. Litigation Audit Regulations.
5. Future Meetings.
6. Vice-Chairman of Board.
7. Report from President of the Corporation.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

Date Issued: April 30, 1982.

Gerald M. Caplan,
Acting President.

[S-656-82 Filed 5-3-82; 9:40 am]

BILLING CODE 6820-33-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 9 a.m., May 20, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: May 3, 1982.

[S-660-82 Filed 5-3-82; 2:20 pm]

BILLING CODE 7600-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., May 13, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: May 3, 1982.

[S-661-82 Filed 5-3-82; 2:20 pm]

BILLING CODE 7600-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on May 6, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: May 3, 1982.

[S-662-82 Filed 5-3-82; 2:20 pm]

BILLING CODE 7600-01-M

11

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the Week of May 10, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, May 11, 1982, at 10:00 a.m. An open meeting will be held on Thursday, May 13, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may

be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9) (A) and (10) and 17 CFR 200.402(a)(4)(8)(9) (i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 11, 1982, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Institution and settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Institution of injunctive action.
Opinions.

The subject matter of the open meeting scheduled for Thursday, May 13, 1982, at 10:00 a.m., will be:

1. Consideration of whether to issue a release (i) seeking comment on whether or not a rule addressing "internalization" of order flow is necessary, and (ii) proposing for adoption various internalization rules. For further information, please contact Bill Uchimoto at (202) 272-2906.

2. Consideration of whether to adopt certain amendments to the investment

adviser registration, disclosure and reporting requirements proposed in Advisers Act Release No. 766 and other temporary amendments to Part I of Form ADV which would delete Items 5(b), 7(b), 13(b), 15(i) and (iii), and 16(i) and (iii). For further information, please contact Arthur E. Dinerman, at (202) 272-2079.

3. Consideration of whether to adopt Rule 486 (previously designated Rule 466) under the Securities Act of 1933 under which most post-effective amendments to registration statements filed by insurance company separate accounts would be permitted to become effective automatically without affirmative action on the part of the Commission or its staff. For further information, please contact Kathleen A. Jackson at (202) 272-2115.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272-2178.

April 30, 1982.

[S-657-82 Filed 5-3-82; 9:14 am]

BILLING CODE 8010-01-M

Reader Aids

Federal Register

Vol. 47, No. 87

Wednesday, May 5, 1982

INFORMATION AND ASSISTANCE

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 3, 1982

The Weekly
Compilation of
PRESIDENTIAL
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A Publication of
Ronald Reagan

THE PRESIDENT'S MESSAGE TO THE CONGRESS

THE PRESIDENT'S MESSAGE TO THE CONGRESS

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The Weekly Compilation of **PRESIDENTIAL DOCUMENTS**

Administration of Ronald Reagan

Monday, November 21, 1984
Volume IV—Number 47
Pages 1751-1760

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