AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-11-82
Vol. 47 No. 91
Pages 20105-20284

federal register

Tuesday
May 11, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Contents

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 1982

The President
ADMINISTRATIVE ORDERS
20105 National security information (Order of May 7, 1982)

Executive Agencies

Agricultural Marketing Service
RULES
20107 Fruits, vegetables and other products, processed; increase in inspection fees and charges
PROPOSED RULES
Egg research and promotion:
20258 American Egg Board membership and rates of assessment; recommended decision, etc.
Milk marketing orders:
20146 Ohio Valley

Agricultural Stabilization and Conservation Service
RULES
Conservation and environmental programs:
20109 Forestry incentives program
NOTICES
Marketing quotas and acreage allotments:
20167 Tobacco (fire-cured, etc.); 1982–1984 referenda results

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Food and Nutrition Service; Soil Conservation Service.

Blind and Other Severely Handicapped, Committee for Purchase From
PROPOSED RULES
20156 Regulatory agenda

Census Bureau
NOTICES
Senior Executive Service:
20170 Performance Review Board; membership

Civil Aeronautics Board
NOTICES
20168 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
20169 Braniff-Pan American route transfer case
20169 Northeast Sunrise Airlines, Inc., fitness investigation
20170 Saipan/Guam/Palau-Philippines service case
20170 Visit USA fare/export inland contract rate investigation
20243 Meetings; Sunshine Act (2 documents)

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
20170 Idaho

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

Consumer Product Safety Commission
NOTICES
20243 Meetings; Sunshine Act (2 documents)

Defense Department
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
20123 Electric-powered cart-type vehicles; physician authorized use as alternative to wheelchairs
20122 Medical services provided beneficiaries whose primary insurance covers 75 percent of cost; elimination of nonavailability statement

Education Department
NOTICES
Meetings:
20176 Excellence in Education National Commission

Employment and Training Administration
NOTICES
Adjustment assistance:
20223 American Rehers Zwirne, Ltd., et al.
20223 Imerman Industries, Inc., et al.

Energy Department
See Energy Research Office; Federal Energy Regulatory Commission.

Energy Research Office
NOTICES
Meetings:
20176 Energy Research Advisory Board (2 documents)

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
20124 California; petition denied
20125 Kentucky
20126 Maryland
PROPOSED RULES
Air pollution control; aircraft and aircraft engines:
20153 Emission standard, JT3D engines

Federal Communications Commission
RULES
Organization, functions, and authority delegations:
20129 Broadcast Bureau, Chief; renewal, assignment and transfer applications, denial orders and petitions
Radio stations; table of assignments:
20134 Arizona
20134 Colorado
20135 Iowa
20135 Kansas

20136 Montana
20130 New Mexico
20132 Tennessee
20133 Texas
Television stations; Table of assignments:
20132 Oklahoma
PROPOSED RULES
Radio service, special:
20165 Amateur service; telephony expansion in high frequency bands; extension of time
Radio stations; table of assignments:
20157 Hawaii
20158 Kansas
20160 Minnesota
20164 Nebraska
20162 Pennsylvania
20163 Texas
Television stations; table of assignments:
20156 Arkansas
NOTICES
Hearings, etc.:
20177 American Telephone & Telegraph Co.
Meetings:
20185 International Telegraph and Telephone Consultative Committee
20185 Marine Services Radio Technical Commission
20185 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Deposit Insurance Corporation
NOTICES
20243 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
20177 Banta Carbona Irrigation District

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
20113 Nomenclature changes
PROPOSED RULES
Mortgage and loan insurance programs and low income housing:
20149 Aliens; restriction on use of assisted housing; correction
20149 Mutual mortgage insurance and rehabilitation; Mortgage insurance premium (MIP), annual; monthly installment payments
NOTICES
20208 Participation and Compliance Division; availability of documents

Federal Maritime Commission
NOTICES
20185 Agreements filed, etc.

Federal Prevailing Rate Advisory Committee
NOTICES
20185 Meetings

Federal Reserve System
NOTICES
Applications, etc.:
20186 Royal Trustco Ltd. et al.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
20111 Tetracycline boluses
20112 Tylosin
20112 Virginiamycin
NOTICES
Animal and human drugs:
20186 Antibiotic drugs and antibiotic susceptibility medical devices; certification procedures
Biological product licenses:
20192 Puerto Rico Community Blood Center, Inc.; revocation hearing
Committees; establishment, renewals, terminations, etc.:
20187 Radiological Health and Safety Advisory Committee; request for nominations of voting members
Food for human consumption:
20193 Tomato juice deviating from identity standards; temporary permit for market testing
Medical devices:
20188 Coherent, Inc., et al.; microsurgical argon laser for otology; reclassification petitions

Food and Nutrition Service
RULES
Child nutrition programs:
20108 Women, infants and children; special supplemental food program; food packaging requirements; implementation delay extended
PROPOSED RULES
Child nutrition programs:
20144 Child care food program; elimination of cost as a factor for reimbursement to child care centers

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; Public Health Service.

Health Care Financing Administration
NOTICES
Meetings:
20194 National Professional Standards Review Council

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
RULES
Low income housing:
20113 Elderly or handicapped housing loans (Section 202); cost savings procedures; interim

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
20194–20202 Native American programs (4 documents)

Immigration and Naturalization Service
RULES
Transportation line contracts:
20110 Trans-Florida Airlines, Inc.
PROPOSED RULES
20147 Nonimmigrant classes; uniform minimum admission period for admissible visitors

Indian Affairs Bureau
NOTICES
Judgment funds; plan for use and distribution:
20208 Mescalero Apache Tribe, N. Mex.

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
20170 Instant potato granules from Canada
20171 Pig iron from Czechoslovakia
20172 Pig iron from East Germany
20172 Pig iron from U.S.S.R.
20173 Viscose rayon staple fiber from Belgium

International Trade Commission
NOTICES
20244 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
20214 Agricultural cooperative transportation filing notices
20214 Finance applications
20215 Permanent authority applications
20218 Permanent authority applications; restriction removals
20220 Lease and interchange of vehicles
Rail carriers:
20220 State intrastate rail rate authority; Commission jurisdiction
Rail carriers; contract tariff exemptions:
20219 Consolidated Rail Corp.
Railroad services abandonment:
20220 Illinois Central Gulf Railroad Co.

Justice Department
See also Immigration and Naturalization Service.
NOTICES
Meetings:
20222 Justice-Treasury Advisory Committee on State and Local Law Enforcement Training
20221 Privacy Act; systems of records

Labor Department
See Employment and Training Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
20209 California Desert Conservation Area Plan; proposed amendments; notice of intent
20209 Eugene-Medford, Oreg.; 500kV electrical transmission line; hearing, etc.
Meetings:
20209 Salt Lake District Grazing Advisory Board
Recreation use permit systems:
20210 North Eagle Lake Campground, Susanville District, Calif.; fee schedule

Minerals Management Service
NOTICES
Sodium leasing areas:
20210 California

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
20174 Louisiana and Texas

National Oceanic and Atmospheric Administration
RULES
20110 Coastal zone management program; Federal consistency term "directly affecting the coastal zone"; interpretation withdrawn; effective date confirmed
Whaling;
20137 Bowhead whales, taking by Indians, Aleuts, or Eskimos for subsistance purposes
20137 Bowhead whales, taking by Indians, Aleuts, or Eskimos for subsistence; cooperative agreement between NOAA and Alaska Eskimo Whaling Commission
NOTICES
Marine mammal permit applications, etc.:
20175 Dolphin, William Ford
20175 LGL Alaska Research Associates, Inc.

National Park Service
NOTICES
Environmental statements; availability, etc.:
20213 Catoctin Mountain Park, Md., Camp Round Meadow; development concept plan
20213 Santa Monica Mountains National Recreational Area, Calif.; general management plan
Historic Places National Register; pending nominations:
20210 Alabama et al.

Nuclear Regulatory Commission
PROPOSED RULES
Radiography licenses and radiation safety requirements for radiographic operations:
20149 Industrial radiographers certification; meetings
NOTICES
Applications, etc.:
20228 Alabama Power Co.
20228 Duquesne Light Co. et al.
20230 Florida Power & Light Co.
20231 General Electric Co.
20232 Power Authority of State of New York
20233 Public Service Electric & Gas Co. et al.
20234 Wisconsin Public Service Corp. et al.
Environmental statements; availability, etc.:
20231 General Electric Co.; Morris Operation, Ill.
20234 Puget Sound Power & Light Co. et al.; Skagit/Hanford nuclear project, Units 1 and 2, Wash.
Meetings:
20227 Reactor Safeguards Advisory Committee

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
20224 Bell System Trust

Personnel Management Office
See also Federal Prevailing Rate Advisory Committee
PROPOSED RULES
Excepted service:
20264 Schedule B appointment authority for professional and administrative career positions
Intergovernmental Personnel Act programs:
20142 Merit system standards; revision
20268 Solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations
NOTICES
20235 Privacy Act; systems of records

Public Health Service
NOTICES
Medical technology scientific evaluations:
20205 Endothelial cell photography
20205 Liver transplantation for treatment of liver disease
20206 Photocoagulation treatment for macular degeneration
20205 Photoplethysmography for diagnosis of peripheral artery disease
20206 Privacy Act; systems of records

Securities and Exchange Commission
NOTICES
Hearings, etc.:
20238 ACF Industries, Inc.
20244 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
20239 New York Stock Exchange, Inc.

Soil Conservation Service
NOTICES
Watershed projects; deauthorization of funds:
20168 Big Slough Watershed, Ga.

State Department
NOTICES
Meetings:
20240 International Telegraph and Telephone Consultative Committee
20240, 20241 Shipping Coordinating Committee (3 documents)

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
20116 Missouri
20119 West Virginia
PROPOSED RULES
Permanent program submission; various States:
20152 Virginia; hearing cancellation

Synthetic Fuels Corporation
NOTICES
20241 Project proposals; second solicitation; clarification

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
20235 Articles eligible for duty-free treatment, etc.

Treasury Department
NOTICES
Meetings:
20222 Justice-Treasury Advisory Committee on State and Local Law Enforcement Training Program
20241 Privacy Act; systems of records

Veterans Administration
NOTICES
20242 Privacy Act; systems of records

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:
12356 (*See* Order of May 7, 1982)..... 20105

Administrative Orders:
May 7, 1982..... 20105

5 CFR

Proposed Rules:
213..... 20264
752..... 20264
900..... 20142
950..... 20268

7 CFR
52..... 20107
246..... 20108
701..... 20109

Proposed Rules:
226..... 20144
1033..... 20146
1250..... 20258

8 CFR
238..... 20110

Proposed Rules:
214..... 20147

10 CFR

Proposed Rules:
34..... 20149

15 CFR
931..... 20110

21 CFR
546..... 20111
558 (2 documents)..... 20112

24 CFR
Ch. II..... 20113
885..... 20113

Proposed Rules:
200..... 20149
203..... 20149
204..... 20149
209..... 20149
211..... 20149
215..... 20149
221..... 20149
228..... 20149
235 (2 documents)..... 20149
236..... 20149
812..... 20149

30 CFR
925..... 20116
948..... 20119

Proposed Rules:
946..... 20152

32 CFR
199 (2 documents)..... 20122, 20123

40 CFR
51..... 20124
52 (3 documents)..... 20124–20126
62..... 20126

Proposed Rules:
87..... 20153

41 CFR

Proposed Rules:
Ch. 51..... 20156

47 CFR
0..... 20129
73 (9 documents)..... 20130–20136

Proposed Rules:
73 (7 documents)..... 20156–20164
97..... 20165

50 CFR
230 (2 documents)..... 20137

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 1982

Presidential Documents

Title 3—

The President

Order of May 7, 1982

National Security Information

Pursuant to the provisions of Section 1.2 of Executive Order No. 12356 of April 2, 1982, entitled "National Security Information," I hereby designate the following officials to classify information originally as "Top Secret", "Secret", or "Confidential":

TOP SECRET

EXECUTIVE OFFICE OF THE PRESIDENT:

The Vice President

The Counsellor to the President

The Chief of Staff and Assistant to the President

The Deputy Chief of Staff and Assistant to the President

The Director, Office of Management and Budget

The United States Trade Representative

The Assistant to the President for National Security Affairs

The Director, Office of Science and Technology Policy

The Chairman, The President's Foreign Intelligence Advisory Board

The Chairman, The President's Intelligence Oversight Board

The Secretary of State

The Secretary of the Treasury

The Secretary of Defense

The Secretary of the Army

The Secretary of the Navy

The Secretary of the Air Force

The Attorney General

The Secretary of Energy

The Chairman, Nuclear Regulatory Commission

The Director, United States Arms Control and Disarmament Agency

The Director of Central Intelligence

The Administrator, National Aeronautics and Space Administration

The Administrator of General Services

The Director, Federal Emergency Management Agency

SECRET

EXECUTIVE OFFICE OF THE PRESIDENT:

The Chairman, Council of Economic Advisers

The President's Personal Representative for Micronesian Status Negotiations

The Secretary of Commerce

The Secretary of Transportation

The Administrator, Agency for International Development

The Director, International Communication Agency

CONFIDENTIAL

The President, Export-Import Bank of the United States

The President, Overseas Private Investment Corporation

The Administrator, Environmental Protection Agency

Any delegation of this authority shall be in accordance with Section 1.2(d) of the Order.

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

Ronald Reagan

THE WHITE HOUSE,
May 7, 1982.

[FR Doc. 82-12891
Filed 5-7-82; 3:39 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 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.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

Increase in Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the schedule of fees and charges for inspection of processed fruits, vegetables and certain other products to reflect increased costs associated with the programs.

EFFECTIVE DATE: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Raymondo O'Neal, Processed Products Branch, Fruit and Vegetable Division, Agricutural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5021.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. It will not result in an annual effect on the economy of $100 million or more. If the increased fees for inspection of processed fruits and vegetables and certain other related products were passed on by processors, the increase would represent less than 0.002 percent of the total wholesale value of these processed products, and this is not considered to be a major increase in costs or price for consumers or individual industries. Likewise, this rule should have no impact on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The use of grades and grading services increases the efficiency in the marketing system and facilitates order by marketing of agricultural products.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) because it reflects on a cost-per-unit-graded basis a minimum increase in the costs currently borne by those entities utilizing the inspection and grading services, and those services are voluntary.

It is found that good cause exists for making this final rule effective 30 days after the date of publication in the Federal Register because the present fees are not adequate to recover the cost of providing the different types of services. The need for the change and the amount thereof are dependent upon factors within the knowledge of the Agricultural Marketing Service.

The schedule for fees and charges for services rendered to the processed fruits and vegetable industry are amended to reflect the costs associated with the program. Such services are authorized under the Agricultural Marketing Act of 1946, sec. 203(h), which requires that fees be reasonable and, as nearly as possible, cover the costs of rendering the services.

Each fiscal year, the fees for certain services are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services. Specifically included in the analysis are consideration of overtime and holiday pay incurred in connection with inspection, certification and laboratory services performed for the fruit and vegetable processing industry.

An analysis of data on the current cost for services was conducted. Costs of providing services as determined by the grader's or inspector's salary and fringe benefits, supervision, travel, and other overhead and administrative expenses have increased significantly since the last fee adjustment.

The increase in cost can also be attributed to the salary increase for Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970. Federal employees received a 4.8 percent pay increase effective October, 1981.

No appropriated funds are provided to the agency to offset costs of rendering the services. Therefore, we must recover them in full through user fees charged to the establishments which request the services.

Through fee analysis, the Agency assures that fees charged neither exceed nor fall short of full reimbursement for cost of the service. These analyses also help assure that our costs are kept to a minimum as needed to carry out an effective program.

The following table compares current fees and charges for processed fruit and vegetable inspection with the new schedule.

Current	New
Section 52.42 Schedule of fees:	
Per inspector hour	Per inspector hour.
$22.00/hr plus	$24.00/hr plus.
$5.00/hr overtime	$5.00/hr overtime.

	Current	New
Section 52.52(c) Charges for inspection service on a contract basis:		
(1) For personnel assigned on a year-round basis.	$17.00/hr	$19.00/hr.
(2) For personnel assigned on less than a year round basis.	$19.00/hr	$21.00/hr.
Each Subordinate Inspector on same shift with an inspector.	$14.00/hr	$14.00/hr.
(6) Overtime: All Overtime hours charged at regular rate specified in (c) (1) and (2).		[1]
Section 52.52(d) Charges for less than year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule:		
(1) Each Inspector	$24.00/hr	$26.00/hr.[2]

[1] All overtime hours charged at regular rate specified in (c) (1) and (2) plus $5.00/hr.
[2] A minimum of 8 hours per day in lieu of a minimum of 40 hours a week for intermittent type in-plant services and short term in-plant assignments will be billed at the $24.00 per hour rate plus travel expenses.

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

List of Subjects in 7 CFR Part 52

Food grades and standards, Processed fruits and vegetables.

Accordingly, the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (7 CFR 52.42 and 52.52) are amended as follows:

1. Section 52.42 is revised to read as follows:

§ 52.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in part, including analyses specified in § 52.47, shall be at the rate of $24.00 per hour plus an additional $5.00 per hour for all scheduled overtime hours.

2. In Section 52.52, paragraphs (c) (1), (2), and (6) and (d) are revised to read as follows:

§ 52.52 Charges for inspection service on a contract basis.

* * * * *

(c) Charges for year-round in-plant inspection services on a contract basis will be billed to the applicant at least once every 28 days for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned on a year-round basis: Each inspector—$19.00 per hour.

(2) For personnel assigned on less than a year-round basis:

Each inspector—$21.00 per hour.

Each subordinate inspector on the same shift with an inspector—$14.00 per hour.

* * * * *

(6) *Overtime.* All overtime hours will be charged at the regular rate specified in paragraphs (c) (1) and (2) of this section plus $5.00 per hour.

(d) Charges for less than year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours with a minumum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule: [1]

(1) Each inspector—$26.00 per hour.[1]

(2) Travel expense. The above rate applies to hours worked on the assignment. The salary for inspectors enroute and other travel expenses including per diem will not be billed for inspectors assigned on this type of contract.[1]

* * * * *

(Agricultural Marketing Act of 1946, Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C. on May 6, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82-12800 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-02-M

[1] Except a minimum of 8 hours per day in lieu of a minimum of 40 hours a week for intermittent type in-plant services and short term in-plant assignments will be billed at the $24.00 per hour rate plus travel expenses.

Food and Nutrition Service

7 CFR Part 246

Extension of Implementation Date for Food Package Regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: As a result of public comments received on a proposed rule at 47 FR 15348 on April 9, 1982, the implementation date for the food package regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program) is extended until December 31, 1982. The complete food package regulations were published in the **Federal Register** on November 12, 1980, at 45 FR 74854. This action is taken as part of the Department's initiative to deregulate Federal programs. During the extension period, the Department may propose changes in the food package regulations designed to reduce Federal involvement in decisions more appropriately made by State agencies.

EFFECTIVE DATE: This final rule is effective May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara P. Sandoval, Director; Supplemental Food Programs Division; Food and Nutrition Service, USDA; Alexandria, Virginia 22302, Telephone 703-756-3746.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and has been classified not major because it does not meet any of the three criteria under the Executive Order. This action will not have an annual effect on the economy of $100 million or more. Nor will it cause major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Furthermore, it will not have a significant adverse economic impact on competition, employment, investments, productivity, innovation or on the ability of U.S. enterprises to compete.

This rule has been examined and found not to contain any reporting or recordkeeping requirements which would necessitate clearance by the Office of Management and Budget (OMB).

New Implementation Date

The implementation date for the food package regulations is extended until December 31, 1982.

On November 12, 1980, the Department published final WIC food package regulations. These regulations, which were revised August 26, 1977, food package provisions, appeared in the **Federal Register** at 45 FR 74854. The original date for full implementation by State agencies was November 12, 1981.

Subsequent to publication, the Department realized that State agencies were experiencing difficulties in implementing the regulations. Therefore, the implementation date was extended 6 months, until May 12, 1982, via publication of a final rule in the **Federal Register** on September 1, 1981, at 46 FR 43823.

In recent months, the Department has begun initiatives aimed at deregulating Federal programs and increasing State flexibility. The Department has determined that the WIC Program food package regulations are an area in which deregulation and increased State responsibility may be both beneficial and feasible. The Department will consider, and may propose, changes in the food package regulations. In particular, the Department will consider ways of reducing the regulatory burden on State agencies.

Pending publication of proposed and final food package regulations, the Department has decided that it is appropriate that States not be required to make further investments of time or funds to effect the 1980 changes. Therefore, on April 9, 1982, the Department published a proposed rule in the **Federal Register** (47 FR 15348) to extend the implementation date until December 31, 1982.

The Department received 51 comments in response to the proposal. Of these, 32 supported the proposal as written, 8 opposed the extension, and 11 either did not address the proposed implementation date or were unclear as to whether they opposed or supported the proposal.

The Department is committed to reducing the regulatory burden on State

agencies. For this reason, the implementation date for the November 1980 WIC Program food package regulations has been extended until December 31, 1982. Because the 1980 regulations allowed States time to phase in those regulations in piecemeal fashion, States may be operating presently under a combination of the 1977 and 1980 regulations. Therefore, until December 31, 1982, State agencies may follow the November 1980 regulations, the August 1977 regulations, or any combination of the two. This is to allow States the option of enacting the 1980 regulations in a measured fashion; continue operation under the 1980 regulations; or revert to the 1977 regulations.

Authority: Pub. L. 95–627.

List of Subjects in 7 CFR Part 246

Food assistance program, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, WIC, Women.

Dated: May 7, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82–12867 Filed 5–10–82; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the Forestry Incentives Program (FIP) to reduce from 75 to 65 percent the maximum level at which ASCS will share with landowners the actual cost of performing a practice under the program. The effect of the final rule will be to make assistance available to a greater number of producers within established funding limits while increasing the cost-effectiveness of the program.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202–447–6221. The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed for compliance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." It has been determined that these program provisions 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, individuals, 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.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Forestry Incentives Program; Number—10.064; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since ASCS is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this rule.

The FIP is authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313, 92 Stat. 365). Under the program, the Secretary of Agriculture is authorized, in consultation with a committee of at least five State foresters or equivalent State officials, to develop and implement a forestry incentives program to encourage the development and protection of the Nation's nonindustrial private forest lands. The purpose of the program is to encourage landowners to apply forestry practices that will provide for the afforestation of suitable open lands and reforestation of cutover or understocked forest lands; and timber stand improvement measures in existing stands. The program is also designed to encourage intensive multipurpose forest resource management and protection in order that cost-effective timber production and other related forest resource benefits can be realized.

A notice of proposed rulemaking was published in the **Federal Register** on December 11, 1981, (46 FR 60616) providing for a reduction in the maximum level of cost-share assistance which ASCS will make available to landowners under FIP. ASCS received only one response with respect to this proposed rule.

Comment

The person commenting felt that the State ASC Committee should be delegated the responsibility for determining the maximum level at which cost-share assistance would be provided under FIP.

Response

The increasing popularity of FIP, with no corresponding increase in funding, has created a large backlog of landowners' requests for cost-share assistance. Thus, it has been determined that a national policy setting forth uniform reduction in the maximum cost-share level is perferable in order to make limited program funds available to a greater number of applicants.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forests and forest products, Grant programs—agriculture, Grant programs—natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

Final Rule

PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

Accordingly, the regulations at 7 CFR 701.37(b) are revised to read as follows:

§ 701.37 Level and rates of cost-sharing.

* * * * *

(b) Levels of cost-sharing shall be approved by the State ASC committee and shall not be in excess of 65 percent of actual costs incurred by the landowners.

* * * * *

Signed at Washington, D.C., May 4, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc 82–12619 Filed 5–10–82; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Trans-Florida Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Trans-Florida Airlines, Inc. to the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States. Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization entered into agreement with Trans-Florida Airlines, Inc. to guarantee the preinspection of their passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)).

Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the listing and is editorial in nature.

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

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Common carriers, Government contracts, Inspections, Transportation, Travel restriction, Treaties.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In §238.4 Preinspection outside the United States, the listing of transportation lines is amended by adding alphabetical sequence, "Trans-Florida Airlines, Inc." under "AT FREEPORT".

* * * * *

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: May 6, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc 82-12738 Filed 5-10-82; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Interpretation of the Federal Consistency Term: "Directly Affecting the Coastal Zone"

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Confirmation of effective date of withdrawal of final rule.

SUMMARY: On January 29, 1982, NOAA issued a notice in the **Federal Register** withdrawing final rules published in the **Federal Register** on July 8, 1981, that define the term "directly affecting the coastal zone". According to Pub. L. 96–184 this withdrawal would become effective only after 60 calendar days of continuous session of Congress had elapsed (after notice to both Houses of Congress) and both Houses had failed to adopt a concurrent resolution disapproving the withdrawal. The 60-day period expired on April 27, 1982.

EFFECTIVE DATE: The withdrawal of the July 8, 1981, final rules defining "directly affecting the coastal zone" is effective as of April 28, 1982.

FOR FURTHER INFORMATON CONTACT: JoAnn Chandler, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, DC 20235, Telephone: (202) 634–4245.

SUPPLEMENTARY INFORMATION:

I. Background

Section 307(c)(1) of the CZMA states that: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal management programs."

Regulations published by NOAA on June 25, 1979 (44 FR 37142), implementing the Federal consistency provisions define all the key terms of Section 307(c)(1) except "directly affecting." On May 14, 1981, regulations defining this term were proposed (46 FR 26658) and on July 8, 1981, these regulations were published in final form (46 FR 35253).

The July 8 regulations were submitted to Congress for review in accordance with Pub. L. 96–184. The 60-day period specified by this Act had not yet expired, and the regulations had not yet become effective on October 16, 1981, when NOAA published in the **Federal Register** a notice suspending the effective date of the July 8 regulations (46 FR 50937) and a notice proposing to withdraw these regulations (46 FR 50976).

On January 29, 1982, NOAA published a final withdrawal of the July 8 regulations (47 FR 4231). This withdrawal was also submitted to Congress for the requisite 60-day review period. That period expired on April 27, 1982. Therefore the effective date of the withdrawal is April 28, 1982.

II. Other Matters

The regulation that is being withdrawn was determined to be a "major rule" under Executive Order 12291 and its repeal would also be a "major rule." However, in view of the extensive review, analysis and consultation which was involved in defining the term "directly affecting," the Director of the Office of Management and Budget has waived the requirements of Section 3 of Executive Order 12291 for this rule.

Neither the Regulatory Flexibility Act nor the Paperwork Reduction Act apply to these regulations. These regulations define actions required to be taken by Federal agencies and have no impact on small entities. The regulations impose no additional paperwork or recordkeeping requirements and therefore the provisions of the Paperwork Reduction Act do not apply.

List of Subjects in 15 CFR Part 931

Administative practice and procedure, Coastal zone, Natural resources.

Dated: May 4, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc 82-12703 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 546

Tetracycline Antibotic Drugs for Animal Use; Tetracycline Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., proposing that the marketing status of its tetracycline calf bolus be changed from use by or on the order of a licensed veterinarian to over-the-counter (OTC) use.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental NADA (65-004) proposing OTC use of tetracycline calf boluses for treatment of bacterial pneumonia and bacterial enteritis. The bolus is administered orally at 10 milligrams per pound of body weight daily divided into 2 doses, for no more than 5 days. Animals for food use are not to be slaughtered within 12 days of treatment.

FDA originally approved the bolus as an over-the-counter drug. Although the conditions for marketing a drug that is subject of an approved NADA are not ordinarily established by rulemaking, the agency changed the drug's marketing status to prescription through rulemaking. The agency proposed the change in the **Federal Register** of April 19, 1969 (34 FR 6284), and issued a final rule making the change in the **Federal Register** of November 4, 1971 (36 FR 21184). The agency stated in the preamble to the regulation that "* * * when more than 10 days is required to deplete the tissues of tetracycline drug residues, such drugs should be available only on a prescription basis."

The Director of the Bureau of Veterinary Medicine has determined that good cause exists for the issuance of a final rule returning the bolus to over-the-counter status without first publishing a proposal for public comment. The change in the drug's marketing status from over-the-counter to prescription occurred at a time of growing concern about the safety of drug residues in edible products, especially the safety of antibotic residues. Because the information that caused the concern was new, the agency could not draw on experience in determining the most appropriate methods to use in minimizing the effect of harmful residue. One method the agency selected was the imposition of a prescription requirement for drugs with withdrawal periods in excess of 10 days. This restriction was based on the assumption that the intervention of a veterinarian would enhance adherence to the labeled withdrawal period. At that time, farmers and other drug users had had little experience with, and knowledge of, withdrawal periods.

In the intervening years, prominent label warnings and directions and a widespread education program conducted by FDA and the U.S. Department of Agriculture (USDA) have greatly enhanced the level of user knowledge of withdrawal period requirements. In addition, several drugs in the tetracycline family have been approved for use over-the-counter even though withdrawal periods exceeded 10 days. Although the presence of tetracycline residues in veal remains a concern of both FDA and USDA, the Director of the Bureau of Veterinary Medicine believes that it is generally accepted that the length of the withdrawal period should not, by itself, determine whether a veterinary drug should be sold as a prescription or over-the-counter. The Bureau has concluded that adequate directions for lay use can be written for the tetracycline calf boluses. As a result, the supplemental application for over-the-counter use can be approved.

Therefore, the agency has determined that good cause exists to find that notice and public procedure are impracticable, unnecessary, and contrary to the public interest. For the same reasons, the agency finds good cause for not delaying the effective date of this regulation.

The supplemental NADA is approved, and § 546.180c *Tetracycline boluses* is amended to reflect that Upjohn's tetracycline calf bolus is now to be marketed as an OTC product.

The Bureau of Veterinary Medicine concludes that approval of this supplemental NADA poses no increased risk from exposure to residues of the new animal drug tetracycline because the number of food-producing animals receiving medication will not significantly increase as a result of this approval. Accordingly, under the Bureau's supplemental NADA approval policy (42 FR 64367, December 23, 1977), this is a Category II approval which does not require a reevaluation of the human safety or animal effectiveness data in the parent application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Approval of this supplement is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary is not required for this action.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics, Tetracycline.

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 546.180c [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 546.180c *Tetracycline boluses* is amended in paragraph (c)(6)(ii)(*b*) by removing the final sentence "Federal law restricts this drug to use by or on the order of a licensed veterinarian", removing the semicolon after the word "tetracycline", and inserting in its place a period.

Effective date. May 11, 1982.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)))

Dated: May 3, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-12618 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for virginiamycin to reflect approval of a supplemental new animal drug application (NADA) filed by SmithKline Animal Health Products, Division of SmithKline Corp., providing for administrative waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) with regard to the manufacture of swine feeds, for increased rate of weight gain and improved feed efficiency, from a premix containing virginiamycin at a level of not more than 10 grams per pound.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101, filed supplemental NADA 91–513 providing for waiver of the requirements of section 512(m) of the act for the manufacture of swine feeds, for increased rate of weight gain and improved feed efficiency, from a premix containing virginiamycin at a concentration of not more than 10 grams per pound.

Virginiamycin as the sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5× to 2× level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feedmills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency stated that it would no longer grant exemptions from the requirement of an approved medicated feed application on the basis of complying with certain uniform criteria set forth in a 1971 Bureau of Veterinary Medicine memorandum. Since publication of that statement, however, the agency has reconsidered and has concluded that it would be unfair to continue denying waivers pending revisions in the procedures and requirements for approval of medicated feed applications. Accordingly, the agency has withdrawn the policy announced in the January 9, 1981 **Federal Register**, and has resumed the granting of exemptions on an interim basis.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.635 by adding new paragraph (e)(4) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.635 Virginiamycin.

* * * * *

(e) * * *

(4) Finished swine feeds processed from premixes containing not more than 10 grams of virginiamycin per pound, and which conform to the requirements of paragraph (f)(1) (iv) or (v) of this section are not required to comply with the provisions of section 512(m) of the act.

* * * * *

Effective date: May 11, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: May 3, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-12570 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Nutra-Blend Corp. providing for use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds in addition to its current use for making certain swine feeds.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Nutra-Blend Corp., Route 7—Box 192A, Neosho, MO 64850, is sponsor of NADA 122–158 providing for use of 4- and 10-gram-per-pound tylosin premixes for making complete swine feeds for increased rate of weight gain and improved feed efficiency. On behalf of Nutra-Blend, Elanco Products Co. submitted a supplement to the NADA which provides for use of the 10-gram-per-pound tylosin premix for making complete swine, beef cattle, chicken, and layer, broiler, and replacement chicken feed. The swine feed is used, in addition to use for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and for maintenance of weight gains and promotion of feed efficiency in the presence of atrophic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; the layer feed for improved feed efficiency; and the broiler and replacement chicken feed for control of chronic respiratory disease.

Approval of this supplemental NADA relies upon safety and effectiveness data contained in NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support this supplement. This approval does not change the approved use of the drug. Consequently, approval of this supplement poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491 or NADA 122–158.

The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HEA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(71) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(71) To 050568: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date: May 11, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 4, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–12750 Filed 5–10–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Ch. II

[Docket No. N–82–1126]

Nomenclature Changes

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Nomenclature changes.

SUMMARY: This rule removes obsolete references to the Department of Health, Education, and Welfare and the Atomic Energy Commission found in Chapter II of the Department's regulations. Both of these agencies have been renamed.

EFFECTIVE DATE: This change is effective May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410, telephone number (202) 755–6207. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: 24 CFR Chapter II is amended as follows:

PARTS 200, 226, AND 227—[AMENDED]

(1) In Part 200, § 200.15, and Parts 226 and 227, references to the "Atomic Energy Commission", "Chairman of the Atomic Energy Commission", and "AEC" are changed to read "U.S. Nuclear Regulatory Commission", "Chairman of the U.S. Nuclear Regulatory Commission", and "NRC", respectively.

PARTS 232 AND 242—[AMENDED]

(2) In Parts 232 and 242, references to the "Secretary of Health, Education, and Welfare", "U.S. Department of Health, Education, and Welfare", and "HEW" are changed to read "Secretary of Health and Human Services", "U.S. Department of Health and Human Services", and "HHS", respectively.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: May 5, 1982.

Richard Lasner,

Assistant General Counsel for Regulations.

[FR Doc. 82–12702 Filed 5–10–82; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 885

[Docket No. R–82–982]

Housing for the Elderly or Handicapped; Amendment to Implement Cost Savings Procedures

AGENCY: Department of Housing and Urban Development (Office of the Assistant Secretary for Housing—Federal Housing Commissioner).

ACTION: Interim rule.

SUMMARY: This amendment requires the use of competitive bidding by Section 202 borrowers in all cases where the construction contract exceeds $100,000, raises the minimum capital investment for borrowers to one percent of the mortgage amount, not to exceed $25,000, and amends the per unit cost limits to bring them into conformity with the limits which apply to nonprofit sponsors

under the Section 221(d)(3) mortgage insurance program.

EFFECTIVE DATE: June 22, 1982. Comment due date: July 12, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, DC 20410. Communications should refer to the above docket number and title. Copies of the comments submitted will be available at the above address for public inspection and copying during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Facilities Division, Office of Housing, Department of Housing and Urban Development, Washington, DC 20410, (202) 755–6528. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This interim rule establishes procedures designed to hold down the cost of Section 202 projects and increase borrower commitment and performance in the development of such projects. The first major change is to require competitive bidding for all Section 202 projects which have construction contracts exceeding $100,000. This requirement should result in reduced construction costs over the present system of using cost plus contracts. It will also eliminate paperwork and reduce processing time by eliminating the requirement for the contractor to participate in the cost certification process.

A second change will permit the use of simplified cost certification by the borrower in small projects. This change will also reduce paperwork and processing time.

A third change to the Section 202 regulations is to increase the minimum capital investment required of borrowers from the level of one-half of one percent of the mortgage amount, not to exceed $10,000, to a level of one percent of the mortgage amount, not to exceed $25,000. The provisions that the minimum capital investment be escrowed at initial loan closing, that any unexpended amount be returned to the borrower at the end of the escrow period, and fixing the term of the escrow period are unchanged. The reason for the increase in the minimum capital investment is two-fold. First, substantial inflation has occurred since the $10,000 ceiling was imposed in 1976, suggesting that a substantial increase is appropriate. Second, experience under the Section 202 program suggests that an increased financial commitment from the nonprofit borrower will represent an increased commitment to the success of the project, thereby reducing the risk of subsequent cancellation of the Section 202 fund reservation or of financial default under the mortgage.

A fourth change to the Section 202 regulations is an amendment to the per unit limits to bring them into conformity with the Section 221(d)(3) limits for nonprofit borrowers. The Department, in its Report to Congress entitled "Section 202 Housing Cost Reduction," stated that a new requirement would be made which would assure that "the average 202 development cost per unit for each Area Office not exceed the average Section 8 limited dividend cost for elderly units in that same office." The major vehicle used by limited dividend borrowers for financing Section 8 projects is the Section 221 program. The Section 221(d)(3) per unit limits for nonprofit borrowers are proportionally higher than the per unit limits for limited dividend borrowers, in order to reflect the fact that nonprofit borrowers are eligible for mortgages up to 100 percent of replacement cost, whereas limited dividend borrowers are restricted to mortgages up to 90 percent of replacement cost. The Section 221 limits, while generally lower than the Section 202 limits, have been adequate to generate the construction of a significant number of Section 8 projects both for the elderly and for families. The Department does not believe that imposing the Section 221(d)(3) limits for nonprofit borrowers on the Section 202 program violates the requirement of Section 202(d) of the Housing Act of 1959, as amended in 1977, because Section 202(d) states that Section 202 limits "shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under Section 231 of the National Housing Act." The Section 221(d)(3) per unit limits for nonprofit borrowers are unrelated to the Section 231 limits, and in fact the Section 221(d)(3) limits are significantly higher than the Section 231 limits. The use of the Section 221(d)(3) limits will not restrict borrowers from providing special facilities, such as congregate dining and community space, in Section 202 projects, because such facilities are treated as costs not attributable to dwelling use, and therefore the cost of such facilities is not counted as a part of the per unit cost. The Department believes that the use of the Section 221(d)(3) per unit limits for nonprofit borrowers in the Section 202 program will carry out the intent of the 1977 Senate Committee Report which states, "Section 202 loans should be made only to those projects which the Secretary determines will be constructed 'in an economical manner' and which 'will not be of elaborate or extravagant design or materials.' "

A detailed description of the proposed changes to Part 885 is as follows:

(1) Section 885.410(b) and (c) are amended to provide dollar cost limits which conform to the per unit cost limits for nonprofit sponsors for the Section 221(d)(3) mortgage insurance program.

(2) Section 885.410(j) is amended to increase the minimum capital investment required of nonprofit borrowers to one percent of the mortgage amount, not to exceed the amount of $25,000.

(3) Section 885.415(m) is amended to require Section 202 projects which have construction contracts exceeding $100,000 to use competitive bidding.

(4) Section 885.425, Completion of Construction of Substantial Rehabilitation, Execution of HAP Contract, and Cost Certification and Approvals by HUD, is amended as follows:

(a) Subparagraph (c)(1) is amended to include fixed price contracts, which shall be used for all projects subject to competitive bidding;

(b) Subparagraph (c)(3) is amended so as to cover only projects not subject to competitive bidding. Contractors will not be required to certify cost in cases where the contract is awarded through competitive bidding procedures.

(c) Subparagraph (d), (e) and (f) are added to permit simplified cost certification procedures for small projects and to assure that contract rents are reduced to reflect any reduction in the Section 202 loan amount.

This revision to the Section 202 housing for the elderly or handicapped program (with the exception of § 885.425 (d), (e) and (f) dealing with simplified cost certification and reduction of contract rents) will apply only to Section 202 borrowers which receive fund reservations for new projects subsequent to the effective date of this interim rule. It will not affect projects which received fund reservations in Fiscal Year 1981 or prior years. The Department has determined that this revision is necessary to bring about significant cost savings under the Section 202 program. These savings will be in the form of reduced per unit costs and rents, which will save both Section 202 loan authority and Section 8 subsidy costs over the term of the Section 8 contract. The Department, therefore, believes that it is in the public interest to implement as soon as possible the

changes being made by this rule. Offering an opportunity for public comment prior to the effective date of this rule would cause a significant delay in implementation of this change, making it impossible to apply this rule to applications to be funded in the Fiscal Year 1982 funding cycle. Accordingly, the Secretary has determined that prior public comment would be impracticable and contrary to the public interest, and that good cause exists for omitting such prior public comment and publishing this amendment as an interim rule. However, interested persons are invited to submit comments for a 60-day period following this publication.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations, 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semi-annual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.157, Housing for the Elderly or Handicapped (202).

Information collection requirements contained in this regulation (Sections 885.425 (c)(1), (c)(3), and (d) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2502-0044).

List of Subjects in 24 CFR Part 885

Aged, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, Part 885 is amended as follows:

1. By revising § 885.410 (b), (c), and (j) to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(b) For such part of the property or project attributable to dwelling use (excluding exterior land improvement as defined by the Assistant Secretary) the maximum loan amount, depending on the number of bedrooms shall be:

(1) $21,563 per family unit without a bedroom,

(2) $24,662 per family unit with one bedroom,

(3) $29,984 per family unit with two bedrooms,

(4) $38,379 per family unit with three bedrooms, restricted to nonelderly handicapped families,

(5) $42,756 per family unit with four or more bedrooms, restricted to nonelderly handicapped families.

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit as provided in paragraph (b) of this section, not to exceed:

(1) $22,692 per family unit without a bedroom,

(2) $26,012 per family unit with one bedroom,

(3) $31,631 per family unit with two bedrooms,

(4) $40,919 per family unit with three bedrooms, restricted to nonelderly handicapped families,

(5) $44,917 per family unit with four or more bedrooms, restricted to nonelderly handicapped families.

* * * * *

(j) In order to assure HUD of the Borrower's continued commitment to the development, management, and operation of the project, a minimum capital investment is required of Section 202 Borrowers of one percent (1.0%) of the mortgage amount committed to be disbursed, not to exceed the amount of $25,000. Section 106(b) loans made pursuant to Section 106 of the Housing Act of 1968 may not be utilized to meet the minimum capital investment requirement. Such minimum capital investment shall be placed in escrow at the initial closing of the Section 202 loan and shall be held by HUD or other escrow agent acceptable to the field office for not less than a three-year period from the the date of initial occupancy and may be used for operating expenses or deficits as may be directed by the field office. Any unexpended balance remaining in the minimum capital investment account at the end of the escrow period shall be returned to the Borrower.

* * * * *

2. By revising § 885.415(m) to read as follows:

§ 885.415 Requirements prior to initial loan closing.

* * * * *

(m) Construction or Substantial Rehabilitation Contract between the Borrower and the General Contractor which shall be:

(1) In the case of projects which have construction contracts amounting to $100,000 or less, a cost plus contract with an upset price and may provide for an incentive payment to the Contractor for an early completion;

(2) In the case of all other projects, the contract shall be at a fixed price based on competitive bidding open to all general contractors who furnish a Bid Bond guaranteeing their bid and their ability to furnish a Payment-Performance Bond. Competitive bids shall be opened publicly in the presence of the Regional Administrator or his designee, and may follow procedures of any federal agency and may provide for an incentive payment to the Contractor for an early completion.

* * * * *

3. In § 885.425, paragraphs (c)(1) and (c)(3) are revised, and paragraphs (d), (e), and (f) are added to read as follows:

§ 885.425 Completion of construction or substantial rehabilitation, execution of HAP contract, and cost certification and approvals by HUD.

* * * * *

(c)(1) A Borrower's/Mortgagor's Certificate of Actual Cost, showing the actual cost to the mortgagor of the construction contract, architectural, legal, organizational, offsite costs, and

all other items of eligible expense. The certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, or members. (Approved by the Office of Management and Budget under OMB control number 2502–0044).

* * * * *

(3) In the case of projects not subject to competitive bidding, a certification of the general contractor (and such subcontractor, material suppliers, and equipment lessors, as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners, or members. (Approved by the Office of Management and Budget under OMB control number 2502–0044).

(d) In lieu of the requirements as set forth in paragraph (c) of this section a simplified form of cost certification must be completed and submitted by the Borrower for small sized projects with mortgages of $500,000 or less. A certification by a Certified Public Accountant or an Independent Public Accountant shall accompany the submisson. (Approved by the Office of Management and Budget under OMB control number 2502–0044).

(e) If the Borrower's certified costs provided in accordance with paragraph (c) or (d) of this section and as approved by HUD are less than the loan amount established pursuant to § 885.405, the contract rents will be reduced accordingly.

(f) If the contract rents are reduced pursuant to paragraph (e) of this section, the maximum annual HAP Contract commitment will be reduced. If contract rents are reduced based on cost certification after HAP Contract execution, any overpayment after the effective date of the Contract will be recovered from the Borrower by HUD.

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: April 19, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-12695 Filed 5-10-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Removal of Certain Conditions of Approval of the Missouri Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 925 by removing certain conditions of approval of the Missouri permanent program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Missouri has submitted provisions to the Office of Surface Mining (OSM) which satisfy some of the conditions of the Secretary's approval of November 21, 1980 (45 FR 77017–77028).

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

Background on the Missouri Program Submission

On February 1, 1980, OSM received a proposed regulatory program from the State of Missouri. The program was submitted by the Missouri Land Reclamation Commission, the agency that administers the Missouri permanent program. Following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of various minor deficiencies. The approval was effective upon publication in the November 21, 1980 **Federal Register** (45 FR 77017–77028).

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77017–77028).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Missouri program met all criteria for approval pursuant to Section 503 of SMCRA and 30 CFR Part 732 except for 23 minor deficiencies. These deficiencies are as follows:

(a) The Missouri program did not provide 21 program provisions:

(1) Absence of regulatory provisions consistent with 30 CFR Part 843, relating to: enforcement of cessation orders (Section 843.11); enforcement of notices of violation (Section 843.12); suspension or revocation of permits (Section 843.13); service of notices of violation and cessation orders (Section 843.14); formal review of citations (Section 843.16); inability to comply (Section 843.18); and injunctive relief (Section 843.19).

(2) Absence of regulations providing for citizen suits consistent with 30 CFR 700.13.

(3) Absence of regulatory provisions providing for recovery of costs and expenses, including attorneys' fees, consistent with 43 CFR 4.1290–4.1296.

(4) Absence of regulatory provisions providing for procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking consistent with 30 CFR 700.12.

(5) Absence of permitting requirements and performance standards for concurrent surface and underground mining operations consistent with 30 CFR 785.18 and 30 CFR Part 818.

(6) Absence of permitting requirements and performance standards for *in situ* processing activities consistent with 30 CFR 785.22 and 30 CFR Part 828.

(7) Inconsistency between the Missouri regulations and 30 CFR 816.65(a)(2)(ii) in that the Missouri regulations did not require "persons" to be notified prior to night blasting.

(8) Absence of specific performance standards for the revegetation of commercial forest land consistent with 30 CFR 816.117(b)(4).

(9) Absence of requirements that the Land Reclamation Commission notify the public upon receipt of a lands unsuitable petition consistent with 30 CFR 764.15(b)(2).

(10) Absence of a provision requiring that all persons engaged in surface coal mining and reclamation operations comply with the terms and conditions of their permits and the State's permanent regulatory program consistent with 30 CFR 771.19.

(11) Absence of a provision requiring a description in an operations and reclamation plan of how toxic material will be disposed of consistent with 30 CFR 780.18(b)(7).

(12) Absence of a provision granting the right of entry to mine sites to authorized representatives of the Secretary of the Interior for inspection

and enforcement purposes consistent with 30 CFR 786.27(b).

(13) Absence of specific parameters to determine what changes constitute significant departures from the method of conduct of mining or reclamation operations contemplated by the original permit consistent with 30 CFR 788.12(a)(1).

(14) Inconsistency between the Missouri regulations and 30 CFR 807.11(g) in that the Missouri regulations did not expressly state that a permittee or any affected person may request a hearing on bond release decisions.

(15) Absence of a procedure for bond forfeiture where the permittee fails to comply with a compliance schedule consistent with 30 CFR 808.13(a)(4).

(16) Absence of the phrase "persons required to hold a permit" in the definition of permittee consistent with 30 CFR 701.5.

(17) Inconsistency between Missouri's definition of "surface coal mining operations" and the definition in the Federal rules at 30 CFR 701.5.

(18) Absence of a definition of "underground development waste" in the Missouri regulations consistent with the definition found at 30 CFR 701.5.

(19) Absence of a provision requiring the Land Reclamation Commission to notify an operator of a penalty assessment within thirty days as required by 30 CFR 845.17(b).

(20) Inclusion in the Missouri regulations of a broad variance for restoration of stream channels and construction of permanent diversions after temporary diversions were constructed. This variance is not allowed under SMCRA and 30 CFR 816.44(d).

(21) Inclusion in the Missouri regulations of an exception from revegetation requirements for long term intensive agricultural land uses. This exception is inconsistent with 30 CFR 805.13(d) as suspended by court order.

(b) The Missouri program did not contain provisions relating to permitting requirements and performance standards for underground mining operations consistent with 30 CFR Parts 782, 783, 784 and 817.

(c) The Missouri program did not contain provisions for protection of Missouri Land Reclamation Commission employees performing their duties as stringent as those in section 704 of SMCRA.

In accepting the Secretary's conditional approval, Missouri agreed to correct deficiencies (a) and (b) by April 1, 1981, and deficiency (c) by October 1, 1981.

Submission of Revisions

To correct deficiency (a) above, Missouri submitted fully enacted rules dated December 3, 1980. The provisions submitted to correct deficiency (a) were published in the Missouri Register, August 1, 1980 (5 MO Reg 859–862) and September 2, 1980 (5 MO Reg 1149–1150); also see administrative record document number MO–223.

Missouri submitted enacted rules dated March 12, 1981, to correct deficiency (b) above. These rules were published in the Missouri Register, December 1, 1980 (5 MO Reg 1432–1436). Also see administrative record document number MO–230. To correct deficiency (c), Missouri submitted an opinion from the State Attorney General. See administrative record document number MO–213.

OSM published a notice in the **Federal Register** on August 25, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 42875–42876). The public comment period ended September 25, 1981. A public hearing scheduled for September 22, 1981, was not held because no one expressed a desire to present testimony.

On December 3, 1980, and March 12, 1981, when the State submitted the amendments to satisfy the conditions of the Secretary's approval, it also submitted other regulatory amendments. These amendments are not being considered in this **Federal Register** notice and will be the subject of a future **Federal Register** notice pursuant to 30 CFR 732.17.

Secretary's Findings

The Secretary finds the amendments submitted by Missouri dated December 3, 1980, and March 12, 1981, correct the deficiencies in the Missouri program as follows:

(a)(1) Missouri regulations 10 CSR 40–8.030 (6), (7), (8), (9), (10), (11), (12) and (13) incorporate enforcement provisions consistent with 30 CFR 843.11, 843.12, 843.13, 843.14, 843.16, 843.18 and 843.19 with one exception.

Missouri rule 10 CSR 40–8.030(13)(A) makes injunction actions dependent on the prerequisite of a "final order or decision." It appears to preclude injunctive relief against operators who might ignore cessation orders or remedial orders in notices of violation during the time of an appeal to the Land Reclamation Commission. The rule is consistent with the Missouri statute (RSMo. 444–885.5(1), which has the same language, but is inconsistent with 30 CFR 843.19 and section 521(c)(A) of SMCRA, which provide for injunctive relief for violation of *any* order or decision.

Because Missouri submitted material to satisfy this condition which the State, in good faith, believed to be adequate to satisfy this deficiency, the Secretary has decided to extend the date by which Missouri must submit new material to satisfy the last element of this condition. OSM has discussed this matter with the State, including the State administrative procedures involved in rulemaking. In order to allow Missouri adequate time to draft and promulgate suitable regulations, the Secretary hereby extends the date by which Missouri must satisfy the last element of condition (a)(1) to October 15, 1982.

Although Missouri submitted provisions satisfying condition (a)(1), with the one exception noted above, OSM has identified a number of minor errors in the cross-references used throughout 10 CSR 40–8.030(6)–(13). While these errors do not affect the substance of the regulations, they could be misleading, and OSM has notified Missouri by letter dated April 7, 1982, that the State should correct these errors.

(2) Missouri regulation 10 CSR 40–8.030(5) incorporates provisions dealing with citizen suits consistent with 30 CFR 700.13.

(3) Missouri regulations 10 CSR 40–8.030(14)–(17) incorporate provisions providing for recovery of costs and expenses including attorneys' fees consistent with 43 CFR 4.1290–4.1296.

(4) Missouri regulation 10 CSR 40–8.070(5) incorporates provisions providing for procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking consistent with 30 CFR 700.12.

(5) Missouri regulations 10 CSR 40–4.060 (1) through (4) and 10 CSR 40–6.060(7) incorporate provisions for permitting requirements and performance standards for concurrent surface and underground mining operations consistent with 30 CFR 785.18 and 30 CFR Part 818.

(6) Missouri regulation 10 CSR 40–6.060(8) incorporates provisions for *in situ* permitting requirements and Missouri regulation 10 CSR 40–4.070 incorporates provisions for *in situ* performance standards consistent with 30 CFR 785.22 and 30 CFR Part 828.

(7) Missouri regulation 10 CSR 40–3.050(4) incorporates requirements for notification of persons prior to night blasting consistent with 30 CFR 816.65(a)(2)(ii).

(8) Missouri regulation 10 CSR 40–3.120(7)(B)4 incorporates revegetation

requirements for commercial forest land consistent with 30 CFR 816.117(b)(4).

(9) Missouri regulation 10 CSR 40–5.020(5)(B), as amended, incorporates the requirement for public notice of receipt of a lands unsuitable for mining petition consistent with the requirements of 30 CFR 764.15(b)(2).

(10) Missouri rule 10 CSR 40–6.010(1)(C), as amended, incorporates the requirement that persons engaged in surface coal mining and reclamation operations must comply with the terms and conditions of their permit and the State regulatory program consistent with 30 CFR 771.19.

(11) Missouri rule 10 CSR 40–6.050(8)(B)7 incorporates the requirement in an operation and reclamation plan for a description of how toxic material will be disposed of consistent with 30 CFR 780.18(b)(7).

(12) Missouri rule 10 CSR 40–6.070(12)(B) incorporates provisions granting the right of entry to mine sites to authorized representatives of the Secretary consistent with 30 CFR 786.27(b).

(13) Missouri rule 10 CSR 40–6.090(4)(A) incorporates provisions that define what changes constitute significant departures from a mining permit consistent with the requirement of 30 CFR 788.12(a)(1).

(14) Missouri rule 10 CSR 40–7.030(1)(F), as amended, incorporates provisions to clarify whether a permittee or any affected person may request a hearing on bond release decisions consistent with the requirements of 30 CFR 807.11(g).

(15) Missouri rule 10 CSR 40–7.040(2)(A)2, as amended, incorporates provisions to provide for a procedure for bond forfeiture when a permittee fails to comply with a compliance schedule consistent with the requirements of 30 CFR 808.13(a)(4).

(16) Missouri rule 10 CSR 40–8.010(1)(A)60, as amended, incorporates a definition of "permittee" consistent with the definition at 30 CFR 701.5.

(17) Missouri rule 10 CSR 40–8.010(1)(A)87, as amended, incorporates a definition of "surface coal mining operations" consistent with the definition at 30 CFR 701.5.

Although the definition adopted by Missouri satisfies conditions (a)(17), OSM has identified an incorrect cross reference used in 10 CSR 40–8.010(A)(87). This minor cross reference error does not affect the substance of the definition, but could be confusing, and OSM has notified Missouri by letter dated April 7, 1982, that the State should correct this error.

(18) Missouri rule 10 CSR 40–8.010(1)(A)99 incorporates a definition of "underground development waste" consistent with the definition at 30 CFR 701.5.

(19) Missouri rule 10 CSR 40–8.040(1), as amended, incorporates a provision requiring the Land Reclamation Commission to notify an operator of a penalty assessment within thirty days of issuance of a notice of violation or cessation order consistent with 30 CFR 845.17(b).

(20) Missouri rule 10 CSR 40–3.040(4), as amended, removes the broad variance for restoration of stream channels, and is consistent with the requirements of 30 CFR 816.44(d).

(21) Missouri rule 10 CSR 40–7.010(7), as amended, deletes subsection (D) providing an exception to the revegetation requirements for a long term, intensive agricultural land use and is now consistent with the requirements of 30 CFR 805.13(d).

(b) Missouri regulations 10 CSR 40–3.310 and 10 CFR 40–6.010–40–6.120 incorporate provisions for performance standards and permitting requirements for underground mining consistent with 30 CFR 782, 783, 784 and 817.

(c) Rather than submit amendments to the State program providing for protection of Land Reclamation Commission employees, Missouri submitted an opinion from the State Attorney General dated October 27, 1980, which concludes that already-approved provisions of the State program and other State law when taken together provide protection at least as stringent as Section 704 of the Act. The opinion states that Section 567.030 RSMo 1978, is virtually identical to Section 704 of the Act. Section 567.030 states:

1. A person commits the crime of obstructing government operations if he purposely obstructs, impairs, hinders or perverts the performance of a governmental function by the use or threat of violence, force, or other physical interference or obstacle.

The only difference between this section and section 704 is the penalty provision. Section 704 provides for a fine of not more than $5,000 or imprisonment for not more than one year or both, whereas § 567.030 provides a fine of up to $500 or six months imprisonment or both for individuals, and a fine for corporations of up to $2,000 or any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense.

Missouri also requires, pursuant to 10 CSR 40–6.070(12) and § 820.2(17) RSMo (Supp 1979), that the following language be included in all permits:

* * * We also agree not to resist, prevent, impede or interfere with the Land Reclamation Commission, the Staff Director or their authorized representatives in the performance of their duties pursuant to the Land Reclamation Law and regulations.

(Section 444.820.2(17) and § 444.865.2 and .4, RSMo (Supp 1979)).

Sections 865.2 and 865.4 RSMo (Supp. 1979) also state:

"* * * 2. Authorized representatives of the commission, without advance notice and upon presentation of appropriate credentials (1) shall have the right of entry to, upon or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under subsection 1 are located; and (2) may, at reasonable times, and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation.* * *

"4. No person shall refuse entry or access requested for purposes of inspection, to any member of the commission or authorized representative who presents appropriate credentials, nor obstruct or hamper any such person in carrying out the inspection.* * *"

The penalties for violation of any of these provisions are contained in §§ 870.1 and 870.5, RSMo. (Supp. 1979). Section 870.1 provides: "Any permittee who violates any permit condition or any provision of the reclamation plan or who violates any provisions of this law or rules and regulations, may be assessed a civil penalty by the commission.* * * Such penalty shall not exceed $5,000 for each violation." Section 870.5 provides: "Any person who willfully and knowingly violates a condition of a permit or fails or refuses to comply with any order issued under Section 444.885 or 444.900 * * * shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both."

The Secretary has concluded, based upon the Attorney General's opinion and analysis of these provisions, that the Missouri program provides for protection of employees of the Land Reclamation Commission in accordance with section 704 of the Act. The combination of possible civil and criminal penalties available under Missouri law can result in penalties as stringent as those imposed by section 704.

Disposition of Public Comments

1. The Environmental Policy Institute (EPI) commented that Missouri rule 10 CSR 40–6.090(4)(A) still does not specify the parameters that will be used to determine what changes constitute significant departures from a mining permit and that the language is vague and amorphous.

The Missouri rule defines a significant departure as "any change in the permit area, mining method or reclamation procedure which would, in the opinion of the Director, significantly change the effect the mining operation would have on either those persons affected by the present operation or on the environment."

Although the standard is a judgment matter for the Director of the Land Reclamation Commission, the Secretary is confident that the judgment will be exercised in good faith on a case-by-case basis. The public is adequately protected by its power to challenge the Director's decisions if they prove arbitrary.

While Missouri might have imposed more specific parameters than those in its rule, the Secretary believes that the State has met the requirements of 30 CFR 788.12(a)(1).

2. EPI commented that Missouri's provisions for protection of employees are not as stringent as those in section 704 of SMCRA. EPI asserted that employees are only protected from physical harassment on the general level in § 567.030 RSMo. (1978) and, even when taken in conjunction with §§ 865.2 and .4 (Supp. 1979), 870.1 (Supp. 1979) and 870.5 RSMo. (1979), the Missouri law is not as stringent as section 704 of SMCRA.

The Secretary disagrees with the comment because the combination of Missouri laws and regulations provide for penalties as stringent as section 704 of SMCRA and for protection of the Commission's employees in accordance with section 704. For further discussion, see Finding (c) above.

3. EPI commented that Missouri rule 10 CSR 40–8.030(13)(A) is inconsistent with section 521(c)(A) of SMCRA because it exclusively allows "any final order" to be enforced, while section 521(c)(A) allows "any order or decision" to be enforced. The Secretary agrees with this comment. For further discussion of this issue, see Finding (a)(1) above.

Approval of Amendments To Satisfy Condition

Accordingly, the first six elements of condition (a)(1), conditions (a)(2) through (a)(21), (b) and (c) are hereby removed. 30 CFR 925.11 is amended to indicate: (1) Approval of the December 3, 1980, and March 12, 1981, program amendments and (2) an extension of time by which Missouri must satisfy the last element of condition (a)(1). 30 CFR 925.10, incorporates approval of the corresponding December 3, 1980, and March 12, 1981, program amendments.

Additional Determinations

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these program and extension amendments are exempt from the requirement of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities.

On November 13, 1981, the Administrator of the Environmental Protection Agency transmitted her written concurrence on those aspects of the amendments approved in this document relating to air or water quality standards under the authority of the Clean Water Act, as amended (33 U.S.C. 1151 *et seq.*), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons stated in the preamble above, Part 925 of Title 30, Chapter VII, is amended as set forth herein.

Dated: May 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 925—MISSOURI

1. Section 925.10 is amended by revising paragraph (a) to read as follows:

§ 925.10 State program approval.

(a) The Missouri State program submitted on February 1, 1980, as amended and clarified on May 14, 1980, and as further amended December 3, 1980, and March 12, 1981, is approved effective May 11, 1982. Copies of the approved program, as amended, are available for review at:

Missouri Land Reclamation Commission, 1026–D N.E. Drive, Jefferson City, Missouri 65101, Telephone: (314) 751–3241

Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 5th Floor, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896

* * * * *

2. Section 925.11 is revised to read as follows:

§ 925.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in 30 CFR 925.10 will terminate on October 15, 1982, unless Missouri submits to the Secretary by that date copies of program provisions that are the same or similar to those found in:

(1) 30 CFR Part 843, relating to injuctive relief (Section 843.19), and providing such relief for violation of any order or decision in accordance with section 521(c)(A) of SMCRA.

[FR Doc. 82–12745 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Part 948

Approval of Permanent Program Amendment From the State of West Virginia Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On October 29, 1981, the State of West Virginia submitted revised Coal Refuse Disposal Regulations to the Office of Surface Mining (OSM) as a program amendment to the State's permanent regulatory program (hereinafter referred to as the West Virginia Program) under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

After considering all written comments received during the comment period and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal permanent program regulations except for minor deficiencies discussed below. Accordingly, the Director has conditionally approved the West Virginia amendment.

As a result of this approval, 30 CFR Part 948 has been amended to delete the previously included coal refuse regulations and to include the amended regulations.

EFFECTIVE DATE: This approval is effective May 11, 1982. The approval will terminate as specified in the revised 30 CFR 948.11 unless the deficiencies identified below have been corrected in accordance with the dates specified in 30 CFR 948.11 as amended.

ADDRESSES: Copies of the West Virginia program and the administrative record on the West Virginia program, including the letter from the West Virginia Department of Natural Resources (DNR) agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

West Virginia State Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

West Virginia Department of Natural Resources, Room 630, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–9160

Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Room 5315, 1100 L Street, NW., Washington, D.C. 20240, Telephone: (202) 343–7896

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, West Virginia State Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

A. Background

The general background on the permanent program, the general background on the State program approval process and the background on the West Virginia program and the conditional approval can be found in the Secretary's initial decision on the program and in the Secretary's conditional approval. These documents were published in the October 20, 1980, **Federal Register** (45 FR 69249–69271) and the January 21, 1981, **Federal Register** (46 FR 5915–5956).

In June 1981, OSM reviewed and commented on proposed coal refuse regulations submitted for informal review by the State of West Virginia (Administrative Record Nos. 400 & 401a). The proposed regulations were promulgated by the State effective October 1, 1981, and on October 7, 1981, OSM received a side-by-side analysis of the revised regulations from the West Virginia Attorney General's Office (Administrative Record No. 410). The State formally submitted the revised regulations as a program amendment on October 29, 1981.

The receipt of the amendment and a public comment period and hearing were announced in the December 21, 1981, **Federal Register** (46 FR 61897). The notice provided that if no person expressed an interest in participating in a public hearing by January 4, 1982, the hearing would be cancelled. Since no interest was expressed, the notice announcing cancellation of the hearing was published in the **Federal Register** on January 15, 1982 (47 FR 2340).

Director's Findings

The Director finds in accordance with SMCRA and 30 CFR 732.17 that the program amendment submitted by West Virginia on October 29, 1981, meets the requirements of SMCRA and the Federal permanent program regulations except for minor deficiencies discussed below.

The Secretary's conditional approval of the West Virginia State program on January 21, 1981, contained two conditions relating to its coal refuse regulations. These conditions have not been satisfied by the amended regulations and have been included as Findings 5 and 6, below.

1. Amended sections D.05a.1.(a), D.06b.1.(f), E.03b.1, E.07 and E.09b.5. require compliance with various provisions of the State's "Interim Regulations." Since the State is now implementing the permanent program, all references should address applicable requirements of the permanent regulations. Approval of the amended Coal Refuse Regulations is conditioned on the inclusion of references to appropriate provisions of the approved permanent program regulations.

2. Amended section D.05d.2.(c) requires approval of the Director of the DNR to divert surface runoff or slurry into an underground mine. Since approval of the Mine Safety and Health Administration (MSHA) is also required, approval of the amended Coal Refuse Regulations is conditioned on the inclusion of a provision requiring MSHA approval for diverting surface runoff or slurry into underground mines.

3. Amended section D.05f. allows the Director the the DNR to waive the stability requirements if site conditions indicate that failure will not occur. While the West Virginia regulations contain provisions that go beyond the scope of the Federal regulations and which may be waived by the regulatory authority; no provision is made in the Federal regulations for a waiver of the basic stability requirements. Approval of the amended Coal Refuse Regulations is conditioned on deletion or justification of the section to indicate that the basic stability requirements which are equivalent to those in the Federal regulations cannot be waived.

4. Amended section E.03 relates the quality of water leaving the permit area to the quality of the receiving stream. Federal regulations (30 CFR 816.41 and 817.41) prohibit violation of Federal or State water quality statutes, regulations, standards or effluent limitations. Approval of the amended Coal Refuse Regulations is conditioned on the inclusion of appropriate provisions requiring compliance with all Federal and State water quality provisions.

5. Amended section D.07f. requires a cover of a minimum of three feet of coarse refuse on coal refuse disposal areas prior to final soil covering unless otherwise approved by the Director. 30 CFR 816.85(d) and 817.85(d) requires that coal refuse shall be covered with four feet of non-toxic and non-combustible material, except under specified conditions. Approval of the amended Coal Refuse Regulations is conditioned upon justification of the variation from the Federal regulations or the addition of corrective language in its regulations or other program amendment to provide standards consistent with the Federal requirements.

6. Amended State regulations fail to require compliance with the provisions of 30 CFR 816.71(g), 816.71(j), and 816.72 (b)(1) and (b)(4). Approval of the amended Coal Refuse Regulations is conditioned upon inclusion of the provisions identified above.

Disposition of Comments

During the public comment period, several Federal agencies made comments dealing with provisions of the revised regulations which were unchanged from the language contained in the regulations conditionally approved by the Secretary on January 21, 1981. Since the program amendment process is designed to consider only those provisions of the State's program which have been changed, comments addressing the unchanged provisions will not be addressed in this document. Please refer to the Secretary's conditional approval published in the **Federal Register** on January 21, 1981, for comments which may have been made on these portions of the regulations.

The following is a summary of comments made by Federal agencies which dealt with unchanged provisions of the regulations. The section number of the conditionally approved regulations which corresponds to the Federal agency comment is included.

1. The Forest Service was concerned with sections C.01b.1. and 2.; D.02; and,

D.07a. These sections are unchanged from conditionally approved sections 10A.01b.1. and .2.; 10B.02; and, 10B.06a.

2. The Soil Conservation Service (SCS) was concerned with sections D.05d.2.(a)(3)(i); D.05f.1.(a); D.05f.2.(c); and, E.08c.2. These sections are unchanged from conditionally approved sections 10B.04c.6.(a); 10B.04e.1.(a); 10B.04e.4.; and, 10C.08c.2.

3. MSHA was concerned with sections D.05b.1. and D.07. These sections are unchanged from conditionally approved sections 10B.04b.1. and 10B.06.

4. The Bureau of Mines was concerned with sections D.05i. and E.08c.2. These sections are unchanged from conditionally approved sections 10C.08c.2. and 10B.04e.9.

5. The Environmental Protection Agency (EPA) was concerned with section D.07a. This section is unchanged from conditionally approved section 10B.06a.

Comments made on amended portions of the regulations were as follows:

1. SCS stated that Rural Abandoned Mine Program projects and other Federal reclamation efforts should be exempt from the State requirements. Since the Federal regulations do not provide such an exemption, the State's regulations are acceptable.

2. SCS stated that requirements for seeding materials and methods should be specified. It stated that all that is required is a "Plan." However, section E.09b.5. of the amended West Virginia regulations requires revegetation in accordance with Section 12 of the interim regulations. See Finding 1 for a discussion of references to the interim regulations.

3. SCS stated that section D.05f.3. (page 25) of the amended West Virginia regulations should require that the long-term seepage condition be determined for a specific water level behind the impoundment. It suggested using the water elevation when storing the Probable Maximum Precipitation. State regulations require that the water elevation in the impoundment return to the "normal pool" level within 10 days of a design storm. Therefore, a long term seepage condition would exist only on the "normal pool" level and the State's provision is acceptable.

4. MSHA stated that its regulations require that diversion of surface runoff or slurry into underground mines must be approved by MSHA. Section D.05d.2.(c) of the amended West Virginia regulations fail to require this approval. The Director agrees with the comment and is conditioning approval of the amended regulations to include a provision requiring MSHA approval for diverting surface runoff or slurry into underground mines. *See* finding 2.

5. MSHA stated that its regulations require that all impoundment plans must be analyzed if the site meets the size criteria. Section D.05f. of the amended West Virginia regulations provide that the analysis may be waived if obvious site conditions indicate that failure will not occur. The Director is conditioning approval of the amended regulations to delete or justify the section to indicate that basic stability requirements which are equivalent to those in the Federal regulations cannot be waived. *See* Finding 3.

6. MSHA stated that its regulations required MSHA approval to return coal refuse to underground mines. It stated that amended section E.10 of the West Virginia regulations did not require this approval. However, the Director notes that the approval of MSHA is required by Section D.05i.

7. EPA stated that section E.06 of the amended West Virginia regulations makes no mention of the latest state-of-the-art methodology developed by the West Virginia task force on mine drainage and described in the publication "Suggested Guidelines for Method of Operation in Surface Mining of Areas with Potentially Acid Producing Materials." Although use of the method discussed by EPA is not required by the State regulations, the requirements discussed in Section E.06 are adequate to satisfy the provisions of the Federal requirements. In addition, section E.06b provides the flexibility to allow the Director to specify additional requirements to neutralize toxicity if he determines it is necessary. The method discussed by EPA could be specified by the Director.

8. EPA stated that the requirement of E.06b for six inches of cover may often be insufficient. The requirement to which this comment relates provides that a minimum of six inches of cover will be provided, and that the Director shall specify thicker amounts where necessary to protect against upward migration of salts, etc. In addition, it requires that the toxic or acid forming material shall be treated, if necessary, to prevent water pollution or to minimize adverse effects on plant growth and land uses. These requirements, together with the Director's condition of approval discussed in finding 5 above, will eliminate the concerns expressed by EPA.

9. EPA was concerned that the Office of Emergency Services mentioned in section D.05c. may not have an adequate means of financial support. Since the funding for this Office is controlled by the State, the Director assumes that adequate funding will always be available for its operation.

10. EPA was concerned that sections D.05j. and E.03 of the amended West Virginia regulations make no mention of financial assurance. Since the total permit area will be covered by a bond in accordance with State bonding procedures, it is not necessary to mention the bonding provisions in each sub-section of the regulations.

Conditional Approval of Program Amendment

The amended West Virginia Coal Refuse Regulations submitted as an amendment to the approved West Virginia Program under the provisions of 30 CFR 732.17 are conditionally approved. The approval of this amendment is effective upon publication, subject to the conditions contained in amended 30 CFR Part 948.

Additional Determinations

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this program amendment is exempt from the requirement of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities.

In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), OSM solicited and publicly disclosed on April 26, 1982 (47 FR 17829), the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the revised West Virginia Coal Refuse Disposal Regulations.

On April 25, 1982, the Environmental Protection Agency transmitted its written concurrence on those aspects of the amendments approved in this document relating to air or water quality standards under the authority of the Clean Water Act, as amended (33 U.S.C.

1151 *et seq.*), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

West Virginia has agreed, by letter dated April 14, 1982, to correct the deficiencies by the dates specified in Condition 8 under 30 CFR 948.11.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 948 is amended as set forth herein.

Dated: May 5, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

PART 948—WEST VIRGINIA

Part 948 of Title 30 is amended as follows:

1. 30 CFR 948.10 is revised to read as follows:

§ 948.10 State regulatory program approval.

The West Virginia State program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, and resubmitted December 19, 1980, was conditionally approved, effective January 21, 1981. Beginning on that date, the Department of Natural Resources was deemed the regulatory authority in West Virginia for all surface coal mining and reclamation operations and for all exploration operations on non-Federal and non-Indian lands. Beginning on May 11, 1982 the program also includes the coal refuse regulations conditionally approved as a program amendment on that date. Section 10 of the regulations contained in the conditionally approved program of January 21, 1981, are deleted from the program as of the date of this publication. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the West Virginia permanent regulatory program. Copies of the approved program, together with copies of the letters of the Department of Natural Resources agreeing to conditions in 30 CFR 948.11, are available at:

(a) West Virginia Department of Natural Resources, Room 630, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–9160.

(b) Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

(c) Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240, Telephone: (202) 343–7896.

§ 948.11 [Amended]

2. 30 CFR 948.11 is amended as follows: Paragraph (a)(8) is revised to read as follows:

(a) * * *

(8) The approval found in § 948.10 will terminate on November 1, 1982, unless West Virginia submits by that date copies of enacted regulations requiring compliance with permanent program regulations rather than interim program regulations.

(i) The approval found in § 948.10 will terminate on November 1, 1982 , unless West Virginia submits by that date copies of enacted regulations requiring approval of the Mine Safety and Health Administration to direct surface runoff or slurry into an underground mine.

(ii) The approval found in § 948.10 will terminate on November 1, 1982, unless West Virginia submits by that date copies of enacted regulations eliminating the waiver for stability requirements if site conditions indicate that failure will not occur or otherwise amends its program to be consistent with Federal requirements.

(iii) The approval found in § 948.10 will terminate on June 15, 1982, unless West Virginia submits by that date copies of enacted regulations requiring that all water leaving the permit area meet Federal and State water quality statutes, regulations, standards or effluent limitations.

(iv) The approval found in § 948.10 will terminate on November 1, 1982, unless West Virginia submits by that date copies of enacted regulations which (i) require covering of coal mining waste banks with non-toxic and non-combustible material consistent with 30 CFR 816.85(d) and 817.85(d); (ii) specify construction criteria for subdrainage systems consistent with 30 CFR 816.72(b)(1) and (b)(4); (iii) prohibit the use of impoundments on constructed fills consistent with 30 CFR 816.71(g); and (iv) require inspection of coal refuse piles consistent with 30 CFR 816.71(j) or otherwise amends its program to accomplish the same results.

[FR Doc. 82-12746 Filed 5-10-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8-R, Amdt. No. 15]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Amendment on Elimination of Nonavailability Statement Where Primary Insurance Covers 75 Percent of the Cost

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: This amends the CHAMPUS Regulation to implement section 741 of Pub. L. 97–114. This public law eliminates the requirement for a nonavailability statement where the beneficiary has other insurance which will pay for at least 75 percent of the services. The intent of these changes is to encourage the use of other insurance to pay for necessary medical care, thus reducing the Government's expense through the direct care system. It also gives beneficiaries with other insurance greater freedom of choice as to where they obtain medical services.

DATES: This amendment is effective for claims submitted for payment on or after October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, Aurora, Colorado 80045 telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: Currently a nonavailability statement is required in order for CHAMPUS to pay for nonemergency inpatient hospital care available at a facility of the uniformed services within a 40-mile radius of the patient's residence. Nonavailability statements are issued by Uniformed Services Hospital Commanders (or their designees) under rules promulgated by the Assistant Secretary of Defense (Health Affairs). If the care is available at the uniformed services facility, a nonavailability statement can not be issued and the services must be obtained at the facility and at government expense.

On December 29, 1981, Pub. L. 97–114 was signed into effect. Section 741 of that law provides an exception to the requirement for a nonavailability statement. That is, a nonavailability statement is no longer required if the beneficiary has other insurance which pays for at least 75 percent of the covered services. Thus, a beneficiary who has other insurance which will pay

for at least 75 percent of the services no longer must obtain medical services through the direct care system, even though they are available. In these circumstances, where the services are obtained at a civilian facility, the government will realize an overall cost savings since the beneficiary's other insurance will pay for at least 75 percent of the services.

As authorized under title 5, United States Code, paragraph 553(b)(3)(B), the final regulation is being published and no previous public comment has been requested. The change is mandated through public law signed into effect on December 29, 1981, and we do not believe it is in the public interest to delay the implementation through the publication of a proposed rule.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, is amended as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Section 199.10 is amended:

a. By Removing the existing "Note" immediately following paragraph (a)(9)(i) and adding a new "Note".

b. By adding a "Note" immediately following paragraph (b)(5)(iii).

c. By adding a "Note" immediately following paragraph (c)(3)(xiii).

§ 199.10 Basic program benefits.

* * * * *

(a) * * *

(9) * * *

(i) * * *

Note.—According to section 741 of the Department of Defense Appropriation Act, 1982, (Pub. L. 97–114) a Nonavailability Statement must be obtained for payment of non-emergency civilian inpatient care if a Uniformed Services hospital is within a 40-mile radius of the patient's residence. Effective October 1, 1981, this limitation shall not apply to payments that supplement primary coverage provided by other insurance plans or programs that pay for at least 75 percent of the covered services. Application of these provisions after September 30, 1982, will depend on the language of future Appropriation Acts.

* * * * *

(b) * * *

(5) * * *

(iii) * * *

Note.—According to section 741 of the Department of Defense Appropriation Act, 1982, (Pub. L. 97–114), and effective October 1, 1981, a Nonavailability Statement is not required for payments that supplement primary coverage provided by other insurance plans or programs that pay for at least 75 percent of the covered services. Application of this provision after September 30, 1982, will depend on the language of future Appropriation Acts.

* * * * *

(c) * * *

(3) * * *

(xiii) * * *

Note.—According to section 741 of the Department of Defense Appropriation Act, 1982, (Pub. L. 97–114), and effective October 1, 1981, a Nonavailability Statement is not required for payments that supplement primary coverage provided by other insurance plans or programs that pay for at least 75 percent of the covered services. Application of this provision after September 30, 1982, will depend on the language of future Appropriation Acts.

* * * * *

(Pub. L. 97–114)

M. S. Healy,

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

May 6, 1982.

[FR Doc. 82–12798 Filed 5–10–82; 8:45 am]

BILLING CODE 3810–01–M

---

32 CFR Part 199

[DOD Regulation 6010.8–R, Amdt. No. 14]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Amendment on Electric-Powered, Cart-Type Vehicles

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: This amends language in the CHAMPUS Regulation to allow benefit consideration for electric-powered, cart-type vehicles. This revised language will allow benefit consideration for these vehicles which may be appropriately used as alternatives to electric wheelchairs, when they are medically necessary and certified by a physician to best meet the patient's medical care needs based on the patient's physical condition and which can be operated safely by the patient.

EFFECTIVE DATE: Retroactive to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303–361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–3380, appearing in the **Federal Register** on May 4, 1981 (46 FR 24964), the Office of the Secretary of Defense published a proposed amendment to rule regarding a revision to the language of the CHAMPUS Regulation to allow benefit consideration for electric-powered cart-type vehicles which may be appropriately used as alternatives to electric wheelchairs, when they are medically necessary and certified by a physician to best meet the patient's medical care needs based on the patient's physical condition and which can be operated safely by the patient.

Paragraphs 199.10(d)(3)(ii)(4) "Note" and 199.11(h)(2)(ii)(a)(4) "Note" specifically exclude cart-type vehicles (such as the Amigo) as durable medical equipment and durable equipment, respectively. It has been determined that classification of electrically-powered cart-type vehicles as always being primarily transportation is no longer appropriate.

While some cart-type vehicles are prescribed primarily for purposes of the patient's convenience and transportation, it is felt that benefits should be available under those special circumstances where an electric-powered, cart-type vehicle can be appropriately used as an alternative to an electric wheelchair and (1) it is determined the patient cannot, from a medical standpoint, use a standard, nonelectric wheelchair; and (2) the physician has determined that this particular type of vehicle best meets the patient's medical needs. A proper evaluation of the patient's medical and physical condition must be made to determine whether the patient requires such a vehicle and is capable of handling it safely. Program benefits will not be available for both an electric-powered, cart-type vehicle and an electric wheelchair at the same time.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I is amended as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.10 is amended by revising the "Note" following paragraph (d)(3)(ii)(*a*)(*4*) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(*a*) * * *

(*4*) * * *

Note.—A wheelchair (or program-approved alternative) is not considered transportation in the sense of paragraph (d)(3) (ii)(*a*)(*4*) of this section. It is qualified as durable medical equipment under paragraph (d)(3)(ii)(*a*)(*2*) of this section, because by providing basic mobility, it retards further deterioration of the patient's physical condition. Mobility beyond

basic mobility provided by a wheelchair (or a program-approved alternative) is considered to be primarily transportation.

* * * * *

2. Section 199.11 is amended by revising the "NOTE" following paragraph (h)(2)(ii)(*a*)(*4*) to read as follows:

§ 199.11 Program for the handicapped.

* * * * *

(h) * * *
(2) * * *
(ii) * * *
(*a*) * * *
(*4*) * * *

Note.—A wheelchair (or program-approved alternative) is not considered transportation in the sense of this paragraph (h)(2)(ii)(*a*)(*4*) of this section. It is qualified as durable equipment under paragraph (h)(2)(ii)(*a*)(*2*) of this section above because by providing basic mobility, it retards further deterioration of the patient's physical condition. Mobility beyond that basic mobility provided by a wheelchair (or a program-approved alternative) is considered to be primarily transportation.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

M. S. Healy,

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

May 6, 1982.

[FR Doc. 82-12799 Filed 5-10-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[A-9-FRL-2116-2]

Denial of Petition for Reconsideration Filed by Pacific Legal Foundation; California State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of denial of petition for reconsideration.

SUMMARY: The Administrator of the Environmental Protection Agency (EPA) is denying a petition for reconsideration filed on July 31, 1981 by the Pacific Legal Foundation. This petition concerns two EPA actions under the Clean Air Act which affect six urban areas in the State of California: A July 1, 1979 interpretive rule which imposed a construction moratorium on States which had not revised State Implementation Plans (SIPs) as required by Part D of Title I of the Act, and a final action of December 12, 1980 imposing restrictions on certain federal funds for areas which failed to provide evidence of legal authority to implement a vehicle inspection/maintenance program.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, United States Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California 94105, (415) 974-8201.

SUPPLEMENTARY INFORMATION: .

Background

New provisions of the Clean Air Act enacted in 1977 required States to revise their State Implementation Plans (SIPs) to prohibit, after July 1, 1979, the construction or modification of major stationary sources of pollution in any area which has not obtained one or more of the national ambient air quality standards, unless the State has in effect a revised SIP meeting the requirements of Part D of Title I of the Act. See Sections 110(a)(2)(I) and 172(a).

On July 2, 1979 (44 FR 38471) EPA promulgated an interpretive rule which had the effect of inserting this ban into each State's SIP and making it effective in each State which has not yet received EPA approval for its Part D SIP. (See also 40 CFR 52.24 (1981)).

Another provision of the 1977 amendments to the Clean Air Act requires EPA and the Department of Transportation to restrict federal funds made available under the Clean Air Act and Title 23 of the United States Code in any area where transportation controls are needed to assure attainment and a State has not submitted (or is not making reasonable efforts to submit) a revised SIP meeting the requirements of Section 172. See Section 176(a). In addition, Section 316(b) authorizes EPA to limit grants for sewage treatment construction if the State does not have in effect an approved SIP which accounts for direct or indirect increases in air pollution caused by sewage treatment construction. EPA published policies and procedures to implement Sections 176(a) and 316 on April 10, 1980 (45 FR 24692) and August 11, 1980 (45 FR 53382).

On July 2, 1979 California had not received approval of the SIP revisions required for its nonattainment areas. Accordingly, the construction moratorium required under Section 110(a)(2)(I) went into effect in these areas. Moreover, when the State did submit its SIP revisions, it requested attainment date extensions for ozone and/or carbon monoxide for several urban areas. Six of these areas had populations exceeding 200,000.[1] Under the Clean Air Act and EPA policy, the State was required to submit a schedule for the implementation of vehicle inspection/maintenance (I/M) programs in these areas. See Section 172(b)(11)(B) and 44 FR 20372 (April 4, 1979). It was also required to submit evidence of adequate legal authority to carry out the I/M programs. See Section 172(b)(10).

Although the State submitted a schedule for an I/M program in all six areas, it did not submit evidence of legal authority needed to implement the program. On December 12, 1980 (45 FR 81746) EPA found that the State legislature had repeatedly introduced, but failed to enact legislation that could authorize I/M. EPA concluded that the State was not making "reasonable efforts" to adopt and submit the needed legal authority. Therefore, EPA imposed the funding restrictions required by Section 176(a) and authorized by Section 316(b).

Petition for Reconsideration

On July 31, 1981 the Pacific Legal Foundation (PLF) submitted a petition for reconsideration of the funding limitations imposed on December 12, 1980 in the six urban areas of California that had not submitted evidence of legal authority of I/M. The petition also requested EPA to reconsider the construction moratorium imposed on July 2, 1979 insofar as it affected the same areas.[2]

I have reviewed the petition and concluded that it presents no new information warranting the reopening of the December 12, 1980 action imposing funding restrictions or the July 2, 1979 action imposing the construction moratorium in the six California urban

[1] The areas and plans affected are: South Coast Air Basin (ozone, carbon monoxide); San Francisco Bay Area Air Basin (ozone, carbon monoxide); San Diego Air Basin (ozone, carbon monoxide); Sacramento Metropolitan Area (ozone, carbon monoxide); Ventura County (ozone only); and Fresno County (ozone, carbon monoxide).

[2] With respect to the construction moratorium for these areas, as noted above California subsequently submitted SIP revisions for all six of the areas needing I/M programs. The Agency has taken final action to disapprove the ozone and carbon monoxide plan revisions for two of these areas on the basis that these plans do not satisfy Part D because they failed to provide evidence of legal authority to implement an I/M program. See 46 FR 5965 (South Coast Air Basin) and 47 FR 11866 (San Francisco Bay Air Basin). These actions had the effect of reaffirming the construction moratorium for these areas. No challenge to either action has been filed, although the period for filing a challenge to the San Francisco disapproval is still open. EPA has proposed to disapprove the SIP revisions for the other four areas on the same grounds. EPA expects to take final action on these revisions in the near future.

areas required to implement I/M.[3] Accordingly, the petition for reconsideration is denied.

This determination is a final agency action of local or regional effect. Under Section 307(b)(1) jurisdiction for review of this action is available only in the U.S. Court of Appeals for Ninth Circuit, by filing on or before July 12, 1982.

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-12587 Filed 5-10-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-4-FRL-2108-5]

Approval and Promulgation of Implementation Plans; Kentucky, Bubble Action for Borden Chemical Co. in Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a State Implementation Plan (SIP) revision to bring Borden Chemical Company into compliance with emission limits of the Air Pollution Control District of Jefferson County (the District). On March 5, 1982, EPA received the revision submitted by the Kentucky Department for Natural Resources and Environmental Protection (Kentucky DNREP). The SIP revision presents an alternative emission reduction, or "bubble", plan for Borden's plant in Jefferson County.

EFFECTIVE DATE: This action will be effective on July 12, 1982 unless notice is received within 30 days that someone wishes to submit critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C. 20005

Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Ms. Sally Bethea, Air Programs Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1981 a public hearing was held in Louisville on the proposed SIP revision for the Borden compliance plan. The Jefferson County Air Pollution Control Board approved the plan, immediately after the hearing. On March 5, 1982, EPA received the SIP revision from Kentucky DNREP.

Discussion

Borden Chemical Co. (the Company) stores methanol in a 740 thousand gallon uninsulated fixed roof tank prior to production of formaldehyde. The District's Regulation 6.13 Sec. 3(a) requires a vapor recovery system, or equivalent measure, to control volatile organic compounds (VOC), such as methanol, under an established vapor pressure. Borden chose to use banked VOC emission credits purchased from B. F. Goodrich to provide the required emission reductions at the facility, in lieu of installing control equipment. Borden chose this approach because it was the most cost effective and the quickest way to achieve compliance, in comparison with the other alternatives.

On September 1, 1981, the District issued Banking Permit No. 391-81 to Borden, reflecting the purchase by Borden of 25 tons of banked VOC emission credits from the B. F. Goodrich Company. The District's banked emission ledger for Goodrich Banking Permit 89-79 indicates a corresponding reduction of 25 tons per year (TPY) of VOC credits.

Borden proposes to use its banked emission credits to offset the 15.64 TPY of actual methanol emissions from its Jefferson County storage tank. The Company has agreed to use 17.2 of the 25 tons of credit to offset the actual emissions at a 1.1 to 1 ratio. Both the Borden banking permit and its operating permit reflect this 17.2 TPY offset. This action is in accordance with the attainment strategy for the District as outlined in the Kentucky SIP. Under the Kentucky SIP, the banked emission limits are permanent and enforceable.

Action

EPA today approves the SIP revision submitted by Kentucky. This approval is being made without prior proposal because the bubble procedure used in this case is straightforward, noncontroversial, and affects only the two companies involved. In addition, we anticipate no comments.

This action will be effective 60 days from the date of this Federal Register notice. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices 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.

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

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 rquirements. (See 307(b)(2).)

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

On July 1, 1981, the Director of the Federal Register approved the incorporation by reference of the State Implementation Plan for the State of Kentucky.

(Section 110 of the Clean Air Act (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.

---

[3] PLF also submitted a supplement to its petition on December 8, 1981. In this supplement PLF urged EPA to reconsider the funding limitations and the construction moratorium in light of a recent decision by the U.S. Court of Appeals for the Fifth Circuit in *City of Seabrook* v. *EPA*, 659 F. 2d 1349 (5th Cir. 1981). The Fifth Circuit, in reviewing EPA's approval of a Texas I/M statute, held that Section 172 of the Act does not require states to submit evidence of legal authority for I/M until July 1, 1982—unless EPA makes a finding that I/M is available before that date. EPA does not agree with the Fifth Circuit's interpretation of Section 172 for the reasons set out in its brief in *Pacific Legal Foundation* v. *Gorsuch* (9th Cir. Nos. 81-7060 and 80-4442). Accordingly, the *Seabrook* decision does not provide a basis for granting the petition for reconsideraton.

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart S—Kentucky

In § 52.920, paragraph (c) is amended by adding subparagraph (32) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(32) Revision to the State Implementation Plan for a bubble action at Borden Chemical Co., Jefferson County, Kentucky, received by EPA from the Kentucky Department for Natural Resources and Environmental Protection on March 5, 1982.

[FR Doc. 82-12748 Filed 5-10-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Parts 52 and 62

[A-3-FRL-2055-2]

Approval of Revisions of Maryland's Air Quality Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of several amendments of the Maryland regulations submitted on May 18, 1981 as revisions to the Maryland Air Quality Plans. These revisions include new regulations for the control of Volatile Organic Compound (VOC) emissions and for the control of total reduced sulfur emissions from kraft pulp mills, as well as miscellaneous State-initiated regulation changes and revised stack test procedures. Additionally, EPA is removing obsolete provisions of the Maryland SIP relating to transportation control plans. These changes provide for attainment of the ozone and carbon monoxide standard without relying on the Federally promulgated measures.

EFFECTIVE DATE: June 10, 1982.

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

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, Attn: George P. Ferreri

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Vollberg (3AW12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106, telephone: 215/597-8990.

SUPPLEMENTARY INFORMATION: On May 18, 1981, the Governor of the State of Maryland submitted numerous regulation changes as revisions to the Maryland State Implementation Plan. The amendments include:

1. The adoption of reasonably available control technology (RACT) regulations for the Round II Control Techniques Guidelines for the control of volatile organic compound (VOC) emissions.
2. The adoption of regulations to control the total reduced sulfur (TRS) emissions from kraft pulp mills in accordance with Section 111(d) of the Clean Air Act and Part 60 of Title 40 of the Code of Federal Regulations.
3. Miscellaneous State regulation changes.
4. Revised stack test procedures.

A public hearing on the changed and new regulations was held on December 15, 1980 in Baltimore, Maryland. The regulations were adopted on April 8, 1981 and became effective State regulations on June 8, 1981. These amendments have been developed and submitted in accordance with the requirements of Title 40, Code of Federal Regulations, Part 51. Further, on January 20, 1981, the Governor of Maryland requested that the federally promulgated transportation measures in 40 CFR Part 52 that were obsolete be deleted. EPA is deleting them because Maryland has submitted plan revisions satisfying the requirements of Part D of Title I of the Clean Air Act (the Act), as amended, (45 FR 53470, August 12, 1980). These revisions provide for attainment of the ozone and carbon monoxide standard without relying on the federally promulgated measures.

EPA proposed action on the revisions submitted by the State of Maryland in the Federal Register on October 1, 1981 at 46 FR 48240. The regulation amendments and EPA's evaluation were explained in detail in that notice. Those wishing a complete description of Maryland's revisions are referred to the proposal notice.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Public Comments

EPA solicited public comment on the new and amended regulations and the changes to 40 CFR Part 52 in the proposed rulemaking notice. One comment discussed below was received concerning the regulation governing the VOC emissions from synthesized pharmaceutical manufacture (COMAR 10.18.21.14).

Comment: The commenter was concerned with the EPA approval of the regulation which he referred to as "* * * not sufficiently stringent to meet the RACT definition as provided in the relevant control techniques guideline." Further, he is concerned that new facilities would be allowed by the regulation to have emissions greater than those represented by the CTG guidelines.

Response: In the proposed rulemaking notice, EPA noted that Maryland exempted sources emitting less than 40 lbs/day from emission controls on all air dryers and production equipment exhaust systems. This differed from the EPA guidance which recommended controls on sources which emit 33 lbs/day or more of VOC emissions. Further, EPA noted that the one source affected by the regulation has emissions greater than 40 lbs/day. The source is meeting the Maryland regulation achieving the required 90% emission reductions from air dryers and process equipment exhaust systems. This level of control is compatible with the CTG guidelines. Therefore, EPA determines that this regulation as applied, reflects RACT for the pharmaceutical category in the State of Maryland.

In response to the commenter's concern regarding new facilities locating in the State of Maryland emitting VOC's in amounts greater than those represented by the CTG guidance, it should be noted that Maryland has regulations for New Sources in Nonattainment Areas. These regulations were developed to satisfy the requirements of section 173 of the Clean Air Act, and were approved by EPA on September 11, 1981 (46 FR 45340). One of the requirements of the regulation is that a new source must meet the Lowest Achievable Emission Rate (LAER). By

definition, the emission rate would be more stringent than RACT. For this reason, the commenter should be assured that his concern for new facilities is satisfactorily protected by the new source requirements.

The commenter requested that EPA have the regulation changed "* * * to bring them into conformity with the CTG guideline." EPA finds that the regulations are consistent with the CTG and do not need to be amended. The air quality effect would not change as pointed out in the above discussions; the emission reduction will be the same and new sources would be required to apply LAER control.

EPA Evaluation

EPA evaluated each individual change in the notice of proposed rulemaking (46 FR 48241, October 1, 1981) and therefore refers those wishing a complete description to that notice.

Based upon the agency's review, the amendments to COMAR 10.18.01, 10.18.06, 10.18.08, 10.18.09, 10.18.11, 10.18.12, 10.18.13, 10.18.14, 10.18.21, and Technical Memorandum TM-116 as submitted on May 18, 1981 have been found to satisfy the requirements of 40 CFR Part 51 and they are approvable. Further, the amendments to 40 CFR Part 52, Subpart V-Maryland are found to be appropriate to reflect the current version of the SIP and to correct previous typographical errors in the Identification of Plan section.

EPA is not acting on the version of 10.18.10, the iron and steel regulations, as submitted on May 18, 1981 as discussed in the proposed rulemaking on October 1, 1981 (46 FR 48242).

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

COMAR 10.18.14 comprises the regulations for the control of total reduced sulfur (TRS) emissions from kraft pulp mills. It was submitted by Maryland to satisfy the requirements of Section 111(d) of the Clean Air Act. For the description and EPA evaluation of the regulation, interested persons are directed to the notice of proposed rulemaking published in the Federal Register on October 1, 1981 at 46 FR 48242.

Public Comment

EPA solicited public comments on the new regulations in the proposed rulemaking. No comments were received relative to COMAR 10.18.14.

EPA Evaluation

EPA has evaluated the regulation (described in detail in the proposed rule, 46 FR 48242, October 1, 1981) and finds that it was developed and submitted in accordance with the requirements of section 111(d) of the Act and 40 CFR Part 60, Chapter I. Based upon this COMAR 10.18.14 is approvable and therefore 40 CFR Part 62 is amended to include the regulation.

Final Action

In view of this evaluation, the Administrator approves the above described amendments as a revision to the Maryland State Implementation Plan and COMAR 10.18.14 as satisfying the requirements of section 111(d) of the act and 40 CFR Part 60.

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

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

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

I hereby certify that the plan approval contained herein under section 111(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities because it only covers one facility, which is already meeting the applicable total reduced sulfur limitation for kraft pulp mills. Furthermore, this action only approves a State action and imposes no new requirements.

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

List of Subjects in 40 CFR

Part 52

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

Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

(42 U.S.C. 7401-642)

Dated: April 26, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart V—Maryland

1. In § 52.1070 Identification of Plan, by revising paragraphs (c) (19) and (20), and by adding (c)(58) to read as follows:

* * * * *

§ 52.1070 Identification of plan.

(c) * * *

* * * * *

(19) Amendments to Sections .03 (Air Pollution Episode System), .06 (Test Methods) and .11 (Permits); and deletion of Section .04 (Prior Registration of Proposed Installations) of Maryland Regulation 10.03.35 (Regulations Governing Air Pollution Control in the State of Maryland); amendments to Sections .03 (Control of Particulate Emissions), .04 (Control and Prohibition of oxides of nitrogen emissions), and associated tables of Maryland Regulations 10.03.36, 10.03.37, 10.03.40, and 10.03.41 (Regulations Governing Air Pollution Control in the Cumberland-Keyser, Central Maryland, Southern Maryland, and Eastern Shore AQCRs); amendments to Sections .03 (Control and Prohibition of Particulate Emissions), .04 (Control and Prohibition of Hydrocarbons and Oxides of Nitrogen Emissions) and .06 (Control and Prohibition of Installations and Operations) and associated tables of Maryland Regulations 10.03.38 and 10.03.39 (Regulations Governing Air Pollution Control in the Metropolitan Baltimore and National Capital AQCRs);

submitted on April 24, 1974 by the Governor.

(20) Amendments to Sections .01 (Definitions), .04 (Ambient Air Quality Standards (former Section .05 of Regulations)), 10.03.36 through 10.03.41 (Regulations Governing Control of Air Pollution in the State of Maryland); amendments to Sections .01 (Control and Prohibition of Open Burning), .02 (Control and Prohibition of Particulate Emissions), .03 (Control and Prohibition of Sulfur Oxides, Hydrocarbons and Oxides of Nitrogen Emissions), and .06 (Control and Prohibition of Installations and Operations) of Maryland Regulations 10.03.36, 10.03.37, 10.03.40, and 10.03.41 (Regulations Controlling Air Pollution in the Cumberland-Keyser, Central Maryland, Southern Maryland and Eastern Shore AQCRs); amendments to Section .02 (Control and Prohibition of Visible Emissions), .03 (Control and Prohibition of sulfur oxides, hydrocarbons, and oxides of nitrogen emissions), and .06 (Control and Prohibition of Installations and Operations) of Maryland Regulations 10.03.38 and 10.03.39 (Regulations Controlling Air Pollution in the Metropolitan Baltimore and National Capital AQCRs); submitted on December 11, 1974 by the Governor.

* * * * *

(58) Amendments to COMAR 10.18.01, 10.18.06, 10.18.08, 10.18.09, 10.18.11, 10.18.12, 10.18.13, 10.18.14, 10.18.21, and Technical Memorandum TM-116 (amended November 1980) as submitted by the Governor on May 18, 1981.

2. In § 52.1073, Approval Status, paragraph (b) is revised, paragraph (c) and paragraph (e) are removed, paragraph (d) is redesignated (c) and revised, paragraph (f) is redesignated (d) to read as follows:

§ 52.1073 Approval status.

* * * * *

(b) With respect to the strategies submitted on April 16, May 5, June 15, June 22, June 28, July 9, 1973 and July 1, 1975, the Administrator approves the measures for the National Capital region for dry cleaning solvent use, and gasoline vapor recovery with the exceptions set forth in §§ 52.1074, 52.1077, 52.1080, 52.1082, and 52.1086.

(c) With respect to the strategies submitted on April 16, June 15, June 28, and July 9, 1973 and July 1, 1975, the Administrator approves the measures for the Metropolitan Baltimore Intrastate Region for dry cleaning solvent use and gasoline vapor recovery with the exceptions set forth in §§ 52.1074, 52.1077, 52.1080, 52.1082, and 52.1101.

§ 52.1074 [Amended]

3. In § 52.1074, Legal authority, paragraphs (a) and (b) are removed, and paragraph (c) is redesignated (a).

§ 52.1075 [Amended]

4. In § 52.1075, Conditional approvals, paragraphs (a) and (b) are removed, and paragraph (c) is redesignated (a).

§ 52.1076 [Reserved]

5. Section 52.1076 is removed and reserved.

§ 52.1077 [Amended]

6. In § 52.1077, Source surveillance, paragraphs (b) and (c) are removed.

§ 52.1080 [Amended]

7. In § 52.1080, Compliance schedule, paragraphs (c) through (e), (h), (i), and (k) are removed.

§ 52.1081 [Reserved]

8. Section 52.1081 is removed and reserved.

§ 52.1083 [Reserved]

9. Section 52.1083 is removed and reserved.

§ 52.1084 [Reserved]

10. Section 52.1084 is removed and reserved.

§ 52.1089 [Reserved]

11. Section 52.1089 is removed and reserved.

§ 52.1090 [Reserved]

12. Section 52.1090 is removed and reserved.

§ 52.1091 [Reserved]

13. Section 52.1091 is removed and reserved.

§ 52.1092 [Reserved]

14. Section 52.1092 is removed and reserved.

§ 52.1093 [Reserved]

15. Section 52.1093 is removed and reserved.

§ 52.1094 [Reserved]

16. Section 52.1094 is removed and reserved.

§ 52.1095 [Reserved]

17. Section 52.1095 is removed and reserved.

§ 52.1096 [Reserved]

18. Section 52.1096 is removed and reserved.

§ 52.1097 [Reserved]

19. Section 52.1097 is removed and reserved.

§ 52.1098 [Reserved]

20. Section 52.1098 is removed and reserved.

§ 52.1099 [Reserved]

21. Section 52.1099 is removed and reserved.

§ 52.1100 [Reserved]

22. Section 52.1100 is removed and reserved.

§ 52.1103 [Reserved]

23. Section 52.1103 is removed and reserved.

§ 52.1104 [Reserved]

24. Section 52.1104 is removed and reserved.

§ 52.1105 [Reserved]

25. Section 52.1105 is removed and reserved.

§ 52.1106 [Reserved]

26. Section 52.1106 is removed and reserved.

§ 52.1108 [Reserved]

27. Section 52.1108 is removed and reserved.

§ 52.1109 [Reserved]

28. Section 52.1109 is removed and reserved.

§ 52.1111 [Reserved]

29. Section 52.1111 is removed and reserved.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40, Code of Federal Regulations is amended by revising Subpart V to read as follows:

Subpart V—Maryland

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.5110 Identification of plan.

(a) Title of Plan: "Control of Kraft Pulp Mill TRS Emissions."

(b) The plan was officially submitted by the Governor of Maryland on May 18, 1981.

(c) Identification of sources:

Westvaco, Fine Papers Division, Luke, Maryland.

[FR Doc. 82-12774 Filed 5-10-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-161]

Commission Organization; Amendment of the Commission's Rules With Respect to Delegation of Authority to the Chief, Broadcast Bureau of Designation Orders and Petitions To Deny Relating to Renewal, Assignment and Transfer Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends § 0.281 of the Commission's rules to delegate authority to the Chief, Broadcast Bureau to designate renewal and mutually exclusive construction permit applications for hearing and to act on certain petitions to deny filed against renewal, assignment or transfer of control applications. These rule changes will contribute to regulatory efficiency by limiting the number of agenda items routinely presented to the Commission and thereby freeing Commission time to consider those matters posing unique or serious problems that require in depth scrutiny and review.

DATES: Effective: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kreisman, Broadcast Bureau, (202) 632-7542.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

In the matter of: amendments to Part 0; § 0.281(a)(11), (i) and (ii) and § 0.281(b)(1), with respect to delegation of authority to the Chief, Broadcast Bureau of designation orders and petitions to deny relating to renewal, assignment and transfer applications.

Memorandum Opinion and Order

Adopted: April 1, 1982.

Released: May 3, 1982.

1. The Commission hereby amends its rules, Part 0, § 0.281(a)(11), (i) and (ii) and § 0.281(b)(1) as follows. Where a renewal application is mutually exclusive with a timely filed competing application for a construction permit, power increase or other modification of facilities and no new or novel issues are presented, such applications may be designated for comparative hearing by the Chief, Broadcast Bureau by delegated authority. Further, where petitions to deny are filed against renewal, assignment or transfer of control applications that neither raise new or novel questions nor warrant designation of the application for evidentiary hearing, they may be acted on by the Chief, Broadcast Bureau by delegated authority. However, petitions to deny filed against renewal, assignment or transfer of control applications which contain documented allegations of failure to comply with the Commission's Equal Employment Opportunity rules and policies or address stations that fall outside applicable processing criteria in their employment of women and minorities, will be referred to the Commission *en banc*. These rule changes will contribute to regulatory efficiency by limiting the number of agenda items routinely presented to the Commission and thereby freeing Commission time to consider those matters posing unique or serious problems that require in depth scrutiny and review.

2. Section 0.281 of the Commission's rules provides that all renewal applications which appear to call for an evidentiary hearing should be referred by the Chief, Broadcast Bureau, to the Commission *en banc* for disposition. Section 0.281(a)(11). However, by our action today, where an evidentiary hearing is called for merely because a renewal application is mutually exclusive with a construction permit application and no new or novel issues have been raised, then such applications may be designated for hearing by the Chief, Broadcast Bureau, by delegated authority.[1] This is consistent with 0.281(a)(11)(i) of the rules, which delegates to the Chief, Broadcast Bureau authority to designate routine mutually exclusive construction permit applications.

3. Section 0.281(b)(1) requires that the Commission *en banc* consider Petitions to Deny directed against AM, FM and TV applications for renewal, assignment or transfer of control, when such petitions are timely filed and properly lie as a matter of law. That rule section previously provided that petitions to deny filed against construction permit applications and applications for new or modified facilities were also to be referred to the Commission. However, in the *Second Report and Order*, FCC 81-276, 49 RR2d 1219 (1981), the Chief, Broadcast Bureau was delegated authority to act on all petitions to deny applications that do not involve license renewal, assignment or transfer if the petitions do not raise new or novel issues. The rule modification herein establishes a more consistent guideline for Commission review of petitions, no longer segregating renewal, assignment and transfer applications for such disparate treatment.

4. The instant modification with respect to petitions is appropriate for other reasons. The basis for evaluation as to whether a filing constitutes a "petition," mandating consideration by the Commission *en banc*, turns on such matters as—party standing, timeliness and submission of supporting affidavit. The evaluation does not require a determination based on the nature and/or seriousness of the substantive allegations. *John F. Runner*, FCC 76-186, 36 RR2d 773 (1976). Thus, in many instances, a pleading that meets the technical requirements of a "petition" is forwarded for Commission consideration although the substance fails to present a new or novel issue. At times, such petitions may even be characterized as frivolous. Commission time directed to addressing such petitions is not warranted. Furthermore, we believe that institution of this procedure will expedite action on contested applications and related pleadings.[2]

5. It is important to acknowledge that these delegation modifications will not result in prejudice accruing to any party. Section 0.281(b)(2) remains intact. Pursuant to that section, petitions or other requests for reconsideration of actions taken by the Chief, Broadcast Bureau, must be referred to the Commission *en banc* when they set forth new or novel arguments not previously considered; when they appear to justify a change in Commission policy; or request reconsideration of hearing designation orders. Further, pursuant to § 1.115 of the Commission's Rules "any person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission." Generally, it is the Commission's policy that a petition for reconsideration of a designation order or other interlocutory order will only be entertained if the petition relates to an adverse ruling pertaining to the petitioner's participation in the proceeding, *Federal*

[1] Other renewal and assignment and transfer applications which appear to call for an evidentiary hearing will continue to be referred to the Commission *en banc*.

[2] This rule modification follows closely other delegation modifications. In Amendments of Part 0, § 0.281(b)(6), Part 1, §§ 1.401 and 1.405(d) of the Rules (Delegation of Authority to the Chief, Broadcast Bureau and Procedures Regarding Petitions for Rule Making, 79 FCC 2d 1, 47 RR 2d 1068 (1968)), authority was delegated to the Broadcast Bureau to dismiss or deny broadcast related petitions for rule-making which are moot, repetitive, premature, frivolous or do not warrant consideration by the Commission.

Broadcasting System, Inc., 60 FCC 2d 1036, 1038, 38 RR 2d 692, 696 (1976). However, the Commission has under unique circumstances waived this policy. (See *Alabama Citizens for Responsive Public Television Inc.*, 69 FCC 2d 1062, 1066, 43 RR 2d 999, 1004 (1978), where the applicant's limited financial resources threatened its continued participation in the proceeding.) Moreover, our present hearing procedures provide for motions to delete issues and the summary decision procedure. *Federal Broadcasting System, Inc., supra; WIOO, Inc.*, 68 FCC 2d 127, 129, 42 RR 2d 1356, 1357 (1978).

6. In view of the foregoing, the amendments set out herein will streamline the regulatory process by eliminating the requirement that all renewal applications that are to be designated for hearing and all petitions to deny directed against AM, FM and TV applications for renewal, assignment or transfer of control be routinely referred to the Commission *en banc* for consideration.

7. Authority for the adoption of this Order is contained in Sections 4 (i), (j), 5(d), and 303(r) of the Communications Act of 1934, as amended, and § 1.412(b)(5) of the Commission's rules. Since it relates to internal Commission organization, practice and procedure, and because early implementation of these changes will expedite the transaction of public business, compliance with the usual notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) is not required. See *Petitions for Rule Making supra.*

8. Accordingly, it is ordered, That effective as of the adoption date of this Order, § 0.281(a)(11) (i) and (ii) and (b)(1) of the Rules is amended.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

47 CFR Part 0 is amended by revising § 0.281(a)(11) (i), (ii), and (b)(1) to read as follows:

§ 0.281 Authority delegated.

* * * * *

(a) * * *

(11) * * *

(i) Mutually exclusive applications, including renewal and construction permit applications, involving non-routine hearing issues.

(ii) Other renewal and assignment and transfer applications which appear to call for an evidentiary hearing.

* * * * *

(b) * * *

(1) Petitions to deny, informal objections, and other petitions, directed against AM, FM, and TV applications for new or modified facilities, or for renewal, assignment or transfer of control, will be referred to the Commission if they: (1) Contain new or novel issues not previously considered by the Commission; (2) appear to justify a change in Commission policy; or (3) present documented allegations of failure to comply with the Commission's Equal Employment Opportunity rules and policies, or the applicant in question falls outside the applicable processing criteria in its employment of women and minorities.

* * * * *

[FR Doc. 82-12796 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-615; RM-3897]

Radio Broadcast Services; FM Broadcast Station in Thoreau, N. Mex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 260 to Thoreau, New Mexico, as its first commercial FM channel in response to a request filed by Hal, Inc.

DATE: Effective: June 29, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

Adopted: April 23, 1982.

Released: May 4, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Thoreau, New Mexico), BC Docket No. 81-615, RM-3897.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 45169, published September 10, 1981, in response to a petition filed by Hal, Inc. ("petitioner"), proposing the assignment of FM Channel 260 to Thoreau, New Mexico, as that community's first FM assignment. Supporting comments were filed by petitioner in which it affirmed its intention to file for the channel, if assigned. Oppositions were filed by Grants Broadcasting Company ("GBC"), licensee of FM Station KYKN, Grants, New Mexico, and by John R. Catsis ("Catsis"), petitioner in another proceeding (BC Docket No. 81-776) to assign FM Channel 256 to Gallup, New Mexico. Reply comments were filed by the petitioner, by GBC and by Catsis. The channel may be assigned to Thoreau in compliance with the minimum distance separation requirements.

2. Thoreau (population 950)[1] is an unincorporated community in McKinley County (population 54,950),[2] located approximately 145 kilometers (90 miles) northwest of Albuquerque, New Mexico. Thoreau presently has no local broadcast service. Petitioner asserts that with the expansion of uranium mining and milling operations in the area Thoreau is expected to become a major residential and commercial community.

3. Basically, petitioner contends that a Class C channel should be assigned to Thoreau because it would provide the community with its first local broadcast service and provide a first, second, and third FM service to a substantial population and area. The opponents contend that a Class C channel should not be assigned to a community as small as Thoreau.

4. In response to the Notice, petitioner shows that 58,786 persons (1980 U.S. Census) in a 3,850 square mile area would receive a first, second or third FM service as follows:

	Area (square miles)	Population
1st service	1,457	7,233
2d service	240	20,668
3d service	2,153	30,885
Total	3,850	58,786

Petitioner alleges that in view of this showing, a Class C channel is warranted.

5. GBC comments that Thoreau is too small to warrant a Class C FM channel assignment in accordance with the

[1] This population figure was provided by the petitioner. Thoreau does not appear in the 1980 U.S. Census.

[2] This population figure was taken from the 1980 U.S. Census, Advance Reports.

Commission's policy. The community has few businesses, none of which is sizeable. In GBC's opinion, those businesses could not be expected to generate adequate advertising revenues to support a wide area Class C FM service. Instead, GBC contends the licensee would have to depend in large measure on revenues from Grants and/or Gallup, New Mexico, to sustain itself. Accordingly, GBC states a serious question is raised as to whether petitioner really intends to service Thoreau rather than the larger nearby population centers of Gallup and Grants. GBC also alleges that the assignment would threaten the viability of its Station KYKN(FM), the only FM service in Grants, and jeopardize the station's continued existence. Finally, GBC urges us to consider the large preclusive impact that the assignment would cause.

6. In comments by Catsis, he points out that he had filed a conflicting proposal to assign Channel 260 to Gallup, New Mexico.[3] Catsis argues that Thoreau is too small ot warrant a Class C channel assignment, and that it is smaller than other communities to which the Commission declined to assign a Class C channel, assigning a Class A channel instead, citing *Cabool, Missouri,* 33 RR 2d 585 (1975); *Bolivar, Missouri,* 3 F.C.C. 2d 671, 673 (1966); and *Refugio, Texas,* 12 F.C.C. 2d 664, 666 (1968). Catsis also argues that since Thoreau is too small to support a Class C assignment, petitioner could be expected to use the station primarily for the neighboring, larger communities of Grants and Gallup.

7. In reply comments, petitioner contends that opponents have failed to show that the public interest would not be served by adoption of his proposal. Petitioner asserts that providing a first FM service to an unserved area tops the list of the Commission's FM assignment priorities. Thus its proposal which would provide a first local aural service to Thoreau and a first and second service to a significant area and population justifies a Class C assignment. The cases cited by the opponents, petitioner says, are not similar to the instant case as each would either have provided little or no service to white or gray areas, or the small community in question was a suburb of a major city. On its behalf, petitioner cited a number of instances in which a Class C channel "was assigned with less white or gray area than is proposed here."

[3] The conflict was later removed when the Notice is BC Docket No. 81–776 was issued to propose adding Channel 256 instead of Channel 260 to Gallup.

8. With respect to the size of Thoreau, petitioner points out that, although the population was 950 in 1980, it has expanded in just the past year of 1981. In this regard, petitioner states that a project planner for McKinley County has estimated the population of Thoreau to reach 1,200 in 1981, and 3,500 by 1990, not including 1,000 families (4,000 persons) located within two miles of Thoreau. Petitioner also claims "that Thoreau is growing and will boom in the 80's." It notes a new FDIC insured bank has opened, and a second bank received FDIC clearance to begin operation; that the new high school expansion has been completed; and that eight corporations have requested permits to mine over two billion tons of coal. We are also told that the Santa Fe Railroad will provide a shipping terminal at Thoreau and a new electric plant is under planning and construction.

9. Petitioner denies the claim of opponents that a Thoreau Class C station would in fact operate as a Grants or Gallup station, in derogation of the Commission's policy against *de facto* reallocation of FM channels. See *Berwick Broadcasting Corp.,* 17 RR 2d 884 (1969). In this regard petitioner cites our *Notice of Proposed Rule Making* in BC Docket No. 80–130 which proposed to adopt an approach which would give consideration to the *de facto* reallocation issue during the application stage. Petitioner states that Thoreau can, and will in the future, be able to support its own FM station. Noting that both Grants and Gallup are over 25 miles away, petitioner asserts that Thoreau's peculiar needs can only be met by its own station without reliance on service from other communities.

10. In opponents' reply comments, both restate their contention that assignment of a Class C channel to Thoreau would be contrary to Commission policy. The assignment's proposed service area is said to be adequately served and a Class A channel could provide sufficient service to Thoreau. Opponents further argue that petitioner is attempting to use a first local assignment to Thoreau in order to service Grants and Gallup since Thoreau could not support a station. Finally they reassert that the economic impact on Station KYKN(FM) would cause a loss or cutback of the only local radio service to Grants.

11. The controlling question before us is whether the public interest would be served by the assignment of a Class C Channel to the small community of Thoreau. We conclude that it would.

12. First the assigment would provide a first local aural broadcast service to Thoreau. The population of Thoreau in 1981 is estimated at 1,200 with additional growth anticipated. The showing made by the petitioner indicates that Thoreau is located in an area of extensive mining of coal, an important product in our national energy program.

13. More importantly, the assignment would provide a first FM service to an area of approximately 1,457 square miles with a population of 7,233 and a second FM service to an area of approximately 240 square miles with a population of 20,668. This showing is compelling for a Class C assignment. The cited cases in paragraph 6, *supra,* are distinguishable. In all three cases, *Cabool, Missouri, Refugio, Texas,* and *Bolivar, Missouri, supra,* an exception to our policy of assigning Class C channels only to larger communities was not found to be justified where little, if any, first or second FM service would be provided. In the instant case, it has been shown that a very large area and population could receive a first or second FM service. Such service is of the highest public benefit warranting a departure from our policy. As for the suburban community issue that has been raised, we don't agree that a Thoreau assignment would necessarily be used to serve communities over 25 miles away. Opponents have not cited any cases [4] and we have been unable to find a case where the distances involved (over 25 miles) were considered close enough to find a departure from the suburban community assignment policy. In this case we find no evidence of an intent to seek a Thoreau assignment in order to obtain revenues and provide service to Gallup and Grants. Based on the distances between the communities, we cannot infer such a result will inevitably follow.

14. Accordingly, we conclude that the assignment of a Class C channel to Thoreau as its first local aural service would serve the public interest.

15. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204 and 0.281 of the Commission's rules.

16. Accordingly, it is ordered, that effective June 29, 1982, § 73.202(b) of the Commission's Rules, the FM Table of

[4] In reviewing the cases cited by opponents, *Carson City, Nevada,* 48 RR 2d 1700 (1981), and *Santa Fe, New Mexico,* 48 RR 2d 1433, the larger city was selected for the Class C assignment on the basis of distances of 15 miles between the major city and the smaller community. This 15-miles distance is the standard used in § 73.203(b) which permits licensing to nearby communities.

Assignments, is amended with regard to the following community:

City	Channel No.
Thoreau, N. Mex.	260

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

18. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1060, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–12770 Filed 5–10–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 81–839; RM–3912]

Radio Broadcast Services, TV Broadcast Station in Shawnee, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 30 to Shawnee, Oklahoma, in response to a petition filed by Canadian Valley Television, Inc. The assignment could provide a first commercial television service to Shawnee.

DATE: Effective: July 6, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Shawnee, Oklahoma), BC 81–839, RM–3912.

Report and Order

(Proceeding Terminated)

Adopted: April 29, 1982.

Released: May 5, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 61303, published December 16, 1981, proposing the assignment of UHF television Channel 30 to Shawnee, Oklahoma, as its first commercial television assignment. The notice was issued in response to a petition filed by Canadian Valley Television, Inc. ("petitioner"). Supporting comments were filed by petitioner. No oppositions to the proposal were received

2. Shawnee (population 25,075),[1] seat of Pottawatomie County (population 43,134), is located approximately 50 kilometers (33 miles) east of Oklahoma City. It has no local television service.

3. In comments to the proposal, the petitioner incorporated by reference the information contained in the Notice demonstrating the need for a first television assignment to Shawnee. Petitioner also restated its intention to apply for the channel, if assigned.

4. We believe that the petitioner has adequately demonstrated a need for a first UHF television assignment to Shawnee, and that the public interest would be served by assigning UHF television Channel 30 to that community. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective July 6, 1982, the Television Table of Assignments (§ 73.606(b) of the rules) is amended with respect to the community listed below:

City	Channel No.
Shawnee, Oklahoma	30

6. It is further Ordered, that this proceeding is terminated.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–12767 Filed 5–10–82; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures derived from the 1980 U.S. Census Advance Report.

47 CFR Part 73

[BC Docket No. 81–785; RM–3940]

Radio Broadcast Services, FM Broadcast Station in Minor Hill, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 221A to Minor Hill, Tennessee, in response to a petition filed by Burwood Broadcasting Corporation. The assignment could provide for a first FM Service to Minor Hill.

DATE: Effective: June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Minor Hill, Tennessee), BC Docket No. 81–785, RM–3940.

Report and Order

Proceeding Terminated

Adopted: April 23, 1982.

Released: April 30, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 46 FR 58723, published December 3, 1981, proposing the assignment of Channel 221A to Minor Hill, Tennessee. The Notice was issued in response to a petition filed by Burwood Broadcasting Corporation (petitioner). Supporting comments were filed by the petitioner stating its intention to apply. No oppositions to the proposal were received.

2. Minor Hill (population 564),[1] in Giles County (population 24,625), is located approximately 167 kilometers (104 miles) west of Chattanooga, Tennessee. It is without local broadcast service.

3. Petitioner incorporated by reference the reasons stated in the Notice for the proposed FM assignment to Minor Hill.

4. The Commission believes that the public interest would be served by assigning Channel 221A to Minor Hill. The petitioner has shown that there is

[1] Population figures are taken from the 1980 U.S. Census.

an apparent need for a first FM service to that community. The transmitter site is restricted to 1.9 kilometers (1.8 miles) northwest of the city to avoid short-spacing to Stations WKLN (Channel 221A), Cullman, Alabama, and WDEF (Channel 222), Chattanooga, Tennessee.

5. In view of the above and pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective June 29, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Minor Hill, Tennessee	221A

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-12765 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-884; RM-4007]

Radio Broadcast Services, FM Broadcast Station in Wichita Falls, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Wichita Falls, Texas, in response to a petition filed by Broadco, Incorporated. The assignment could provide Wichita Falls with a fourth FM service.

DATE: Effective: June 29, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Wichita Falls, Texas), BC Docket No. 81-884, RM-4007.

Report and Order

(Proceeding Terminated)

Adopted: April 21, 1982.

Released: April 30, 1982.

1. The Commission has before it for consideration the Notice of Proposed Rule Making herein, 46 FR 62880, published December 29, 1981, in response to a petition filed by Broadco, Incorporated ("petitioner"), proposing the assignment of FM Channel 292A to Wichita Falls, Texas, as that community's fourth FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intention to file for the channel if assigned as proposed. No oppositions to the proposal were received.

2. Wichita Falls (population 94,201),[1] the seat of Wichita County (population 121,082), is located near the Texas-Oklahoma border, approximately 192 kilometers (120 miles) northwest of Dallas, Texas. It is currently served by three FM stations (KNIN-FM, Channel 225; KKQV, Channel 277; and KLUR, Channel 260), as well as three full-time AM stations (KNIN, KTRN and KWFT).

3. Petitioner submitted information with respect to Wichita Falls which is persuasive as to its need for a fourth FM assignment.

4. In response to our request in the Notice for preclusion information, petitioner advises that twenty-two communities[2] containing a population in excess of 1,000 persons, and without any aural service, would sustain preclusion as a result of the proposed assignment. However, it notes that twenty of these communities have an alternate channel available for assignment. The remaining two, Montague and Forestburg (population 1,300 each),[3] are located in close proximity to Dallas and Ft. Worth, Texas. Petitioner asserts that there is little likelihood of a viable FM operation at either of those two communities.

5. On the basis of the above representation, we find that the preclusive effect on surrounding communities is insubstantial. Except for two communities, Montague and Forestburg, alternate channels are available thereto. The two precluded communities do not appear to be of sufficient size to warrant our reserving a channel there for future use at the expense of another community where demand is present. *See, Sonora, California*, 46 FR 48200, published October 1, 1981, and cases cited therein.

6. As stated in the Notice, the assignment will create intermixture of a Class A channel in a community dominated by Class C stations. However, petitioner has reaffirmed its intention to apply for the Class A assignment, notwithstanding the possible competitive advantage that may accrue to the Class C operations. Therefore, intermixture is not an obstacle to the assignment herein. *See, Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974).

7. In consideration of the foregoing, we believe that the public interest would be served by the assignment of Channel 292A to Wichita Falls as that community's fourth FM allocation. The assignment can be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

8. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, that effective June 29, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Wichita Falls, Texas, as follows:

City	Channel No.
Wichita Falls, Texas	225, 260, 277, and 292A.

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

10. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1086, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-12766 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

[2] The precluded communities are as follows: *Oklahoma:* Tipton, Grandfield, Walters, Temple, Waurika, Ringling, Ryan, Rush Springs, and Apache; *Texas:* Lockett, Olney, Jacksboro, Saint Jo, Montague, Forestburg, Nocona, Joy, Henrietta, Electra, Iowa Park, Holliday and Archer City.

[3] Population figures supplied by petitioner. Both places are unincorporated and thus not listed in the preliminary 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-769; RM-3943]

Radio Broadcast Services, FM Broadcast Station in Eagar, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 223 to Eagar, Arizona, in response to a petition filed by Eastern Arizona Broadcasting Company. The assignment could provide a first local broadcast service to Eagar.

DATE: Effective: July 6, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Report and Order; Proceeding Terminated

Adopted: April 29, 1982.

Released: May 5, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, Broadcast Stations, (Eagar, Arizona), BC Docket No. 81-769, RM-3943.

1. The Commission has under consideration the Notice of Proposed Rule Making, 46 FR 56835, published November 19, 1981, proposing the assignment of Class C FM Channel 223 to Eagar, Arizona, in response to a petition filed by Eastern Arizona Broadcasting Company (petitioner). Supporting comments were filed by the petitioner restating its intention to apply for Channel 223, if assigned. No oppositions to the proposal were received.

2. Eagar (population 2,791),[1] in Apache County (population 52,083), is located approximately 264 kilometers (165 miles) east of Phoenix. It is without local broadcast service.

3. In its comments, the petitioner again noted the need for an FM facility to serve Eagar and the surrounding area. The Notice had set forth in the preclusion information as provided by the petitioner pertaining to Channel 259. That channel conflicted with the proposed assignment of Channel 260 to Thoreau, New Mexico (BC Docket Number 81-615). Thus we substituted Channel 223 for assignment to Eagar. Since petitioner has already provided one preclusion study we did not request an additional study for the substituted channel. Our own review of the impact of this assignment is that a large availability of FM channels for this area will remain despite the assignment of Channel 223 to Eagar.

4. The Commission believes that the public interest would be served by assigning Channel 223 to Eagar, Arizona. The petitioner has shown that there is a need and it is willing to operate a first FM station in that community. Although a community the size of Eagar is not normally assigned a Class C channel, we proposed the assignment based on the community's inability to receive usable signals and the fact that the nearest station is 44 miles away (in Show Low, Arizona). In view of the insignificant preclusion impact and the apparent need for a wide coverage area station, we find the proposal justified.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective July 6, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Eagar, Ariz.	223

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-12771 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-872; RM-4009]

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

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 292A to Pagosa Springs, Colorado, as a first FM assignment, in response to a petition filed by Don Davis.

DATE: Effective: July 6, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Pagosa Springs, Colorado), BC Docket No. 81-872, RM-4009.

Report and Order—Proceeding Terminated

Adopted: April 29, 1982.

Released: May 5, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 2890, published January 20, 1982, which seeks the assignment of Channel 292A to Pagosa Springs, Colorado, as its first FM channel. The Notice was issued in response to a petition filed by Don Davis ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions were received.

2. Pagosa Springs (population 1,331),[1] seat of Archuleta County (population 3,664), is located approximately 320 kilometers (200 miles) southwest of Denver, Colorado. It is served by fulltime AM Station KPAG.

3. In his comments to the proposal, the petitioner refers to the data in the Notice which demonstrated the need for a first FM assignment to Pagosa Springs. He indicated that the AM facility and a weekly newspaper were inadequate to provide the desired sources of news and information to the community. Petitioner also restated his intention to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 292A to Pagosa Springs, since it would provide that community with an opportunity for a first local FM broadcast service. The channel can be assigned in compliance with the minimum distance separation requirements.

5. In review of the above and pursuant to authority contained in sections 4(i), 5(d)(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as

[1] Population figures are taken from the 1980 U.S. Census.

amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective July 6, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Pagosa Springs, Colo.	292A

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-12772 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-812; RM-3941]

Radio Broadcast Services, FM Broadcast Stations in Lamoni, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 249A to Lamoni, Iowa, in response to a petition filed by Lamoni Broadcasting Company. The assigned channel could provide a first FM service to Lamoni.

DATE: Effective: June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Lamoni, Iowa), BC Docket No. 81-812, RM-3941.

Report and Order—Proceeding Terminated

Adopted: April 23, 1982.

Released: April 30, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 58712, published December 3, 1981, proposing the assignment of Channel 249A to Lamoni, Iowa, as that community's first FM assignment. The Notice was issued in response to a petition filed by Lamoni Broadcasting Company ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Lamoni (population 2,705)[1] is located in Decatur County (population 9,794), near the Missouri border, approximately 112 kilometers (70 miles) south of Des Moines, Iowa. It has no local broadcast service.

3. In its comments, the petitioner restated the need for an FM assignment to Lamoni and urged the Commission to adopt its proposal. It also stated that it would apply for Channel 249A, if assigned.

4. The Commission has determined that the public interest would be served by assigning Channel 249A to Lamoni, Iowa, since it would provide the community with an opportunity for its first FM broadcast service.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and sections 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective June 29, 1982, § 73.202(b) of the Commission's Rules is amended with regard to the following community.

City	Channel No.
Lamoni, Iowa	249A

6. *It is further ordered,* That this proceeding is terminated.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-12773 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

47 CFR Part 73

[BC Docket No. 81-778; RM-3946]

Radio Broadcast Services, FM Broadcast Station in Great Bend, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 300 to Great Bend, Kansas, in response to a petition filed by John E. Bozeman. The assignment could provide Great Bend with a second local commercial FM service.

DATE: Effective: July 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: April 29, 1982.

Released: May 5, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Great Bend, Kansas), BC Docket No. 81-778, RM-3946.

1. The Commission has under consideration herein the Notice of Proposed Rule Making, 46 FR 58713, published December 3, 1981, proposing the assignment of Class C FM Channel 300 to Great Bend, Kansas, as that community's second commercial FM assignment, in response to a petition filed by John E. Bozeman ("petitioner"). Supporting comments were filed by petitioner in which he reaffirmed his intention to apply for the channel, if assigned.

2. Great Bend (population 16,606),[1] the seat of Barton County (population 31,343), is located approximately 144 kilometers (90 miles) northwest of Wichita, Kansas. It is served by co-owned Stations KVGB(AM) and KVGB-FM (Channel 282), as well as noncommercial FM Station KBJC (CP issued for Channel 220A). Channel 300

[1] Population figures are extracted from the 1980 U.S. Census, Advance Reports, unless otherwise indicated.

may be assigned to Great Bend in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. In support of his proposal, petitioner submitted information with respect to Great Bend which is persuasive as to its need for a second commercial FM channel assignment.

4. As indicated in the Notice, the assignment of Channel 300 to Great Bend would cause preclusion to occur in nine communities [2] with a population in excess of 1,000, and which currently have no FM service. However, petitioner indicated that alternate channels would be available for assignment to each of the communities that lie within the precluded area.

5. In view of the interest expressed in the proposed channel allocation, the demonstration of need for additional service, and the fact that the preclusion impact does not appear to be significant, we believe that the public interest would be served by a grant of the requested assignment.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective July 6, 1982, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the community listed below, as follows:

City	Channel No.
Great Bend, Kans	282, 300

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

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended; 1066, 1068; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-12768 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

[2] The precluded communities consist of: *Oklahoma:* Buffalo (population 1,381); *Kansas:* Greensburg (population 1,885), Kinsley (population 2,074), St. John (population 1,346), Ness City (population 1,769), Dighton (population 1,390), La Crosse (population 1,618), Syracuse (population 1,654), and Leoti (population 1,869). Leoti was recently assigned FM Channel 260 in BC Docket 81-562, released January 13, 1982.

47 CFR Part 73

[BC Docket No. 82-2; RM-3991]

Radio Broadcast Services, FM Broadcast Station in Cut Bank, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C Channel 274 to Cut Bank, Montana, in response to a petition filed by Glacier Communications, Inc. The assignment could provide Cut Bank with its first local aural service.

DATE: Effective: June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cut Bank, Montana), BC Docket No. 82-2, RM-3991.

Report and Order—Proceeding Terminated

Adopted: April 26, 1982.

Released: April 30, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 Fed. Reg. 2891, published January 20, 1982, in response to a petition filed by Glacier Communications, Inc. (petitioner) proposing the assignment of Channel 274 to Cut Bank, Montana, as its first FM assignment. Supporting comments were filed by the petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Cut Bank (population 3,688),[1] seat of Glacier County (population 10,628), is located approximately 144 kilometers (90 miles) northwest of Great Falls, Montana. It has no local aural service.

3. Petitioner incorporated by reference the information in the Notice which demonstrated the need for a first FM assignment to Cut Bank. In response to the request for additional demographic and economic information, petitioner submits that Cut Bank serves as the center of most political activities within the area. Its economic base is derived primarily from agriculture. In addition, Cut Bank has a wide range of community services.

4. As stated in the Notice, the proposed station would provide a first FM service to 9,977 persons residing in an area of 3,942 square kilometers (1,552 square miles) and a second FM service to 10,761 persons in an area of 3,726 square kilometers (1,467 square miles).[2] In the Notice, we also stated that only one community, Conrad, Montana, would be affected as a result of the assignment of Channel 274 to Cut Bank. However, Channels 222 and 278 are available for assignment to that community.

5. After consideration of the proposal, we have concluded that Channel 274 should be assigned to Cut Bank. Although a community the size of Cut Bank is not normally assigned a Class C channel, we are convinced from the information submitted by the petitioner that the proposal would provide substantial first and second services to the outlying area. Since alternate channels are available to the precluded area, we believe the preclusion impact is insignificant. Thus, in view of the need for a wide coverage area station, we find the proposal justified.

6. Canadian concurrence in the assignment of Channel 274 to Cut Bank, Montana, has been obtained.

7. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective June 29, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Cut Bank, Montana, as follows:

City	Channel No.
Cut Bank, Mont	274

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

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

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

[1] Population figures are taken from the 1980 U.S. Census, Advance Reports.

[2] Petitioner provided an additional engineering study in its comments demonstrating the amount of first and second nighttime aural service that could be provided by its proposed station. Although no population figures were submitted, the showing reveals a significant amount of new nighttime aural service providing further justification for the assignment.

Federal Communications Commisson.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-12769 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: At its 32nd Annual Meeting held in Brighton, England, in July 1980, the International Whaling Commission (IWC) adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946, which established a three-year quota for the taking of the Bering Sea stock of bowhead whales for calendar years 1981, 1982, and 1983 of 45 landed or 65 struck with a maximum of 17 landed in any one year. All amendments to the Schedule of the Convention adopted at the 32nd Annual Meeting, including the three-year quota, became effective on November 25, 1980 (45 FR 85031, December 24, 1980). A Cooperative Agreement between NOAA and the Alaska Eskimo Whaling Commission, also published in this issue of the Federal Register, will provide specifically for the management of the bowhead whale hunt. This rule complements the Cooperative Agreement.

DATE: The rule becomes effective May 6, 1982.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, Washington, D.C. 20235, telephone (202) 634-7461.

SUPPLEMENTARY INFORMATION: Proposed bowhead whale management regulations were published January 16, 1981. The Cooperative Agreement between NOAA and the Alaska Eskimo Whaling Commission, also published in this issue, replaces the regulatory measures contained in the proposed regulations of January 16, 1981. This final regulation prohibits any bowhead whaling except under the terms of the Cooperative Agreement. The purpose is to ensure that only the traditional nine whaling villages engage in whaling, as has been the case in the past.

The Department of Commerce has determined that this is not a major regulation under Executive Order 12291, does not have a significant economic impact on a substantial number of small entities, and does not require reporting by ten or more persons.

List of Subjects in 50 CFR Part 230

Whales.

PART 230—WHALING PROVISIONS

50 CFR Part 230 is amended by revising § 230.70 to read as follows.

Subsistence

§ 230.70 General.

No person shall hunt, strike, harass, kill or land a bowhead whale except in accordance with the Cooperative Agreement between the Administrator of the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission, dated March 26, 1981 and extended on February 28, 1982 (47 FR 20137 May 11, 1982), and the Alaska Eskimo Whaling Commission's Management Plan as referenced in that Agreement.

(Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361, *et seq.*), Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*), Whaling Convention Act, (16 U.S.C. 916, et seq.))

Dated: May 5, 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 82-12883 Filed 5-6-82; 11:29 am]

BILLING CODE 3510-22-M

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes; Cooperative Agreement Between NOAA and the Alaska Eskimo Whaling Commission

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Rule related notice.

SUMMARY: At its 32nd Annual Meeting held in Brighton, England, in July 1980, the International Whaling Commission (IWC) adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946, which established a three-year quota for the taking of the Bering Sea stock of bowhead whales for calendar years 1981, 1982, and 1983 of 45 landed or 65 struck with a maximum of 17 landed in any one year. All amendments to the Schedule of the Convention adopted at the 32nd Annual Meeting, including the three-year quota, became effective on November 25, 1980 (45 FR 85031, December 24, 1980). This notice publishes a Cooperative Agreement between the Alaska Eskimo Whaling Commission (AEWC) that implements this three-year quota.

DATES: The Cooperative Agreement became effective on March 26, 1981 and was amended and extended on February 28, 1982.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, Washington, D.C. 20235, telephone (202) 634-7461.

SUPPLEMENTARY INFORMATION: Prior to 1977, the IWC Schedule exempted the native subsistence harvest of bowhead whales from its otherwise total prohibition of the hunting of bowhead whales. In 1977, the IWC removed that exemption and established annual quotas each year from 1977 to 1980.

The IWC Schedule including the bowhead whale catch limits is published in the Federal Register annually which makes it effective with respect to all U.S. citizens as required by the Whaling Convention Act of 1949.

At the 32nd Annual Meeting of the IWC in July 1980, the IWC adopted a three year quota for bowhead whales of 45 whales landed or 65 struck with a maximum of 17 landed in any one year.

The National Oceanic and Atmospheric Administration (NOAA) believes that the best long-term approach to bowhead whale management is in designing procedures that provide for the development of a full record in a fair and open manner that will lead to acceptance of management decisions by the Eskimos and concerned individuals more readily than in the past. We also believe successful bowhead whale management must provide for more Eskimo participation. To achieve these goals, NOAA entered into a two-year Cooperative Agreement in 1981 with the Alaska Eskimo Whaling Commission (AEWC) for cooperative bowhead whale management. This Agreement has

been amended and extended through December 31, 1983. We believe the Agreement provides the Eskimos with a greater role in management and improves monitoring and enforcement of the bowhead whale hunt.

The Cooperative Agreement recognizes that the federal government has primary responsibility for bowhead whale management. It also provides for the AEWC to cooperate in whaling management under the AEWC's Management Plan incorporated into the Agreement. If the conditions of the Cooperative Agreement are not met, NOAA reserves the right to assert its federal authority for management.

The Agreement established a strike quota for 1981 of 32 whales, and was amended to provide a strike quota of 19 for 1982. The Management Plan provides for civil assessments of up to $10,000 and for withholding a whaling captain's privilege to whale for up to 5 years for whales taken over 19 struck, or for other violations of the Management Plan. The AEWC will initially make the assessments and transfer the assessment to NOAA. If NOAA does not agree with the assessments, it may seek review in an administrative trial-type hearing.

The Management Plan includes regulations adopted by the AEWC. Although the individual whaling villages are not specifically listed in Section 100.21 of the Management Plan, they are defined as those which are represented by a Commissioner to the AEWC, i.e., the nine traditional whaling villages, and are listed in the AEWC regulations. The Marine Mammal Protection Act of 1972 and Endangered Species Act of 1973, as amended, prohibit whaling by any person except natives. Any whaling captain registered under Section 100.22 of the AEWC Management Plan is considered licensed for the purposes of any federal licensing requirements. The strike quota is divided among the villages. Each AEWC Commissioner is responsible for reporting daily to the whalers the numbers of whales landed and struck. Each Commissioner is also responsible for reporting to the AEWC headquarters in Barrow and the NOAA representative assigned to each village, the number of whales landed or struck at any given time. We believe this arrangement will improve monitoring of the hunt in that communication among the whalers is conducted in Eskimo and communication among the various whaling teams can best be coordinated by their own representative.

A NOAA representative will be present in the villages during the whaling season and will monitor the hunt in cooperation with the Eskimos.

In summary, we believe that this Agreement meets our international legal obligations and provides the best opportunity for the cooperation of the Eskimos in resolving bowhead whale management issues.

Each section of the 1981 agreement is printed below, followed by those amendments that were made in 1982.

List of Subjects in 50 CFR Part 230

Whales.

Dated: May 5, 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

Cooperative Agreement Between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission

Purpose

The purpose of this agreement is to provide for cooperation between members of the Alaska Eskimo Whaling Commission (AEWC) and the National Oceanic and Atmospheric Administration (NOAA) in management of the bowhead whale hunt for 1981 and 1982.

1982 Amendment

The purpose of this agreement is to provide for cooperation between members of the Alaska Eskimo Whaling Commission (AEWC) and the National Oceanic and Atmospheric Administration (NOAA) in management of the bowhead whale hunt for 1981, 1982, and 1983.

Responsibilities

NOAA has primary responsibility within the United States Government for management and enforcement of programs concerning the bowhead whale. The AEWC is an association governing Alaskan Eskimo whalers who hunt for bowhead whales. The AEWC adopted a Management Plan on March 4, 1981, to govern hunting for bowhead whales by Alaskan Eskimos. Under this cooperative agreement the AEWC will, in cooperation with NOAA, manage the 1981 and 1982 bowhead whale hunt. The authority and responsibilities of the AEWC are contained in and limited to this Agreement and the Management Plan as amended on March 25, 1981, to the extent the Management Plan is not inconsistent with this agreement. If the AEWC does not meet the conditions of this agreement, or the Management Plan, NOAA may withdraw the authority of the AEWC for management and will manage the bowhead whale hunt in a manner consistent with federal law, this agreement and the Management Plan.

1982 Amendment

NOAA has primary responsibility within the United States Government for management and enforcement of programs concerning the bowhead whale. The AEWC is an association governing Alaskan Eskimo whalers who hunt for bowhead whales. The AEWC adopted a Management Plan on March 4, 1981, to govern hunting for bowhead whales by Alaskan Eskimos. Under this cooperative agreement the AEWC will, in cooperation with NOAA, manage the 1981, 1982, and 1983 bowhead whale hunt. The authority and responsibilities of the AEWC are contained in and limited to this Agreement and the Management Plan as amended on March 25, 1981, August 11, 1981, and February 28, 1982, to the extent the Management Plan is not inconsistent with this agreement. If the AEWC does not meet the conditions of this agreement, or the Management Plan, NOAA may assert its federal authority for management and will manage the bowhead whale hunt in a manner consistent with federal law, this agreement and the Management Plan.

Inspection and Reporting

NOAA personnel shall monitor the hunt and the AEWC shall assist such personnel with such monitoring. The AEWC will provide an oral report to NOAA daily regarding the number of strikes and landings. The AEWC will also inform all whaling captains who are engaged in whaling activities of the number of whales struck or landed at all times. The AEWC will also provide a report to NOAA within 30 days after the conclusion of the spring hunt and the fall hunt containing at least the following information:

(1) The number, dates, and locations of every strike or landing;

(2) The length, (as measured from the point of the upper jaw to the notch between the tail flukes) the extreme width of the flukes, and the sex of the bowhead whales landed;

(3) The length and sex of a fetus, if present, in a landed bowhead whale; and

(4) An explanation of circumstances associated with the striking of any bowhead whale not landed, and an estimate of whether a harpoon or bomb emplacement caused a wound which might be fatal to the animal (e.g., the harpoon entered a major organ of the body cavity and the bomb exploded).

NOAA will provide technical assistance in collection of the above information. The AEWC shall assist appropriate persons in collection of

specimens from landed whales, including but not limited to ovaries, ear plugs, and baleen plates. Such specimens shall be available to appropriate government officials. NOAA personnel cooperating with AEWC will work closely with the AEWC Commissioner in each whaling village to facilitate the accurate monitoring of the hunt.

Management

(1) No more than a total of 32 whales shall be struck in 1981. The AEWC and NOAA shall determine the total number of whales that may be struck in 1982 through negotiations that shall be concluded by March 15, 1982.

(2) The AEWC may determine the allocation of these permitted strikes among the whaling villages.

(3) The AEWC agrees that whaling captains will be subject to civil monetary assessments for whales struck over the strike limit contained in this agreement, and for whales landed over 17 in 1981 or 1982 (if 17 are not landed in 1981) or over 15 in 1982, if 17 are landed in 1981. The AEWC will collect the assessments from the whaling captains and deposit them with NOAA representatives. In the event of a dispute between NOAA and the AEWC over the number of whales landed or struck, or the amount of the assessment, or other factual matters, NOAA will consult with the AEWC about the matter. If the dispute cannot be resolved, it will be referred to a NOAA administrative law judge for determination under a trial-like administrative proceeding of factual findings and the amount of assessment. The procedures contained in 50 CFR §§ 218.21–218.25 will control these proceedings. The decision of the administrative law judge may be appealed to the Administrator of NOAA. Whaling captains may also be liable for civil assessments for other violations of the management plan as determined by the AEWC or by an administrative law judge under the procedures described above.

1982 Amendment

(1) No more than a total of 19 whales shall be struck in 1982. The AEWC and NOAA shall determine the total number of whales that may be struck in 1983 through negotiations that shall be concluded by March 15, 1983. The AEWC management plan will provide that whaling captains and crews will use their best efforts to land every whale that is struck, and strike whales that are under 12 meters (39 feet) and presumed to be sexually immature.

(2) The AEWC may determine the allocation of these permitted strikes among the whaling villages.

(3) The AEWC agrees that whaling captains will be subject to civil monetary assessments for whales struck over the strike limit contained in this agreement, and for whales landed over 17 in 1981. The AEWC will collect the assessments from the whaling captains and deposit them with NOAA representatives. In the event of a dispute between NOAA and the AEWC over the number of whales landed or struck, or the amount of the assessment, or other factual matters, NOAA will consult with the AEWC about the matter. If the dispute cannot be resolved, it will be referred to a NOAA administrative law judge for determination under a trial-like administrative proceeding of factual findings and the amount of assessment. The procedures contained in 50 CFR sections 218.21–218.25 will control these proceedings. The decision of the administrative law judge may be appealed to the Administrator of NOAA. Whaling captains may also be liable for civil assessments for other violations of the management plan as determined by the AEWC or by an administrative law judge under the procedures described above.

Authorities

This cooperative agreement is concluded under the authorities governing management of living marine resources, including but not limited to the Marine Mammal Protection Act of 1972.

Duration

This agreement expires on December 31, 1982.

1982 Amendment

This agreement expires on December 31, 1983.

Consultation

NOAA and the AEWC shall consult during the operation of this agreement concerning the matters addressed herein as well as other matters related to bowhead whale management which either party believes are suitable for such consultation.

1982 Amendent

NOAA and the AEWC shall consult during the operation of this agreement concerning the matters addressed herein as well as all other matters related to bowhead whales which either party believes are suitable for such consultation. Specifically, NOAA shall consult with the AEWC on any action undertaken or any action proposed to be undertaken by any agency or department of the Federal Government that may affect the bowhead whale and shall use its best efforts to have such agency or department participate in such consultation with the AEWC.

Amendment

This agreement may be amended by the written agreement of the parties. Done in duplicate in Washington, D.C., on the 26th of March, 1981. James P. Walsh (for NOAA) and Eugene Brower (for AEWC).

Done in duplicate in Anchorage, Alaska, on the 28th of February, 1982. Robert W. McVey (initialling for NOAA), Roger Silook (for AEWC), and John V. Byrne (final approval for NOAA).

AEWC Management Plan

Subpart A—Introduction

§ 100.1 Purpose of Regulations

It is the purpose of the regulation contained herein to: (a) insure an efficient subsistence harvest of bowhead whales; and (b) provide a means within the Alaskan Eskimo customs and institution of limiting the bowhead whale harvest in order to prevent the extinction of such species.

§ 100.2 Scope of Regulations

The regulation contained herein applies to the subsistence hunting of bowhead whales by Eskimos located in the State of Alaska.

Subpart B—Alaska Eskimo Whaling Commission

§ 100.11 Powers

(a) The Alaska Eskimo Whaling Commission (hereinafter AEWC) is empowered to administer the regulations contained herein to insure that the purposes in § 100.1 of these regulations are attained.

(b) The AEWC is empowered to enforce these regulations by:

(1) Denying any person who violates these regulations the right to participate in hunting the bowhead whale.

(2) Making civil assessments.

(3) Acting as an enforcement agent for any governmental entity authorized to enforce these regulations.

(c) The AEWC is empowered to promulgate interim regulations that are in addition to, but not inconsistent with, regulations contained herein.

§ 100.12 Duties

(a) The AEWC shall administer and enforce the regulations contained herein (including any interim regulations).

(b) The AEWC shall conduct village educational programs to facilitate compliance with these regulations, including training programs for whaling captains and crews.

(c) The AEWC shall initiate research for improvement of the accuracy and reliability of weapons.

Subpart C—Regulations

§ 100.21 Definitions

(a) "Bowhead whale" means a whale whose scientific name is *Balaena mysticetus* and which migrates past whaling villages in Alaska.

(b) "Captain" means the person in charge of a whaling crew.

(c) "Harvest" means to kill and bring to shore or butchering area.

(d) "Non-traditional weapons" means any instrument that could be used to harvest a bowhead whale that is not a traditional weapon.

(e) "Traditional weapon" means a harpoon with line attached, darting gun, shoulder gun, lance or any other weapon approved by the AEWC as such a weapon in order to improve the efficiency of the bowhead whale harvest.

(i) "Harpoon with line attached" means a harpoon with a rotating head which is attached to a line and float and which has no explosive charge. (See Figures 7 and 8 of Appendix E of the FEIS on the International Whaling Commission's Deletion of Native Exemption for the Subsistence Harvest of Bowhead Whales. (October, 1977) (hereafter FEIS)

(ii) "Darting gun harpoon" means a harpoon with an explosive charge and with a line and float attached. (See Appendix E of the FEIS in Figure 4)

(iii) "Shoulder gun" means a whaling gun, adapted from the era of commercial whaling in the 19th Century, which has an explosive charge and which has no attached line and float. (See Appendix E of the FEIS in Figure 5)

(iv) "Lance" means a non-explosive sharply pointed weapon without a harpoon head.

(f) "Whaling crew" means those persons who participate directly in the harvest or attempted harvest of the bowhead whale and are under the supervision of a captain.

(g) "Whaling village" means the Alaska Eskimo village in which resides a whaling captain and crew which participate in the harvest of bowhead whales and which is represented by a Commissioner of the AEWC.

(h) "Whaling season" means customary period of time during which the bowhead whale is harvested, either in the Spring of Fall.

§ 100.22 Registration

(a) Each captain shall register with the AEWC on forms provided by the AEWC for that purpose which discloses his name, address, age, qualifications as captain, names of the crew members, name(s) of harpooner(s), and his willingness to abide by the regulations of the AEWC and to require his crew to abide by those regulations.

(b) The AEWC shall take into account any reading or language difficulties in developing procedures and forms for registration.

§ 100.23 Reports

(a) Each whaling captain shall be responsible for keeping a written record of the number of whales:

(1) Attempted to be harvested by using traditional weapons but not harvested,

(2) Harvested by the captain or his crew, and

(3) Sighted by the captain or his crew.

(b) Each whaling captain shall report the date, place, and time of any striking not resulting in harvesting and shall describe:

(1) The size and type of the bowhead whale,

(2) Any known later attempted harvest or actual harvest of said whale,

(3) The reason for the captain or crew not harvesting the whale, i.e. environmental factors, the failure of traditional weapons, or other reason, and

(4) The condition of the whale that was not harvested.

(c) Each whaling captain shall make such other reports as the AEWC requires in order to accomplish the purposes of the regulations herein or in order to advance the scientific knowledge of the bowhead whale.

§ 100.24 Permissible Harvesting Methods

(a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.

(b) "Traditional harvesting manner" means:

(1) Only traditional weapons shall be used, as defined in § 100.21(e).

(2) The bowhead whale may be struck with a harpoon or darting gun with line and float attached or simultaneously with harpoon and shoulder gun or darting gun.

(3) The shoulder gun may be used.

(i) When accompanied by harpoon with or without a darting gun,

(ii) After a line has been secured to the bowhead whale, or

(iii) When pursuing a wounded bowhead whale with a float attached to it.

(4) The lance may be used after a line has been secured to the bowhead whale.

1981 Amendment (August 11, 1981)

§ 100.24 Permissible Harvesting Methods

(a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.

(b) "Traditional harvesting manner" means:

(1) Only traditional weapons shall be used, as defined in § 100.21(e).

(2) The bowhead whale may be struck with a harpoon or darting gun with line and float attached.

(3) The shoulder gun may be used

(i) After a line has been secured to the bowhead whale, or

(ii) When pursuing a wounded bowhead whale with a float attached to it.

(4) The lance may be used after a line has been secured to the bowhead whale.

§ 100.25 Traditional Proprietary Claim

The bowhead whale shall belong to the captain and crew which first strikes the bowhead whale in the manner described in § 100.24.

§ 100.26 Level of Harvest

(a) The AEWC shall establish the levels of harvest or attempted harvest for each whaling village during each season or seasons.

(b) In establishing the levels of harvest or attempted harvest, the AWEC shall consult with each whaling village.

§ 100.31 Denial of Participation in Harvest

(a) Any person who the AEWC determines has violated the regulations contained herein shall, after opportunity for a hearing before the AWEC, be prohibited from harvesting or attempting to harvest the bowhead whale for a period of not less than one whaling season nor more than five whaling seasons.

(b) Any person who violates the regulations contained herein shall be subject to a fine of not less than $1,000 nor more than $10,000 as assessed by the AEWC. No person shall harvest or attempt to harvest the bowhead whale until such fine has been paid.

AEWC Regulations for the 1981 Whaling Season

A. Under authority of § 100.26 of the AEWC Management Plan, the AEWC establishes levels of attempted harvest (strikes) for bowhead whales for each whaling village during the 1981 season as follows:

Savoonga	3
Gambell	3
Kivalina	2
Wales	1
Pt. Hope	5
Wainwright	4
Barrow	10
Kaktovik	3
Nuiqsut	1
Total	32

B. Under authority of § 100.11(c) of the AEWC Management Plan, the AEWC prohibits any whaling captain in any whaling village from whaling for any calf or any bowhead whale accompanied by a calf.

AEWC Regulations for the 1982 Whaling Season

A. Under authority of § 100.26 of the AEWC Management Plan, the AEWC establishes levels of attempted harvest (strikes) for bowhead whales for each whaling village during the 1982 season as follows:

1. Savoonga	2
Gambell	2
Kivalina	1
Wales	1
Pt. Hope	3
Wainwright	2
Barrow	5
Kaktovik	2
Nuiqsut	1
Total	19

2. Kivalina is authorized to transfer any unused strike to Point Hope. The AEWC may make any other transfers it deems appropriate by majority vote of its Commissioners in a telephone poll conducted for that purpose. The AEWC recognizes the hardship imposed on Nuiqsut during the fall of 1981 and will be sympathetic to any requirement for a transfer of an unused strike. Any other unused strikes from the Spring Hunt not otherwise transferred and any unused strikes from Fall Hunt whaling villages that have ceased hunting shall be transferred to Barrow for the Fall Hunt.

B. Under authority of § 100.11(c) of the AEWC Management Plan, the AEWC

prohibits any whaling captains in any whaling village from whaling for any calf or any bowhead whale accompanied by a calf.

C. The AEWC hereby provides that whaling captains and crews will use their best efforts to land every whale that it struck and strike whales that are under 12 meters (approximately 39 feet) and presumed to be sexually immature.

D. Because the IWC has requested the AEWC to reduce the number of whales struck but not landed to zero as quickly as possible, the AEWC will pay a civil monetary assessment for any whales landed in excess of 16 but not in excess of 19.

[FR Doc. 82-12662 Filed 5-6-82; 11:30 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

Intergovernmental Personnel Act Programs: Standards for a Merit System of Personnel Administration

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) proposes to issue revised Standards for a Merit System of Personnel Administration. The revision would: (1) Better implement the requirement of the Intergovernmental Personnel Act to minimize Federal intervention in State and local personnel administration; (2) Remove unnecessarily burdensome and costly restrictions on State and local merit personnel systems; (3) Effect cost savings by eliminating the need for dual personnel systems that the existing Standards have forced some State and local governments to maintain; (4) Recognize the voluntary progress of State and local governments, over the years, in implementing the intent of the Standards thus making detailed Federal requirements no longer necessary; (5) Encourage innovation and allow for diversity in merit systems as required in the Intergovernmental Personnel Act; (6) Recognize fully the rights, powers, and responsibilities of State and local government; (7) Provide State and local governments more flexibility in administering their merit personnel systems, while maintaining protections where there is a Federal interest in promoting proper and efficient administration of Federal grants.

Under this revision, OPM will adopt the merit principles of the Intergovernmental Personnel Act as the basic personnel management requirements for administering all Federal grant assistance programs that require, by statute or by regulation, that the State or local agency receiving the grant maintain a merit system of personnel administration. These standards recognize equal employment opportunity requirements insofar as they apply by statute to State and local jurisdictions under Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the State and Local Fiscal Assistance Act and other relevant laws. Consistent with merit principles, affirmative actions shall be pursued, where necessary, to overcome barriers to equal employment opportunity.

DATES: Comments must be received on or before July 12, 1982.

ADDRESS: Send or deliver comments to: U.S. Office of Personnel Management, Office of Planning and Evaluation, 1900 E Street, N.W., Room 7R48, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Dr. Michael Sanera, (202) 254–3134.

SUPPLEMENTARY INFORMATION: Under Section 208(a) of the Intergovernmental Personnel Act, as amended, the U.S. Office of Personnel Management (OPM) is responsible for prescribing personnel standards which are to be followed by State and local governments as a condition of participation in Federal assistance programs which require systems of personnel administration on a merit basis for persons engaged in carrying out such programs.

On February 16, 1979, OPM exercised the authority contained in Section 208(a) and published a revision of the Merit Systems Standards. These Standards now appear at 5 CFR 900 Subpart F.

While the 1979 revision had as one of its purposes the removal of unnecessarily detailed and restrictive material, the final background statement and regulations and guidelines were over 25 pages in length in the Federal Register. Consistent with OPM's experience with State and local government implementation of the intent of the Standards, the requirement of the Intergovernmental Personnel Act itself that Federal intervention be minimized, and the President's goal to reduce unnecessary regulatory burdens on State and local governments, the Standards have been carefully reviewed again to identify unnecessary requirements.

As a result of this review, it has been determined that the basic merit principles of the Intergovernmental Personnel Act contain the essential elements needed to assure merit personnel administration in the operation of those Federal assistance programs which require it.

These merit principles are currently incorporated in the Standards, but are accompanied by a considerable number of other requirements and guides. Therefore, it has been possible to achieve the purposes of the Intergovernmental Personnel Act while, at the same time, making a major reduction in the regulations by removing most of the existing detailed provisions except for the basic merit principles themselves.

The approach to administration of the Standards, in this proposal, is predominantly reliance on self-certification of compliance by State and local chief executives. The proposal affirms the responsibility of chief executives to assure compliance of their jurisdictions with the Standards. The proposal further specifies that OPM will assist chief executives in resolving issues of compliance, and that Office only may provide recommendations to the responsible Federal grantor agency.

The proposal deletes from the existing Standards, Appendix B, the Uniform Guidelines on Employee Selection Procedures (1978). This appendix has been deleted because the Guidelines are included in other regulations which apply to agencies of State and local governments, namely 29 CFR Part 1607, 41 CFR Part 60.3, and 28 CFR 50.14. To include the Guidelines in this proposal would result in unnecessary regulatory duplication.

This regulation will reduce reporting and other requirements now imposed on governmental jurisdictions that receive grants under numerous Federal assistance programs.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 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 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 the ability of United States-based enterprises to compete with foreign-based interprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdicitions.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

List of Subjects in 5 CFR Part 900

Administrative practice and procedure, Civil rights, Equal employment opportunity, Government employees, Grant programs-education, Handicapped, Intergovernmental relations.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 900 by revising Subpart F to read as follows:

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

* * * * *

Subpart F—Standards for a Merit System of Personnel Administration

Sec.

900.601 Purpose.
900.602 Applicability.
900.603 Standards for a Merit System of Personal Administration.
900.604 Compliance.
900.605 Establishing a Merit Requirement.
Appendix A The Standards for a Merit System of Personnel Administration.

Authority: 42 USC 4728, 4763; E.O. 11589, 3 CFR 557 (1971–1975 Compliation).

§ 900.601 Purpose.

(a) The purpose of these regulations is to implement provision of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and local governmental and encourages innovation and allows for diversity among State and local governments in the design, execution, and management of their systems of personnel administration.

(b) Certain Federal grants programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal grants statutes and in other cases are required by regulations of the Federal grantor agencies. Title II of the Act gives the U.S. Office of Personnel Management authority to prescribe standards for these Federally required merit personnel systems.

§ 900.602 Applicability.

(a) Sections 900.603–604 apply to those State and local governments that are required to operate merit personnel systems as a conditions of eligibility for Federal assistance or participation in an intergovernmental program. Merit personnel systems are required for State and local personnel engaged in the administration of assistance and other intergovernmental programs, irrespective of the source of funds for their salaries, where Federal laws or regulations require the establishement and maintenance of such systems. A reasonable number of positions may be exempted from merit personnel system coverage where such exemption would not substantially affect proper and efficient administration of the affected Federal assistance programs.

(b) Section 900.605 applies to Federal agencies that operate Federal assistance or intergovernmental programs.

§ 900.603 Standards for a Merit System of Personnel Administration.

The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as—

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring non-discrimination for applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or handicap and with proper regard for their privacy and constitutional rights as citizens.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

§ 900.604 Compliance.

(a) *Certification by Chief Executives.* (1) Certification of agreement by the chief executives of State or local jurisdictions to maintain a system of personnel administration in conformance with these Standards meets the merit personnel requirements of the Federal assistance or other programs to which personnel standards on a merit basis are applicable.

(2) States will maintain these certifications and make them available, on request, to the Office of Personnel Management or Federal grantor agencies.

(3) The Governor may designate an agency or agencies to supervise certifications from local chief executives and make them available, on request, to Federal grantor agencies or the Office of Personnel Management.

(4) If no State agency supervises local government administration, local governments will maintain the certifications and make them available to Federal grantor agencies or the Office of Personnel Management, on request.

(5) In the absence of certification by the chief executive, assurance as to compliance with the Standards may be effected by certification from the heads of those State and local agencies that are required to have merit personnel systems as a condition of Federal assistance or other intergovernmental programs.

(b) Resolution of Compliance Issues. (1) Chief executives of State and local jurisdictions operating covered programs are responsible for supervising compliance of their jurisdictions with the Standards. They shall resolve all questions regarding compliance of their jurisdictions with the Standards. Findings and supporting documentation with regard to specific compliance issues shall be maintained by the chief executive, or a personal designee, and shall be forwarded, on request, to the Office of Personnel Management or the Federal grantor agency responsible for the program in question.

(2) The merit principles apply to systems of personnel administration. The Intergovernmental Personnel Act does not authorize OPM to exercise any authority, direction, or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employees.

(3) If a chief executive is unable to resolve a compliance issue to the

satisfaction of the Office of Personnel Management, that Office will assist the Chief executive in resolving the issue, and that Office only may provide recommendations to the responsibile Federal grantor agency.

§ 900.605 Establishing a Merit Requirement.

Federal agencies may adopt regulations that require the establishment of a merit personnel system as a condition for receiving Federal assistance or otherwise participating in an intergovernmental program only with the prior approval of the Office of Personnel Management.

Appendix A—The Standards for a Merit System of Personnel Administration

Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.

Program, Legislation, and Statutory Reference

Food Stamp, Food Stamp Act of 1977, as amended; 7 U.S.C. 2020(e)(6)(B).

National Health Planning and Resources Development, Public Health Service Act (Title XV), as amended by the National Health Planning and Resources Development Act of 1974, § 1522, on January 2, 1975; 42 U.S.C. 300m–1(b)(4)(B).

Old-Age Assistance, Social Security Act (Title I), as amended by the Social Security Act Amendments of 1939, § 101, on August 10, 1939; 42 U.S.C. 302(a)(5)(A).

Employment Security (Unemployment Insurance and Employment Service), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, § 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Pub. L. 8–775, § 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).

Aid to Families With Dependent Children, Social Security Act (Title IV–A), as amended by the Social Security Act Amendments of 1939, § 401, on August 10, 1939; 42 U.S.C. 602(a)(5).

Aid to the Blind, Social Security Act (Title X), as amended by the Social Security Act Amendments of 1939, § 701, on August 10, 1939; 42 U.S.C. 1202(a)(5)(A).

Aid to the Permanently and Totally Disabled, Social Security Act (Title XIV), as amended by the Social Security Act Amendments of 1950, § 1402, on August 28, 1950; 42 U.S.C. 1352(a)(5)(A).

Aid to the Aged, Blind or Disabled, Social Security Act (Title XVI), as amended by the Public Welfare Amendments of 1962, § 1602, on July 25, 1962; 42 U.S.C. 1382(a)(5)(A).

Medical Assistance (Medicaid), Social Security Act (Title XIX), as amended by the Social Security Amendments of 1965, § 1902, on July 30, 1965; 42 U.S.C. 1396(a)(4)(A).

State and Community Programs on Aging (Older Americans), Older Americans Act of 1965 (Title III), as amended by the Comprehensive Older Americans Act Amendments of 1978, § 307 on October 18, 1978; 42 U.S.C. 3027(a)(4).

Adoption Assistance and Foster Care, Adoption Assistance and Child Welfare Act of 1980; 42 U.S.C. 671(a)(5).

Part II: The following programs have a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis.

Program, Legislation, and Regulatory Reference

Occupational Safety and Health Standards, William-Steiger Occupational Safety and Health Act of 1970; Occupational Safety and Health State Plans for the Development and Enforcement of State Standards; Department of Labor, 29 CFR § 1902.3(h).

Occupational Safety and Health Statistics, William-Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.

Child Welfare Services, Social Security Act (Title IV–B); 45 CFR § 1392.49(c).

Developmental Disabilities Services and Facilities Construction, Developmental Disabilities Services and Facilities Construction Act, as amended by Pub. L. 95–602, on November 6, 1978; 45 CFR § 1386.21.

Emergency Management Assistance, Civil Defense Act of 1950 (Title II), as amended; 44 CFR § 302.5.

Comprehensive Employment and Training Act, Comprehensive Employment and Training Act of 1973; 29 CFR § 98.14(a).

Part III: The following programs have personnel requirements which may be met by a merit system which conforms to the Standards for Merit System of Personnel Administration.

Program Legislation, and Reference

Disability Determination Services, Social Security Act (Titles II and XVI), as amended; SSA Disability Insurance State Manual, Part IV, § 425.1.

Health Insurance for the Aged (Medicare), Social Security Act (Title XVIII), especially as amended by the Health Insurance for the Aged Act, on July 30, 1965; SSA State Operations Manual, Part IV § 4510(a).

[FR Doc. 82–12907 Filed 5–10–82; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Elimination of Cost as a Factor for Reimbursement to Child Care Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is amending the Child Care Food Program (CCFP) regulations to allow State agencies the option to eliminate costs as a factor in reimbursement to child care centers. However, State agencies can still elect to reimburse these institutions according to the lesser of costs or meals times rates. The method chosen by the State agency must be applied to all institutions participating in the CCFP in that State. The State agencies shall also be responsible for reviewing and monitoring the institution's nonprofit food services and the net cash resources of the participating CCFP institutions. This rule also includes definitions of net cash resources and nonprofit food service. This amendment is authorized by Pub. L. 97–35, the Omnibus Reconciliation Act of 1981, enacted August 13, 1981.

DATE: The Department is establishing a 60-day comment period. Comments must be received on or before July 12, 1982 to be assured of consideration for the final rule.

ADDRESS: Written comments should be sent to Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

The Draft Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request at the above address. Copies of all written comments will be available for review during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Benderly or Ms. Walstrom at the above address or by telephone at (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification: This proposed rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete.

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Changes Necessitated by the Omnibus Reconciliation Act of 1981

The CCFP is authorized by section 17 of the National School Lunch Act, which was amended August 13, 1981, by Pub. L. 97–35, the Omnibus Reconciliation Act of 1981. Section 819(k) of Pub. L. 97–35 which amends section 17(f), eliminates the requirement that reimbursement to institutions be limited to the cost of producing the meals served.

To comply with the mandate of the law, the Department is proposing to amend 7 CFR 226.2, 226.6(k), 226.7(b), 226.9(c), 226.11(d), 226.15(e), and 226.16(h) of the CCFP regulations to remove the references to costs as a limiting factor on payments, to define net cash resources and nonprofit food service. The proposed requirement as defined by the new definitions would require participating institutions to maintain revenue and expenditure records in order to substantiate the nonprofit status of their food service. The proposed rule would also require State agencies to monitor and review the CCFP institutions' net cash resources to ensure that the resources do not exceed three months' operating cost. The requirement that State agencies establish and maintain financial management systems conforming the standards enumerated in the Departmental regulations (7 CFR Part 3015, Subpart H) remains in effect. The Department will no longer require the centers to report their operating costs on the monthly claim for reimbursement. Effective January 1, 1982, States were able to determine the method of reimbursement to centers: (1) Meals by type times the appropriate rate of reimbursement or (2) meals by type times the appropriate rate of reimbursement or costs, whichever is lesser. If the States chose option one, it would provide the State agencies with added flexibility in Program operations. However, institutions would still be required to maintain records to justify the nonprofit status of their food service programs. Whichever method the State elects to use, it must be applied to all institutions participating in the CCFP in that State. Furthermore, this proposal would give the State agencies the capability of ensuring the nonprofit status of the institution's food service.

The proposed amendments to 7 CFR Part 226 involve the following provisions of the Child Care Food Program:

1. Definitions of net cash resources and nonprofit food service. The proposed rule amends § 226.2 to include a definition of net cash resources and will require State agencies to monitor the net cash resources available to each institution's food service. Net cash resources at any time would include but not be limited to cash on hand, cash receivable (Program payments-reimbursements, advances, start-ups) or income to the Program. The value of food inventories would not be included in net cash resources.

Section 226.2 is also amended to include the definition of nonprofit food service. While institutions have always been required to maintain a nonprofit food service program, the Department believes that, in view of the elimination of the Federal requirement to report cost for reimbursement, it was appropriate to define nonprofit food service. Nonprofit food service would incorporate all food service operations conducted by the institution principally for the benefit of enrolled children. The requirement that an institution's food service be nonprofit would be implemented by determined the financial status of the entire food service of the institution rather than the financial status of the Program alone. Institutions would be required to maintain revenue and expenditure records for their nonprofit food service and State agencies would be responsible for determine the manner in which records are maintained.

State agencies would be given the flexibility to determine: (1) When and how to monitor net cash resources for each institution to determine that the resources do not exceed three month's normal operating cost for the nonprofit food services; (2) when and how to monitor revenue and expenditure records to determine the food service's nonprofit status; (3) whether the resources accruing to the food service are in excess of three months' normal operating cost; and (4) whether corrective actions are necessary. As part of its ongoing management evaluation process, FNS would review each State agency's system for monitoring and controlling the net cash resources of the institutions participating in the Program.

2. Financial management requirements. Section 226.6 is amended to revise paragraph (k). This subparagraph requires the State agencies, as part of their Program review of financial management standards, to also review the net cash resources.

3. Monitoring nonprofit food service. Section 226.7(b) is amended to add subparagraph (8). This subparagraph establishes the State agencies' responsibility to monitor the net cash resources and nonprofit food service programs of participating institutions. In the event such resources are in excess of three month's normal operating cost, the State agencies would be required to take corrective actions.

4. Assignment of rates of reimbursement for centers. Section 226.9(c) is being eliminated. The purpose of this section has been to allow State agencies to reassign payment rates for lunches and suppers claimed on an institution's final claim for the fiscal year. With the elimination of the Federal requirement that reimbursement include a comparison of costs to rates, this purpose is no longer served.

5. Program payments for child care centers and outside-school-hours care centers. Section 226.11(d) is being amended to emphasize that State agencies may elect to reimburse institutions on the basis of cost; however, the Federal requirement to do so has been eliminated.

6. Institution provisions. Section 226.15(e) is being amended to add a new paragraph to require the institutions as part of their established recordkeeping procedures to collect and maintain documentation of their net cash resources to ensure that the level of resources does not exceed three months' normal operating cost of the nonprofit food service.

7. Sponsoring organization provisions. The last phrase of § 226.16(h) is being amended to eliminate the reference to Program costs as a limiting factor in reimbursing child care centers.

Participating institutions will be required to maintain records of revenue and expenditures for food service for review and audit purposes, regardless of the manner in which the State agency elects to reimburse them. Further, this rule will not prohibit State agencies which do not reimburse according to costs from requiring that related Program costs be entered on the claim for reimbursement. This information may be necessary to the States as a means of targeting technical assistance needs, planning audit activity, and monitoring programs' nonprofit status.

PART 226—CHILD CASE FOOD PROGRAM

Accordingly, the Department is amending 7 CFR Part 226 as follows:

1. Section 226.2 is amended to include definitions of "net cash resources" and "nonprofit food service", to read as follows:

§ 226.2 Definitions.

* * * * *

"Net cash resources" means all monies that are available to an institution's nonprofit food service at any given time. Such monies include, but are not limited to, cash on hand, cash receivable (Program payments-reimbursements, advances, start-ups) or income to the Program.

"Nonprofit food services" means all food service operations conducted by the institution principally for the benefit of enrolled children, all of the revenue from which is used solely for the operation or improvement of such food service.

* * * * *

2. Section 226.6, paragraph (k), the third sentence is revised to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(k) *Program Assistance.* * * * Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards including net cash resources, and nondiscrimination regulations. * * *

* * * * *

3. Section 226.7 paragraph (b) is amended by adding a new paragraph (8), to read as follows:

§ 226.7 State agency responsibilities for fianancial management.

* * * * *

(b) *State level responsibilities.* * * *

(8) State agencies, or FNSROs where applicable, shall have a system in place for monitoring and reviewing the nonprofit status of institutions' food service programs and the net cash resources to ensure that the institution has not exceeded three months normal operating cost. In the even that such resources exceed the three months normal operating cost, the State agency or FNSRO where applicable, may require the institution to reduce children's prices, improve food quality, or take other actions designed to improve the status of the nonprofit food service.

* * * * *

§ 226.9 [Amended]

4. Section 226.9(c) is removed.

5. Section 226.11(d) is revised to read as follows:

§ 226.11 Program payments for child care centers and outside-school-hours care centers.

* * * * *

(d) Reimbursement paid to any institution for meals served to children during the fiscal year shall not exceed the sum of the products obtained by multiplying the total number of free, reduced price and paid meals, respectively, served to eligible children during the fiscal year by the applicable rate for each meal type.

6. Section 226.15 paragraph (e) is amended by removing the period at the end of paragraph (10) and adding a semi-colon and adding a new paragraph (11), to read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) *Recordkeeping.* * * *

(11) Documentation of net cash resources to ensure that the level of resources does not exceed three months normal operating cost for its nonprofit food service.

* * * * *

7. Section 226.16(h) is revised to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(h) Disbursements from sponsoring organizations for child care centers or outside-school-hours care centers shall be made within fifteen working days of receipt of payment, on the basis of the management plan approved by the State agency.

* * * * *

(Secs. 810 and 820, Public Law 97-35, the Omnibus Reconciliation Act of 1981. Sec. 2, Pub. L. 95-627, Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1979))

Dated: May 6, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-12747 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1033

Milk in Ohio Valley Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Ohio Valley Federal milk order. The action was requested by a proprietary handler operating five distributing plants pooled under the order. It would suspend for the months of May through August 1982 the requirement that a distributing plant dispose of not less than 45 percent of its receipts as route disposition in order to be a pool plant.

DATE: Comments are due on or before May 18, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

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

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures and the inclusion of May 1982 in the suspension period if this is found necessary. The request for the action was received April 30, 1982.

William T. Manley, Acting Administrator, Agricultural Marketing

Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Ohio Valley marketing area is being considered for May 1982 through August 1982:

In § 1033.12, paragraph (a)(2).

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 18, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include May 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for May 1982 through August 1982 the provision requiring a distributing plant to dispose of not less than 45 percent of its receipts as route disposition during the months of March through August in order to remain pooled. The suspension was requested by Beatrice Foods Co., a proprietary handler which operates five pool distributing plants under the order.

In support of its request, Beatrice cites producer milk deliveries in the Ohio Valley market which are increasing both seasonally and over the levels of previous years. At the same time milk production is at its seasonal peak, Beatrice anticipates a decline in Class I disposition from its plants due to summer closure of schools and the resulting loss of fluid milk sales to schools.

For the first three months of 1982, producer milk pooled on the Ohio Valley order increased nearly 1 percent over production during the same period in 1981 while producer milk allocated to Class I for the same period declined 1.4 percent from the level of the previous year. With these trends of increasing production and declining Class I use, Beatrice states that it expects that less than 45 percent of the milk regularly associated with its distributing plants will be needed to meet its route disposition requirements in the months of May through August this year.

In the absence of suspension action, Beatrice indicated that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling its distributing plants and the milk of dairy farmers who regularly have supplied the fluid milk needs of the market.

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 5, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-12709 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes: Uniform Minimum Admission Period for Admissible Visitors

AGENCY: Immigration and Naturalization Service.

ACTION: Proposed rule.

SUMMARY: INS proposes to amend 8 CFR 214.2(b) to provide that temporary visitors for pleasure in possession of nonimmigrant visas who are found admissible to the United States are admitted for a uniform minimum period of six months. This amendment will save the Government over $625,000 now being expended annually on the adjudication of routine extension of stay applications filed by temporary visitors who were admitted for less than six months. It will allow INS to instead concentrate these resources on reducing backlogs of other more important cases, such as relative and temporary worker petitions. Additionally, the rule will eliminate the need for 140,000–150,000 visitors to apply to INS for extension of stay each year.

DATE: Written comments will be considered if received on or before June 10, 1982.

ADDRESS: Please submit comments, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

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

For specific information: Roger J. Lucas, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536. Telephone: (202) 633–3242.

SUPPLEMENTARY INFORMATION: The proposed amendment to 8 CFR Part 214 will modify the existing rule concerning the period of admission granted to admissible visitors for pleasure. INS has determined that 93% of all visaed visitors for pleasure (B–2's) it admits are admitted for six months or less, and that the average period of admission is 3.8 months. We have found that of those visitors who file applications for extensions of their initial admission, 50% wished to remain in the United States for a combined period of six months or less (period of initial admission plus period of requested extension).

Based on these data, we estimate that we can reduce the INS extension of stay workload by 50%, or 140,000–150,000 cases annually by adopting a uniform six-month admission policy for admissible B–2 visitors with visas. In addition to the positive effect this reduction of workload will have on the ability of INS to deliver other, more significant immigration benefits, major administrative savings also will be realized because INS will annually have 140,000–150,000 fewer cases to service, store, retrieve, file, and generate resource-consuming status inquiries and complaints of delay.

There are three major issues relating to the adoption of a uniform six month admission policy for admissible B–2 visitors for pleasure. The first is that the policy will reduce the level of control INS now exerts over these visitors. While lessened control over temporary visitors will result from the proposal, INS believes that the current policy exerts excessive control in view of the relative risk of status violations which visaed visitors present. Before being admitted, visitors are screened twice, once by State Department officers abroad and then by INS officers at the United States port of entry. Virtually all visitors with visas are found admissible, and approximately 95% of those who subsequently apply to INS for extensions of their initial admissions are routinely granted this benefit. In view of these facts, INS has determined that the degree and cost of the control it now exerts over B–2 visitors is unwarranted

and should be adjusted to correspond to the actual need for control.

While some "temporary visitors for pleasure" enter the United States to work or immigrate, contrary to the purpose for which they were granted B–2 visas, the cost to the Government of attempting to control these aliens through nonstandard periods of admission and the extension of stay process cannot be justified because of their proportionately insignificant numbers. Nor can it be justified operationally because these mala fide visitors do not generally apply to INS for extensions of stay once they gain entry. Thus, the current INS admission policy exerts its primary control over the very large number of law abiding visitors who do not need Government control, and fails to control the relatively few violators who do. Attempting to control the relatively few violators by imposing extension of stay requirements on *all* visitors is not only costly but ineffective.

The second issue is that adoption of the uniform admission policy would entice lawful visitors for pleasure to violate their status. It should be pointed out that the policy would only apply to admissible visitors. Visitors who voluntarily withdraw their applications for admission to the United States and those who are excluded would obviously not be affected. The proposed rule thus focuses on the most bona fide members of an already low risk group.

INS believes that legitimate visitors who, for example, plan to come to the United States for only four months, arrange an itinerary for only four months, and bring funds for only four months, would not feel compelled or enticed to stay here longer simply because INS admitted them for six months instead of four. But even if a uniform six month admission did prompt any of these visitors to stay here longer, that fact would not be of any concern as long as they continued to maintain lawful status.

A six-month period of admission is similarly of little consequence to visitors who violate status. These aliens have but a single purpose in mind when applying for admission, to be *admitted.* The length of their admission is irrelevant; it makes no difference to them whether they are admitted for six months under the proposed policy or six days under the current policy, as long as they are admitted. Once admitted, these aliens will take up unauthorized employment, begin the immigration process, or otherwise fulfill their true purpose for coming here. As to these aliens, they only effective deterrent to violating status is exclusion, because an extremely short period of admission satisfies their purposes just as effectively as a longer one. Furthermore, as soon as any visitor for pleasure violates status, he or she immediately becomes deportable, regardless of length of admission.

The third major issue raised with respect to the uniform admission policy is that it would eliminate the inspecting officer's discretion to fix the individual period of admission for every visitor. A uniform six-month admission period will not affect the officer's discretion to make the basic determination of whether or not the visitor is admissible. Under the proposed rule, the inspecting officer will be required to question the visitor as to the purpose of stay, sufficiency of funds, validity of documents, and other relevant matters. The officer will also be required to question the applicant regarding the length of proposed stay.

But the period of stay the visitor requests or is granted actually bears little relationship to the basic issue of admissibility. This can be readily demonstrated by a scenario which takes place thousands of times daily at United States ports of entry. A visitor for pleasure applies for admission and requests, for instance, three months (the actual period of time requested is irrelevant for the purposes of this analysis). Upon questioning, the inspecting officer decides that the visitor is otherwise admissible, but believes that the visitor has neither the need nor the finances to stay here for a full three months. But simply because the visitor may not be admissible for the full period requested does not mean that he or she is automatically inadmissible. In other words, just because the visitor has failed to satisfy the inspecting officer that he or she is admissible for three months, the visitor is not placed under exclusion proceedings. On the contrary, because the visitor is otherwise admissible, he or she is usually admitted for that lesser period of time which the officer in his or her discretion decides is appropriate. The point is not that this visitor is admitted for only three weeks instead of three months, but that he or she is *admitted.* Once a bona fide visitor is admitted, INS almost always grants his or her subsequent request for extension of stay; and once a violator is admitted, the damage has already been done.

It is the visitor's admission, not period of admission, which is paramount. The fact remains that most visitors who apply to INS for extension routinely receive it, and that violators do not generally apply anyway. But even if they did, they would certainly not enumerate on their applications the circumstances which make them mala fide, e.g., working illegally, engaging in criminal activity, etc. Thus, while admitting visitors for non-standard periods of time may seem like a useful practice, in effect it is not. In fact, its primary effect is that it causes tens of thousands of lawful temporary visitors to file extension of stay applications with INS, nearly all of which are routinely approved.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule, if promulgated, will not have significant impact on a substantial number of small entities. The proposed rule will not be a major rule as defined in section 1(b) of E.O. 12291. It will not have an effect on the economy of $100 million or more; result in an increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or have a significant adverse effect 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.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports and visas.

In view of the foregoing, the following amendment is proposed to chapter I of Title 8 of the Code of Federal Regulations:

PART 214—NONIMMIGRANT CLASSES

1. It proposed to revise 8 CFR 214.2(b) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(b) *Visitors*—(1) *General.* Any B–1 visitor for business or B–2 visitor for pleasure may be admitted for not more than one year and may be granted extensions of a temporary stay in increments not exceeding six months each.

(2) *Minimum six month admissions.* Any B–2 visitor who is found otherwise admissible and issued a Form I–94, will be admitted for a minimum period of six months, regardless of whether less time is requested, *provided,* that any required passport is valid as specified in section 212(a)(26) of the Act. Exceptions to the minimum six month admission may be made only in individual cases upon the specific approval of the district director for good cause.

(Secs. 103, 214 of the I&N Act, as amended; 8 U.S.C. 1102, 8 U.S.C. 1184)

Dated: April 28, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82-12753 Filed 5-10-82; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

Certification of Industrial Radiographers; Public Meetings

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meetings.

SUMMARY: The NRC published in the Federal Register on May 4, 1982 (47 FR 19152), an advance notice of proposed rulemaking concerning certification of radiographers. In the notice, the NRC presented a third-party certification program as an alternative to the present system of permitting radiography licenses to train and to designate individuals as radiographers. In order to obtain broader public input, the NRC is supplementing the advance notice with a series of public meetings. This notice provides the dates, locations and times of the public meetings.

DATES: See Supplementary Information for dates of meetings.

ADDRESSES: See Supplementary Information for meeting locations.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Jones, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5970.

SUPPLEMENTARY INFORMATION: Public meetings on the advance notice of proposed rulemaking on certification of industrial radiographers will be held on the dates and at the locations listed below:

Tuesday, June 8, 1982, Atlanta, GA. Location: Colony Square Hotel, Peachtree and 14th Street. Time: 9:00 a.m. to 5:00 p.m.

Thursday, June 10, 1982, Houston, TX. Location: University of Texas, School of Public Health Auditorium, 12000 Hermann Pressler Boulevard (Address may be listed on older maps as 6905 Bertner Avenue). Time: 9:00 a.m. to 5:00 p.m.

Tuesday, June 15, 1982, Oakland, CA. Location: Hyatt Oakland Hotel, 455 Hegenberger Road. Time: 9:00 a.m. to 5:00 p.m.

Thursday, June 17, 1982, Chicago, IL. Location: Americana Congress Hotel, 520 S. Michigan Avenue. Time: 9:00 a.m. to 5:00 p.m.

Wednesday, June 23, 1982, Washington, D.C. Location: General Services Administration Auditorium, 18th and F Street, N.W. Time: 9:00 a.m. to 4:30 p.m.

Persons wishing to make an oral presentation should contact Mr. Jones by May 25, 1982 either in writing or by telephone. The following information is required: (1) Names of participants; (2) length of oral presentation (not to exceed 15 minutes, written presentation of any length may be submitted at any time); (3) organization represented, if any; and (4) daytime telephone number. Arrangements may also be made at the time of the meeting on a time-available basis.

Dated at Washington, D.C. this 30th day of April, 1982.

For the Nuclear Regulatory Commission.

Robert E. Alexander,

Chief, Occupational Radiation Protection Branch, Office of Nuclear Regulatory Research.

[FR Doc. 82-12796 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 215, 235, 236 and 812

[Docket No. R-82-974]

Restriction on Use of Assisted Housing

Correction

In FR Doc. 82-11840, appearing in the issue of Monday, May 3, 1982, at page 18914, make the following changes:

1. On page 18914, in the first column, the Docket No. should read "[Docket No. R-82-974]";

2. On page 18914, in the first column, the last word in the first line of the SUMMARY: should be "812";

3. On page 18914, in the second column, the 12th line from the top, change "190" to "1980"; and in the same column, the 15th line change "191" to "1981";

4. On page 18914, the second column, change the date in the DATE: line to read June 2, 1982;

5. On page 18914, in the 4th line of the ADDRESSES: paragraph in column 2, change "521" to"5218";

6. On page 18914, in the second column, in the 8th line of the FOR FURTHER INFORMATION CONTACT: paragraph, change "426-730" to "426-8730";

7. On page 18914, in the second column, the 16th line of the FOR FURTHER INFORMATION CONTACT: paragraph should read "For Part 812: ";

8. The 22nd line of the same paragraph should read "(202) 755-5840.";

9. In the 3rd line of the SUPPLEMENTARY INFORMATION: paragraph in the second column on page 18914, change "190" to read "1980";

10. In the second line of the third column, on page 18914, change "191" to "1981";

11. In the third line of the first paragraph of the third column, on page 18914, change "191" to "1981";

12. In the 15th line of the same paragraph change "194" to 1948";

13. In the same paragraph, line 16, change "prsent" to "present";

14. In the same paragraph, line 24 change "190" to 1980";

15. On page 18914, in paragraph 1. in the third column, the first line should read: "1. In part 200, §§ 200.180—200.183 are";

16. On page 18915, in the first column, paragraph 3.c. in the 9th line, change "mortgate" to "mortgage";

17. On page 18918, in the first column, § 236.70, the second line of (a)(1) should read "occupancy in a project by tenant-lessees".

BILLING CODE 1505-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 204, 209, 211, 221, 228, and 235

[Docket No. R-82-979]

Mutual Mortgage Insurance and Rehabilitation Loans

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require mortgagees to pay the annual mortgage insurance premium (MIP) in installments due on or before the 10th of the month following the month in which payments are received from the mortgagors. The change would be implemented in order to comply with § 530 of the National Housing Act. Under the proposed rule mortgagees would not be relieved of the obligation to pay the annual premium should the

borrower fail to make payments into the escrow account.

DATE: Comments Due: June 10, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address. The Proposed rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 9180, Washington, D.C. 20410, Telephone (202) 755–8680. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In enacting § 530 of the National Housing Act, Congress intended to remedy two problems. First, it wanted the Insurance Funds to receive the benefit of interest on the MIP payments made by the mortgagor. Second, it intended to eliminate the financial advantages inuring to mortgagees under the present system which allows them to hold premiums in escrow until receiving the annual billing from HUD. The proposed rule would bring the Department into compliance with the intent of the law.

The proposed rule, when effective, will implement the procedures whereby mortgagees will remit all mortgage insurance premiums they hold in a lump sum and thereafter remit premiums as they receive them from the borrower. By shortening the public comment period to 30 days instead of the usual 60 days, it is anticipated that the funds will be collected within the Fiscal Year 1982. It is estimated that mortgagees hold some $200 million in premiums which, upon implementation of the new system, will be remitted to HUD for the benefit of the insurance funds. By requesting the shortened period, HUD is attempting to avoid further delays in implementing the provisions of Section 530 of the National Housing Act.

This rule would not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) have a significant adverse effect 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. It is estimated that at any given time, mortgagees hold in excess of $200 million in mortgage insurance premiums that have been collected from mortgagors but not remitted to HUD. Mortgagees would be required by the amendment to remit all such funds they hold by a specific date. Thereafter on a monthly basis, mortgagees would have to remit MIP payments promptly upon receipt from the borrower. These funds would be invested for the benefit of the Federal Government and would generate a cost avoidance of some $30 million each year. Mortgagees could be expected to be deprived of a like amount. The effect, therefore, would be below the $100 million threshold. Some additional costs to the mortgage banking industry cannot be estimated at this time because without a finalized system in place the industry cannot project the cost of converting computerized systems to the monthly remittances. Other costs, such as monthly record-keeping and increased interest rates at which mortgagees will borrow funds once the MIP funds held in escrow are removed, likewise, cannot be predicted at this time.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, that would be affected by the proposed regulation changes: 14.105, 14.108, 14.117, 14.118, 14.119, 14.120, 14.121, 14.122, 14.123, 14.133, 14.140, 14.152, 14.157, 14.161, 14.165.

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

Part 204

Mortgage insurance.

Part 209

Mortgage insurance, War housing.

Part 211

Mortgage insurance, War housing.

Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

Part 228

Federally affected areas, Defense housing, Mortgage insurance, Single family housing.

Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

Accordingly, the Department proposes to amend Chapter II of 24 CFR as follows:

PART 223—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

§ 203.44 [Amended]

1. By amending § 203.44(d) to change the "§ 203.307" reference therein to "§ 203.269".

2. By revising §§ 203.260 through 203.270 to read as follows:

§ 203.260 Amount of mortgage insurance premium (MIP).

The mortgagee shall pay to the Commissioner an initial MIP in an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the first year of amortization. After payment of the initial MIP, the mortgagee shall pay to the Commissioner an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the twelve-month period preceding each subsequent anniversary date of the beginning of amortization.

§ 203.261 Calculation of MIP.

The amount of any MIP shall be calculated in accordance with the original amortization provisions of the

mortgage, without taking into account deliquent payments, prepayments, agreements to postpone payments or agreements to recast the mortgage.

§ 203.262 Due date of MIP.

The full initial or annual MIP shall be due on the anniversity date of the beginning of amortization.

§ 203.263 Adjustment of initial MIP.

If the Mortgage Insurance Certificate was issued prior to the beginning of amortization, the initial MIP shall be adjusted to include an additional premium from the date of issuance of the Mortgage Insurance Certificate to the date of the beginning of amortization. If the Mortgage Insurance Certificate was issued in the second half of the amortization year, the initial MIP shall be adjusted to include only that part of the premium year from the date of the issuance of the Mortgage Insurance Certificate to the first anniversary date of the beginning of amortization.

§ 203.264 Payment of MIP.

(a) *Method of Payment.* The payment of any MIP under this subpart shall be made to the Commissioner by the mortgagee either in cash or debentures at par plus accrued interest.

(b) *Time of Payment.* Any portion of the MIP received by the mortgagee from the mortgagor on or after (*the effective date*) shall be paid to the Commissioner on or after the tenth day of the month following the month in which it was received, provided that the full initial or annual MIP shall be paid by the mortgagee not later than 10 days after the due date established by this part even if not collected by the mortgagee from the mortgagor.

(c) *Payment of Outstanding MIP.* All MIPs that have been collected by mortgagees from mortgagors prior to (*effective date,*) but not remitted pursuant to an annual HUD billing shall be remitted to the Commissioner not before (*effective date*), but not later than (*10 days after effective date*). All annual MIP bills received by mortgagees from HUD prior to the (*effective date*) shall be paid on their specified due dates.

§ 203.265 Mortgagee's late charge and interest.

(a) MIPs which are remitted to the Commissioner after the payment dates prescribed by §§ 203.262 and 203.264 shall include a late charge of four percent of the amount paid.

(b) In addition to the late charge provided in paragraph (a) of this section, the mortgagee shall pay interest at a rate established from time to time by the Secretary on any MIP which are remitted to the Commissioner more than 30 days after the due dates prescribed in §§203.262 and 203.264. Such interest rate shall be not less than 10 percent per annum nor more than 20 percent per annum.

§ 203.266 Period covered by MIP.

The initial MIP shall cover the period beginning with the date of the issuance of a Mortgage Insurance Certificate and ending on the next anniversary of the beginning of amortization. Subsequent premium payments shall cover the twelve-month period preceding each subsequent anniversary date.

§ 203.267 Duration of MIP.

The mortgagee shall pay MIP to the Commissioner until the deed to the Commissioner is filed for record or the contract of insurance is terminated.

§ 203.268 Pro rata payment of MIP.

(a) If the insurance contract is terminated before the due date of the initial MIP, the mortgagee shall pay a portion of the MIP prorated from the following dates to the date of termination:

(1) From the beginning of amortization if the Mortgage Insurance Certificate is issued in the first half of the amortization year, or

(2) From the date of the issuance of the Mortgage Insurance Certificate if the Certificate is issued at any time prior to the beginning of amortization or during the second half of the amortization year.

(b) If the insurance contract is terminated after the due date of the initial MIP, the mortgagee shall pay a portion of the current annual MIP prorated from the due date of the last annual MIP to the date of termination.

(c) A pro rata MIP shall not be due or payable where the mortgagee notifies the Commissioner that foreclosure or other action to acquire the property has been completed and that the property will not be conveyed to the Commissioner in exchange for insurance benefits. Any MIP due and paid after the institution of foreclosure or the date the property was otherwise acquired by the mortgagee will be refunded to the mortgagee upon receipt by the Commissioner of the notice from the mortgagee that the property will not be conveyed to the Commissioner.

§ 203.269 Open-end insurance charge.

The amount of any insured open-end advance shall be added to the average outstanding principal obligation of the mortgage for the purpose of determining the amount of MIP as provided in § 203.260 except that the initial additional charge shall be prorated to cover the period beginning with the first day of the month following the issuance of a certificate evidencing the insurance of the open-end advance and ending on the due date of the next MIP.

§ 203.270 MIP in federally impacted areas.

All of the provisions of § 203.260 shall apply to mortgages meeting the eligibility requirements of § 203.43e except that the amount of the premiums specified therein shall be calculated on the basis of one percent in lieu of one-half percent.

§§ 203.275 through 203.279 [Removed]

3. By removing §§ 203.275 through 203.279.

§§ 203.275 through 203.309 [Removed]

4. By removing §§ 203.305 through 203.309.

5. By revising § 203.433, to read as follows:

§ 203.443 Insurance premium.

All of the provisions of §§ 203.260 through 203.269 concerning mortgage insurance premiums apply to loans insured under § 203.50.

§§ 203.444 through 203.456 [Removed]

6. By removing §§ 203.444 through 203.456.

PART 204—COINSURANCE

7. By revising § 204.260 to read as follows:

§ 204.260 Mortgage insurance premiums for co-insured mortgages.

All of the provisions of §§ 203.260 through 203.269 concerning mortgage insurance premiums with respect to mortgages insured under 203(b) of the National Housing Act, apply to mortgages covering one-to-four family dwellings to be insured under 203(b) pursuant to the coinsurance authority of 244 of the National Housing Act.

§§ 204.260a through 204.268 [Removed]

8. By removing §§ 204.260a through 204.268.

PART 209—INDIVIDUAL HOMES; WAR HOUSING MORTGAGE INSURANCE [SEC. 603]

§ 209.251 [Amended]

9. By amending paragraph (a) of § 209.251 as follows:

a. "§ 203.266 Due date of initial MIP" is changed to "§ 203.262 Due date of MIP."

b. "§ 203.268 Adjustment of initial MIP" is changed to "§ 203.263 Adjustment of initial MIP."

c. "§ 203.269 Pro rata payment of initial MIP" is changed to "§ 203.268 Pro rata payment of MIP."

d. "§ 203.275 Amount of annual MIP" is removed.

e. "§ 203.276 Due date of annual MIP" is removed.

f. "§ 203.278 Pro rata payment of annual MIP" is removed.

g. "§ 203.260 Amount of Mortgage Insurance Premium (MIP)" is added.

10. By revising § 209.265 to read as follows:

§ 209.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 211—SINGLE FAMILY PROJECT LOANS; WAR HOUSING MORTGAGE INSURANCE [SEC. 611]

§ 211.251 [Amended]

11. By amending paragraph (a) of § 211.251 as follows:

a. "§ 203.266 Due date of initial MIP" is changed to "§ 203.262 Due date of MIP."

b. "§ 203.268 Adjustment of initial MIP" is changed to "§ 203.263 Adjustment of initial MIP."

c. "§ 203.269 Pro rata payment of initial MIP" is changed to "§ 203.268 Pro rata payment of MIP."

d. "§ 203.275 Amount of annual MIP" is removed.

e. "§ 203.276 Due date of annual MIP" is removed.

f. "§ 203.278 Pro rata payment of annual MIP" is removed.

g. "§ 203.260 Amount of Mortgage Insurance Premium (MIP)" is added.

12. By revising § 211.265 to read as follows:

§ 211.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.251 [Amended]

13. By amending paragraph (a) of § 221.251 as follows:

a. "§ 203.260 Method of payment of MIP" is changed to "§ 203.264 Payment of MIP."

b. "§ 203.265 Amount of initial MIP" is changed to "§ 203.260 Amount of Mortgage Insurance Premium (MIP)."

c. "§ 203.266 Due date of initial MIP" is changed to "§ 203.262 Due date of MIP."

d. "§ 203.267 Period covered by initial MIP" is changed to "§ 203.266 Period covered by MIP."

e. "§ 203.268 Adjustment of initial MIP" is changed to "§ 203.263 Adjustment of initial MIP."

f. "§ 203.269 Pro rata payment of initial MIP" is changed to "§ 203.268 Pro rata payment of MIP."

g. "§ 203.275 Amount of annual MIP" is removed.

h. "§ 203.276 Due date of annual MIP" is removed.

i. "§ 203.277 Duration of annual MIP" is changed to "§ 203.267 Duration of MIP."

j. "§ 203.278 Pro rata payment of MIP" is removed.

PART 228—INDIVIDUAL RESIDENCES; NATIONAL DEFENSE HOUSING MORTGAGE INSURANCE [SEC. 903]

§ 228.251 [Amended]

14. By amending paragraph (a) of § 228.251 as follows:

a. "§ 203.266 Due date of initial MIP" is changed to "§ 203.262 Due date of MIP."

b. "§ 203.268 Adjustment of initial MIP" is changed to "§ 203.263 Adjustment of initial MIP."

c. "§ 203.269 Pro rata payment of initial MIP" is changed to "§ 203.268 Pro rata payment of MIP."

d. "§ 203.275 Amount of annual MIP" is removed.

e. "§ 203.276 Due date of annual MIP" is removed.

f. "§ 203.278 Pro rata payment of MIP" is removed.

g. "§ 203.260 Amount of Mortgage Insurance Premium (MIP)" is added.

15. By revising § 228.265 to read as follows:

§ 228.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.201 [Amended]

16. By amending paragraph (a) of § 235.201 as follows:

a. "§ 203.265 Amount of initial MIP" is changed to "§ 203.260 Amount of Mortgage Insurance Premium (MIP)."

b. "§ 203.268 Adjustment of initial MIP" is removed.

c. "§ 203.275 Amount of annual MIP" is removed.

d. "§ 203.305 Open-end advance subject to open-end charge" is changed to "§ 203.269 Open-end insurance charge."

e. §§ 203.306 through 203.309 are removed.

§ 235.203 [Removed]

17. By removing § 235.203.

(Secs. 203(c) and 211 of the National Housing Act, as amended (12 U.S.C. 1701(d), 1715(b)))

Dated: April 12, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 82-12792 Filed 5-10-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Cancellation of Public Hearing on Modified Portion of the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of

a public hearing on the substantive adequacy of program modifications to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) to satisfy two of the conditions imposed by the Secretary of the Interior on the approval of the Virginia program submitted by Virginia pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and 30 CFR 732.17.

This notice cancels the public hearing but does not alter the time and location at which the Virginia program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATES: The following hearing is cancelled: The public hearing on the proposed modification to the Virginia program, May 12, 1982.

ADDRESS: Written comments should be mailed or hand delivered to: Ralph Cox, State Office Director, Virginia State Office, Office of Surface Mining Reclamation and Enforcement, Route 3, Box 183–C–1, Big Stone Gap, Virginia 24219.

Copies of the Virginia program, the proposed modifications to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM Offices and the office of the State regulatory authority listed below, Monday through Friday 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, N.W., Washington, D.C.
Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219
Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266
Virginia Division of Mined Land Reclamation, 620 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, State Office Director, Virginia State Office, Route 3, Box 183–C–1, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION: On January 28, 1982, Virginia submitted to OSM a revised policy statement to satisfy condition "k" of the Secretary's approval of the Virginia program (See Administrative Record No. VA 376). Condition "k" requires Virginia to submit a revised policy clearly granting field inspectors the authority to issue immediate cessation orders for imminent danger or harm if they are unable to contact the supervisor or enforcement manager.

On March 31, 1982, Virginia submitted a letter describing the action which has been taken and will be taken by the Commonwealth to resolve condition "r" (Administrative Record No. VA 383). Condition "r" requires Virginia to submit a copy of revised policy statement or otherwise amend its program to make its coal haul roads policy consistent with the Federal requirements. This policy must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations.

On April 26, 1982, notice of opportunity for public hearing on the proposed modifications to the Virginia program, was published in the **Federal Register** (47 FR 17827–17829). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Mr. Cox by May 5, 1982, and that if no person contacted Mr. Cox to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by May 5, 1982, the hearing has been cancelled.

While there in no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m., on May 26, 1982, to be considered in the Secretary's decision on whether the proposed amendments are acceptable.

Dated: May 6, 1982.

W. B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82–12797 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS–FRL–2074–5]

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standard for JT3D Engines

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed amendment would eliminate the requirement for retrofitting the remaining unmodified JT3D aircraft engines in service to and from United States points with low smoke combustors. There will be no significant adverse impact on the environment and cost savings could reach $35 million. This action responds to a petition from AVMARK, Inc., 1120 19th Street, NW., Washington, D.C. 20036.

DATE: All relevant comments received on or before June 10, 1982.

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments to the U.S. Environmental Protection Agency, Central Docket Section (A–130), Attn: Docket No. A–82–18, 401 M Street, SW., Washington, D.C. 20460. Two copies of comments are requested but not required. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kitredge, U.S. Environmental Protection Agency, Office of Mobile Source Air Pollution Control (ANR–455), 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426–2514.

SUPPLEMENTARY INFORMATION:

I. Background

The Pratt and Whitney JT3D engine is one of the aircraft gas turbine engines whose heavy smoke emissions during take-off and climb operations drew Congressional attention to the air pollution impact of aircraft during the mid-1960's.

The Clean Air Amendments of 1970 added new provisions [Sections 231–3] which give EPA the authority to proceed with emission standards if justified by air quality projections and if emission control technology can be developed. With this background, standards limiting visible smoke were incorporated as a public welfare measure in the overall program of emission standards which were eventually promulgated in response to the 1970 legislation on July 17, 1973 (38 FR 19088). Because of the very large numbers of JT3D and JT8D engines in service at that time, those two engines were singled out for retrofit programs, which required installation of low smoke combustor kits. The JT8D retrofit program was completed by the end of 1974, while the JT3D program was delayed, first because of developmental problems and later because of a decision (at the request of the Federal Aviation Administration (FAA)) to adjust the schedule for the retrofit program to match the FAA schedule for a noise retrofit program, which affects the same aircraft. Since January 1978, the JT3D low smoke combustor kit has been certified and available for

purchase. The present schedule requires 25% compliance by February 1, 1981 (orginally January 1, 1981), 50% compliance by January 1, 1983, and 100% compliance by January 1, 1985. There is an "escape route" built into this schedule for the benefit of airlines who have FAA-approved plans for replacement of their B707's and DC8's by 1985 instead of retrofitting these aircraft or simply withdrawing them from service. Section 87.31(c) of Title 40, Code of Federal Regulations relieves operators from the 1981 and 1983 partial compliance requirements, "If, under an approved plan, replacement engines or replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985." This has been provided because the new aircraft will be much more desirable in both environmental and energy conservation terms than the retrofitted aircraft. Since there is no currently certificated noise retrofit kit for B707 and DC8 aircraft, it is assumed that all operators will retire them from U.S. service by 1985 or install replacement engines which are capable of meeting the noise and emission standards—a trend which is strongly stimulated by their excessive fuel consumption in comparison with newer aircraft.

As a result of these combined pressures, major U.S. airlines began selling their B707 aircraft as the January 1, 1981 date for 25% compliance approached. Some operators are also selling their DC8 aircraft while others plan to retrofit them with a more modern engine, the GE/SNECMA CFM 56. The market for these surplus aircraft has become very depressed and most of them are being sold to small air charter companies, new small airlines formed as a result of deregulation and other organizations, such as travel clubs, which would normally not aspire to use aircraft in the B707 category. Purchasers of this type in many cases were unaware of the smoke retrofit standard and did not take steps to comply with the January 1, 1981 25% compliance date until too late to obtain delivery of the necessary engine parts from the supplier (Pratt and Whitney). Therefore, a series of requests for temporary exemption from the compliance date were received and granted by the Administrator. In other cases, operators of these aircraft were able to take advantage of the "escape route" and comply by submitting aircraft replacement plans to FAA, describing their intentions to replace their B707 and DC8 aircraft by January 1, 1985, as provided in the amended standards, while others simply retired 25% of their JT3D-powered aircraft.

The changes made to the engines to achieve compliance with smoke standards invariably reduce HC and CO emissions as well, while tending to increase NO_x. The following tabulation compares the gaseous emission characteristics of the JT3D engine with and without the low smoke combustor with three, more modern, engines:

EMISSIONS, GRAMS/KILONEWTONS RATED THRUST/LANDING/TAKEOFF CYCLE

	JT3D-7 (orginal)	JT3D-7 (low smoke)	JT9D-70	CF6-50	RB211-524
HC	356	158	26	63	110.4
CO	294	232	87.5	119.5	145.1
NO_x	31.0	53.0	54.3	60.8	61.4

II. Discussion of Issue

On October 21, 1981, the AVMARK Corporation, a Washington, D.C., aviation management service representing "Ports-of-Call" travel club of Denver, Colorado, and other unnamed clients, submitted a petition requesting that EPA amend 40 CFR Part 87 to eliminate any further requirement to retrofit JT3D engines manufactured before January 1, 1978, with the low smoke combustors developed by the engine manufacturer (Pratt & Whitney) for this purpose. As justification, the petition cites the economic benefits to the small aircraft operators who are the major customers for surplus B707 and DC8 aircraft together with the elimination of government expenses associated with the remaining exemption and compliance activities in support of this standard. The complete petition is available for public review in Docket No. A–82–18 at the address given earlier, along with an EPA commentary.

Environmental Impact

The petition argues that the steady migration of JT3D-powered aircraft from first line service with major airlines to more intermittent usage with small new operators has greatly reduced their adverse environmental impact.

To investigate this claim, statistical data were obtained from the Federal Aviation Administration's monthly publication, "Aircraft Utilization and Propulsion Reliability Report" for the period from late 1972 through late 1981.

Table 1 shows a trend towards diminishing numbers of U.S.-registered JT3D-powered aircraft through this period. Of the roughly 200 remaining aircraft, over 40 are now owned by small organizations which have acquired them during the last 5 years and which fall in the category of business concerns described in the AVMARK petition.

Table 2 shows a trend towards sharply diminishing utilization for average JT3D-powered aircraft through the same period. Therefore, the environmental impact represented by the remaining domestic JT3D-powered fleet has been drastically lessened both through their reduction in numbers and the reduced utilization of the remaining aircraft. For comparison, 134,702 hours were flown by these aircraft in November 1973, which dropped to 33,672 in October 1981—a fourfold reduction. We would expect this trend to continue.

Table II also compares the average hours flown by JT3D-powered aircraft still owned by three of the major domestic airlines in October 1981 to the average of eight small new operators, showing that the latter category of operator does tend to utilize the aircraft less than their former owners.

The foregoing considers only U.S. registered aircraft and there will, of course, be operators of JT3D-powered aircraft of foreign registry to and from U.S. points through the 1982–1984 period prior to the final compliance date for the FAA noise standard. Comments are invited as to the extent to which trends in operation of foreign-registered aircraft would run counter to those displayed in Tables I and II for aircraft of U.S. registry.

TABLE I.—NUMBER OF JT3D—POWERED AIRCRAFT REGISTERED IN THE UNITED STATES

Date	Number of aircraft		
	All operators	Major operators	Small new operators
November 1972	526	526	
November 1973	488	488	
November 1974	447	447	
November 1975	439	439	
November 1976	422	421	1
November 1977	390	387	3
October 1978	365	360	5
November 1979	335	327	8
November 1980	272	257	15
October 1981	205	164	41

TABLE II.—AVERAGE MONTHLY USAGE OF JT3D-POWERED AIRCRAFT REGISTERED IN THE UNITED STATES

Date	Monthly hours of operation		
	All operators	Major operators	Small new operators
November 1972	256	256	.....
November 1973	[1] 257	[1] 257	.....
November 1974	258	258	.....
November 1976	218	218	0
November 1977	224	224	163
October 1978	241	244	78
November 1979	208	210	123
November 1980	162	166	87
October 1981	164	180	102

[1] TWA omitted from average because of unusually low operations caused by strike.

The trends described are the natural result of the high operating costs for these JT3D-powered aircraft plus the approaching 1985 cut-off date represented by the FAA noise standard. It appears that, from the environmental point of view, achievement of compliance with the EPA smoke retrofit standard for the remaining aircraft affected is almost irrelevant. Compliance will likely be achieved in almost all instances either by withdrawing the aircraft from service or by submitting aircraft replacement plans to FAA, the same actions which operators would have to take in any case to comply with the noise standard, for which no retrofit option is available. Therefore, the Agency has determined that some form of relief should be provided to eliminate the remaining administrative costs to both the aircraft operators and the Federal government which would otherwise be incurred in satisfying the remaining provisions of the JT3D smoke retrofit standard.

It appears that elimination of the smoke retrofit standard would eliminate lost time, cost and uncertainty to the small business organizations who are becoming the principal operators of the remaining JT3D-powered aircraft as well as the continued expenditure of Federal resources in its administration through 1984. While individual compliance problems could be accommodated through considering and granting exemptions on a case-by-case basis, the evaluation of exemptions and the preparation of individual exemption decisions consumes the time of experience Federal engineers within both EPA and FAA. If all such requests by small operators of lightly utilized aircraft were to be routinely granted, as seems likely, this work would be non-productive. Similarly, EPA would not expect the continuation of the smoke retrofit standard to result in significant future purchases or installation of retrofit kits. Thus elimination of the standard is not expected to create significant equity issues or economic losses.

On balance, it appears that the JT3D smoke retrofit standard has become unnecessary, because the aircraft have become inefficient to operate and because they must be retired by 1985 in any case to comply with the FAA noise standard. The modern aircraft and engines which will replace the JT3D-powered aircraft will be substantially lower in smoke, hydrocarbon and carbon monoxide emissions than the retrofitted JT3D engines would have been, as well as quieter and more fuel efficient. Accordingly, EPA proposes to delete the JT3D smoke retrofit standard.

The Agency asks that comments specifically address these three issues:

1. Since this retrofit program is already in progress, with the first partial compliance date already past, will elimination of the smoke retrofit standard adversely affect those operators who have already made good faith efforts to comply, either by purchasing the retrofit combustors, withdrawing aircraft from service or by filing aircraft replacement plans with FAA documenting their business arrangements for replacing the aircraft by January 1, 1985?

2. What economic losses, if any, will be incurred by suppliers of low smoke combustor kits as a result of pending orders for the low smoke combustor kits which would likely be cancelled if the petition is granted? Also, what economic losses, if any, will be incurred by operators who have purchased the kits but not yet installed them?

3. Is there an advantage to be gained by aircraft operators through eliminating the JT3D smoke retrofit standard completely, or do present mechanisms for achieving relief from the 1981 and 1983 intermediate compliance dates provide all the flexibility needed?

III. Public Participation

Comments are invited on the merits of the petition and on the benefits, penalties, costs or equity considerations associated with granting the petition. The comments should be submitted in writing to the EPA Central Dockets Section (Docket Number A-82-18) at the address given above.

IV. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Analysis. This rulemaking is not major because it will result in an annual adverse effect on the economy of less than $100 million. Based on the estimated 251 aircraft powered by JT3D engines which may use U.S. airspace between now and 1985 (the number stated in the petition), the costs eliminated by granting the petition would be a maximum of $34,960,000. The figure assumes an installed cost of $40,000 per engine and deducts the costs already expended for the 130 kits which have been purchased. However, it is very unlikely that many more of the remaining 251 aircraft would be retrofitted at this time, since only three years remain in which to recover the costs of doing so prior to the 1985 noise standard effective date, which (in any event) would terminate their operations at that time. Therefore, the true cost savings are probably far less than this amount. To the extent that any more smokeless combustor kits would have been ordered through this period, an undeterminable negative impact would be felt by Pratt and Whitney and by independent aircraft service organizations who would otherwise have been hired by some operators to install them.

There are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons EPA has not prepared a formal Regulatory Impact Analysis.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291.

V. Impacts on Reporting Requirements

There are no reporting requirements directly associated with this rulemaking.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 60 *et seq.*, EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. This rulemaking action will presumably have some effect on the small operators of surplus B707 and DC8 aircraft who are its intended beneficiaries, although the effect cannot be established accurately, because the exact plans of each such organization are not known to EPA. In fact, only one of the organizations in whose behalf the petition was submitted was identified. There is no reason to believe at this time that the effect would be "significant" and would require a regulatory analysis. Accordingly, I hereby certify that this rulemaking will not have a significant effect on a substantial number of small entities.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft.

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

§ 87.31 [Removed]

For the reasons set forth above, it is proposed to amend Part 87, Chapter I of Title 40 of the Code of Federal Regulations to delete § 87.31(c).

[FR Doc. 82-12749 Filed 5-10-82; 8:45 am]

BILLING CODE 6560-50-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Ch. 51

Semiannual Agenda of Regulations

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: Pursuant to Executive Order 12291 and section 602 of the Regulatory Flexibility Act (5 U.S.C. Ch. 6), this Committee is not planning to issue or review any significant regulations or any regulations which would have a significant economic impact on small entities during the period from April through October 1982.

FOR FURTHER INFORMATION CONTACT: Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201, Telephone: 703/557-1145.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-12752 Filed 5-10-82; 8:45 am]

BILLING CODE 6820-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-235; RM-4071]

TV Broadcast Station in Mountain Home, Ark.; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 43 to Mountain Home, Arkansas, as its first television assignment in response to a petition filed by Baxter Broadcasting, Inc.

DATES: Comments must be filed on or before June 14, 1982, and reply comments on or before June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.[1]

Adopted: April 23, 1982.

Released: May 3, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Mountain Home, Arkansas.)

1. The Commission herein considers a petition for rule making filed March 3, 1982, by Baxter Broadcasting, Inc. ("petitioner"), which seeks the assignment of UHF television Channel 43 to Mountain Home, Arkansas. Petitioner expressed an interest in applying for the channel, if assigned.

2. Mountain Home (population 7,447),[1] seat of Baxter County (population 27,409), is located in north central Arkansas, approximately 180 kilometers (110 miles) north of Little Rock. It has no local television broadcast service.

3. According to petitioner, Mountain Home's economy would support a first television assignment. It is the seat of Baxton County, the economic and commercial center of the area, and has become an attraction as a recreation center and retirement community. Petitioner notes that the community's dramatic population growth over the last decade has greatly expanded the area's economy. Mountain Home has light industry, tourism, construction, retail sales, and a pharmaceutical laboratory (Baxton Laboratories) employing 2,500 persons. Petitioner states that there is a growing need for a local television facility with programming directed toward the needs of the community, and coverage of local news, weather, sports and community activities. Mountain Home is said to receive service only from KOLR-TV and KYTV, Springfield, Missouri, neither of which presents programming pertaining to Mountain Home.

4. In view of the fact that Mountain Home could receive a first television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the rules), with regard to the city of Mountain Home, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Mountain Home, Arkansas		43+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

6. Interested parties may file comments on or before June 14, 1982, and reply comments on or before June 29, 1982, and are advised to read the Appendix for the proper procedures.

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

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 82-12778 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-234; RM-4046]

FM Broadcast Station in Hahaina, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 266 to Lahaina, Hawaii, in response to a petition filed by Maui Broadcast Company. The proposal could provide a first aural service to Lahaina.

DATES: Comments must be filed on or before June 14, 1982, and reply comments on or before June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast stations (Lahaina, Hawaii).

Adopted: April 21, 1982.

Released: May 3, 1982.

1. The Commission herein considers a petition for rule making filed January 25, 1982, by Maui Broadcast Company (petitioner) which seeks the assignment of Class C FM Channel 266[1] to Lahaina, Hawaii. Petitioner stated its intent to apply for the channel, if assigned.

2. Lahaina (population 3,718),[2] in Maui County (population 70,847),[3] is located approximately 128 kilometers (80 miles) east-southeast of Honolulu. It is without local broadcast service.

3. Petitioner states that Lahaina is experiencing rapid growth in tourism and agriculture. It adds that the area is very mountainous requiring a Class C facility to offset fade and skips in coverage. Also, a station operating with high power could serve isolated areas of the Island of Maui. The proposed station would provide agricultural weather information, news coverage, music and other programming designed to meet community needs, according to the petitioner.

4. The petitioner indicated that no community would be precluded by the proposed assignment, since numerous Class A and Class C channels are available throughout the region. In the absence of a *Roanoke/Rapids* study petitioner alleged that the proposed assignment would provide service to isolated areas of the Island.

5. Our established policy is to reserve Class C channels for larger urban areas. However, a departure from this policy can be considered where the Class C proposal could provide a significant amount of first and second service or where as here, the assignment would enable a sparsely populated (isolated) area to be served.

6. In view of the fact that the proposed assignment could provide a first service to Lahaima and provide service to the surrounding area, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Lahaina, Hawaii		266

7. The Commisssion's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

---

[1] Originally, petitioner requested that Channel 258 be assigned to Lahaina. This request conflicts with the proposal to assign Channel 258 to Honolulu, Hawaii (BC Docket No. 82-124, RM-3782). Petitioner has amended its request to specify Channel 266 instead of Channel 258.

[2] Population figure is taken from the 1970 U.S. Census.

[3] Population figure is taken from the 1960 U.S. Census.

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

8. Interested parties may file comment on or before June 14, 1982, and reply comments on or before June 29, 1982, and are advised to read the Appendix for the proper procedures.

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

10. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 82-12779 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-783; RM-3939, RM-4067]

FM Broadcast Station in McPherson and Lindsborg, Kansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In response to a counterproposal, action taken herein proposes optional assignment plans for the use of FM Channel 240A at either McPherson or Lindsborg, Kansas. The assignment could provide a second FM channel to McPherson or a first local aural service to Lindsborg.

DATES: Comments must be filed on or before June 14, 1982, and reply comments must be filed on or before June 29, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: April 23, 1982.

Released: May 4, 1982.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast stations, (McPherson and Lindsborg,[1] Kansas).

1. Before the Commission is a *Notice of Proposed Rule Making*, 46 FR 58715, published December 3, 1981, proposing the assignment of FM Channel 240A to McPherson, Kansas, as that community's second allocation, in response to a petition filed by Dean Curfman ("petitioner"). A timely counterproposal was submitted by McPherson Broadcasting, Inc.[2] ("MBI"), on behalf of Bethany College [3]

[1] This community has been added to the caption.

[2] McPherson Broadcasting, Inc. is the existing licensee of co-owned Stations KNEX (AM & FM) in McPherson, Kansas.

[3] MBI states that Bethany College is a four-year liberal arts college with a current enrollment of

Continued

("Bethany"), seeking the assignment of Channel 240A to Lindsborg, Kansas, as that community's first FM allocation. Petitioner, MBI, and Bethany each filed reply comments. Because spacing restrictions preclude assigning Channel 240A to both communities, the proposals are mutually exclusive.[4]

2. McPherson (population 11,753) [5] is located in McPherson County (population 26,855), approximately 80 kilometers (50 miles) north of Wichita, Kansas. It is presently served by daytime-only Station KNEX(AM) and Station KNEX–FM (Channel 244A).

3. Lindsborg (population 3,155), in McPherson County (population 26,855), is located approximately 96 kilometers (60 miles) north of Wichita, Kansas. It is currently devoid of any local aural broadcast service.

4. In its comments, MBI asserts that the assignment of Channel 240A to McPherson would constitute its third local radio facility and would preclude its use in the Kansas communities of Clay Center (population 4,948), Minneapolis (population 2,075), Chapman (population 1,255) and Lindsborg (population 3,155). It was proposed on behalf of Bethany College, that Channel 240A be assigned to Lindsborg as its first local aural assignment.

5. In support of the proposal, MBI states that Lindsborg has a reputation as a center of Swedish life and culture. The community and Bethany College are said to be renowned for Scandinavian art. Lindsborg has its own local government, municipal services, and unique cultural resources. MBI also states that a local weekly newspaper is available to the residents of Lindsborg.

6. MBI declares that it has offered to assist Bethany in its efforts to secure a station by underwriting the legal and engineering costs related to the licensing process. Further, MBI states its monetary assistance to Bethany would be a donation, and exempt from any conditions. It advises that, on the authority and statement of Dr. Arvin W. Hahn, President of Bethany College, such a facility would be utilized to present educational and cultural programming objectives and to assist students in learning commercial radio operation. Further, MBI adds that a commercial operation could enable Bethany College to obtain financial support for its costs of operating the station and to fund other college programs and activities.

7. In reply comments, Bethany confirms the offer of MBI to donate the legal and engineering costs of licensng. It assures that would operate the station free of any connection with MBI. Indeed, it states that there would be competition between its proposed operation and that of MBI, "particularly in its commercial operations." In supplemental comments, Bethany states its intention to apply for the channel, if assigned, and essentially reiterates previous statements concerning its projected use of the channel.

8. In its reply comments petitioner states that we should treat MBI's sister AM and FM stations as a single aural service in McPherson. As such, the addition of Channel 240A should be considered a second aural service for McPherson. The precluded communities listed by MBI are said to be too small to support their own station. Petitioner argues that Bethany College should file for a noncommercial educational station which would more closely accord with the institution's purposes

9. We are issuing this *Further Notice* to invite comments on the comparative need of both communities for the assignment. Although the proponents have addressed this issue, we have not yet given formal notice of the Lindsborg proposal. In addition, more information is needed as discussed below. Our initial reaction is to assign the channel to Lindsborg as a first assignment since McPherson presently has local aural service. This view is consistent with the mandate of section 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio service among various communities. However, the petitioner may wish to set forth in comments any other pertinent information with respect to McPherson which it feels may strengthen its proposal to assign Channel 240A to that community. An assignment to Lindsborg may be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules, whereas an assignment to McPherson, as indicated in the *Notice*, requires a site restriction.

10. Petitioner's response to our request for preclusion information has not been satisfied adequately. MBI disclosed that the communities of Clay Center, Minneapolis, Chapman and Lindsborg, each with a population in excess of 1,000, would sustain precluson as a result of the proposed assignment to McPherson. Petitioner responded by supplying information with respect to Clay Center only, the larger of the precluded communities. Since the purpose of a preclusion study is to put other communities on notice that the opportunity to receive an FM assignment may be foreclosed, petitioner should supply us with a list of alternate channels available for the remaining communities listed above that are devoid of any local aural service.

11. Based on the information before us, it is not entirely clear that Bethany College actually desires a commercial channel for its proposed operation, or whether it would be interested in applying for an educational frequency. If the latter is indicated, reserved Channels 215 and 217 are available for such use.

12. A staff engineering study reveals that no other Class A channels are available at McPherson.[6] However, Channel 285A may become available to Lindsborg, depending on the outcome of the comparative hearing now pending for Channel 287 at Wichita, Kansas. Three applications are under consideration in that proceeding, only one of which (Wood of Chattonooga, Inc., BPH–810904) would preclude the assignment of Channel 285A to Lindsborg.

13. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commisson's Rules, with respect to the communities listed below, as follows:

Channel No.	City	
	Present	Proposed
McPherson, Kansas	244A	240A, 244A
or		
Lindsborg, Kansas		240A

14. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is

approximately 1,000 students. It is owned and operated by the Central States Synod of the Lutheran Church of America.

[4] The distance between Lindsborg and McPherson is approximately 23 kilometers (14 miles). Section 73.207 requires a 65 mile separation between co-channel Class A assignments.

[5] Population figures herein are extracted from the 1980 U.S. Census, Advance Reports, unless otherwise indicated.

[6] If the Commission determines that the assignment of Channel 240A should be made to Lindsborg, petitioner may wish to explore the possibility of applying for an FM frequency at McPherson if the proposals made in BC Docket No. 80–90, a pending rule making proceeding, are adopted. *See, Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 78 F.C.C. 2d 1235 (1980). Proposals made in that docket would, *inter alia*, permit the use of Class A facilities on Class B/C channels.

required by paragraph 2 of the Appendix before a channel will be assigned.

15. Interested parties may file comments on or before June 14, 1982, and reply comments on or before June 29, 1982, and are advised to read the Appendix for the proper procedures.

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

17. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

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

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

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

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

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

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

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

[FR Doc. 82-12780 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-241; RM-4082]

FM Broadcast Station in Breckenridge, Minn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Channel 286 for Channel 285A in Breckenridge, Minnesota, in response to a petition filed by Ingstad Broadcasting, Inc. Also, the license for Station KKWB so proposed to be modified to specify the new channel.

DATES: Comments must be filed on or before June 21, 1982, and reply comments on or before July 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Edythe Wise, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Breckenridge, Minnesota).

Adopted: April 29, 1982.

Released: May 6, 1982.

1. The Commission is considering a petition for rulemaking filed on March 15, 1982, by Ingstad Broadcasting, Inc. ("Ingstad"), licensee of Station KKWB, Breckenridge, Minnesota. Ingstad seeks to substitute Class C FM Channel 286[1] for Channel 285A at Breckenridge, Minnesota, and to modify its license for 285A to specify operation on the Class C channel. Ingstad states that, should this rule making proposal be adopted, it would modify the facilities of its station to meet all technical standards for a Class C FM operation.

[1] The proposed substitution is mutually exclusive with one of the plans in BC Docket No. 81-737 involving the assignment of Channel 287 to Ortonville, Minnesota. Since there are other possible assignments to Ortonville in that proceeding, we have decided not to delay the commencement of this proceeding. However, action on the proposal herein is contingent on the outcome of BC Docket No. 81-737.

2. In support of its request, petitioner states that the proposed upgrading of the facilities of Station KKWB would provide a first FM service to 1,945 square kilometers (760 square miles) for 6,740 persons and a second FM service to 389 square kilometers (152 square miles) for 1,470 persons (1970 U.S. Census). Petitioner also argues that, in much of its service area, it is forced to compete with several Class C FM stations from the cities of Fargo, North Dakota, Morehead, Minnesota, and Fergus Falls, Minnesota. In addition, the petitioner states that the combined population of Breckenridge and Wahpeton, North Dakota (considered by petitioner as a single community), was 12,973 according to the 1980 U.S. Census. Petitioner argues that the Breckenridge-Wahpeton community, therefore, should be allocated a Class C rather than a Class A station.

3. Breckenridge, the seat of Wilken County, is located on the North Dakota-Minnesota border approximately 296 kilometers (185 miles) northwest of Minneapolis, Minnesota. Breckenridge has a population of 3,909 and Wilken County has a population of 8,382 (1980 U.S. Census). It is presently served by Station KKWB (Channel 285A) and a full-time AM station, KBMW.

4. Petitioner has made reference to the communities of Breckenridge, Minnesota, and Wahpeton, North Dakota, as a single community. We do not ordinarily make hyphenated assignments and based on the information provided, we do not believe such treatment is warranted here. In this regard, petitioner concedes that the two cities have separate governmental services. Should petitioner wish to pursue this matter further, it may do so in comments. *See, e.g., Roy, Utah,* 46 FR 15150 (1981). *N.J. Coalition for Fair Broadcasting v. F.C.C.,* 574 F. 2d 1119, 1122 (3rd Cir. 1978).

5. Although it has been general Commission policy to assign Class C channels only to larger communities, exceptions have been made when the assignment of a Class C channel would provide first or second service to outlying areas. The showing of such service here is sufficient to justify proposing the Class C channel.

6. The engineering study submitted by petitioners indicates that substitution of Channel 286 will preclude the assignment of Channels 285A, 286, 287 and 288A. However, petitioner has listed alternate available channels for the precluded communities over 2,000 population.

7. In accordance with Commission policy, should there be another interest in the Class C assignment to Breckenridge, the modification of license for Station KKWB–FM could not be made. *See, Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976).

8. Canadian concurrence in the proposal is required.

9. Comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Breckenridge, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Breckenridge, Minn.	285A	286

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

11. Interested parties may file comments on or before June 21, 1982, and reply comments on or before July 6, 1982, and are advised to read the Appendix for the proper procedures.

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

13. For further information concerning this proceeding, contact Edythe S. Wise, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and

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

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

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

[FR Doc. 82-12781 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-249; RM-4083]

FM Broadcast Station in Clarion, Pa.; Proposed Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A FM channel to Clarion, Pennsylvania, in response to a petition filed by Clarion County Broadcasting Corporation. The proposed assignment could provide a first commercial FM broadcast service to Clarion.

DATE: Comments must be filed on or before June 21, 1982, and reply comments on or before July 6, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast stations (Clarion, Pennsylvania).

Adopted: April 29, 1982.

Released: May 6, 1982.

1. The Commission herein considers a petition for rule making filed March 18, 1982, by Clarion County Broadcasting Corporation ("petitioner"), proposing the assignment of FM Channel 244A to Clarion, Pennsylvania, as that community's first FM assignment. Petitioner stated its intention to apply for the channel, if assigned.

2. Clarion (population 6,664), the seat of Clarion County (population 43,362),[1] is located approximately 96 kilometers (60 miles) northeast of Pittsburgh, Pennsylvania. It is served by daytime-only AM Station WWCH, and noncommercial FM Station WCUC-FM.

3. Petitioner states that Clarion has its own local government, police and fire protection, court system, post office, religious and cultural institutions, school system and recreation facilities. Petitioner states that Clarion could support a first commercial FM assignment. Petitioner alleges a need for the assignment in order to provide more extensive coverage to the cultural needs of the community and to allow the business community better access to the public. Although local service is provided by two local stations, the AM facility is daytime-only and the noncommmercial FM station does not operate during the summer when Clarion State College is not in session. Petitioner included supporting statements of several county and local officials.

4. The transmitter site must be restricted to 4 miles north of the city to meet spacing requirements to Station WFFM(FM) (Channel 245) Braddock, Pennsylvania.

5. In view of the fact that the proposed assignment could provide Clarion with its first local commercial FM broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) with regard to the following community:

City	Channel No.	
	Present	Proposed
Clarion, Pa.		244A

6. Since Clarion, Pennsylvania, is within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment requires corrdination with the Canadian Government.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

8. Interested parties may file comments on or before June 21, 1982, and reply comments on or before July 6, 1982, and are advised to read the Appendix for the proper procedures.

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

10. For further information concerning this proceeding, contact Mark N. lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule*

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

Making to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 82-12776 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-248; RM-4063]

FM Broadcast Station in Bastrop, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 296A to Bastrop, Texas, in response to a petition filed by East Texas Wireless Radio. The assignment could provide a first FM service to Bastrop.

DATES: Comments must be filed on or before June 21, 1982, and reply comments on or before July 6, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast stations (Bastrop, Texas).

Adopted: April 29, 1982.

Released: May 6, 1982.

1. A petition for rule making was filed by East Texas Wireless Radio ("petitioner") on February 15, 1982, proposing the assignment of Channel 296A to Bastrop, Texas, as its first FM channel. Petitioner stated its intention to apply for the channel, if assigned. A separate petition was filed by Texan Broadcasting Company, Inc. for the same channel assignment. We have treated the petition as comments in support. If Texan Broadcasting seeks an additional channel assignment it should submit a counterproposal with a mileage separation study for the channel.

2. Bastrop (population 3,789),[1] seat of Bastrop County (population 24,726), is located approximately 48 kilometers (30 miles) southeast of Austin, Texas. It is without local broadcast service.

3. In support of the proposal petitioner claims that Bastrop's 1980 population showed an increase to nearly 4,000 persons over the 1970 population figures of 3,112. It adds that with the recent addition of a federal correctional institution and the planned mining of large lignite coal deposits near Bastrop, the population is expected to grow at an even faster rate. Petitioner asserts that the city can be supportive of an FM station based on its anticipated growth.

4. In view of the fact that a first local broadcast service could be provided to Bastrop, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, as it relates to Bastrop, Texas, as follows:

City	Channel No.	
	Present	Proposed
Bastrop, Tex		296A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

6. Interested parties may file comments on or before June 21, 1982, and reply comments on or before July 6, 1982, and are advised to read the Appendix for the proper procedures.

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

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court

[1] Population figures are taken from the 1980 U.S. Census.

review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 82-12777 Filed 5-10-82; 8:45 am]

BILLING CODE 6717-01-M

---

47 CFR Part 73

[BC Docket No. 82-233; RM-4048]

FM Broadcast Station in Chadron, Nebraska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes a second Class C FM channel to Chadron, Nebraska, in response to a petition filed by Nebraska Broadcasting Group, Inc.

DATES: Comments must be filed on or before June 14, 1982, and reply comments on or before June 29, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: April 21, 1982.

Released: May 3, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Chadron, Nebraska); BC Docket No. 82-233, RM-4048.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition filed by Nebraska Broadcasting Group, Inc. (petitioner) on January 26, 1982, which seeks the assignment of Class C FM Channel 234 to Chadron, Nebraska, as its second Class C allocation. Petitioner stated its intention to apply for the channel, if assigned.

2. Chadron (population 5,933),[1] seat of Dawes County (population 9,609), is located in the northwest corner of the state approximately 568 kilometers (355 miles) northwest of Lincoln, Nebraska. It is served by daytime-only AM Station KCSR and FM Station KQSK (Channel 248).

3. According to the petitioner, Chadron serves as the commercial, educational and recreational center for the surronding area. The economy is based on wholesale and retail sales, agriculture, transportation and education. The Chadron area is said to have grown significantly in the past years, due in part to the exploration for and development of energy resources (uranium, oil and gas). Additional development which will further expand the population is anticipated. Petitioner also states that the proposed assignment will provide a competitive broadcast voice to Chadron.

4. The preclusion study submitted by the petitioner shows that ten communities, eight of which have no FM assignment and a population over 1,000,[2]

[1] Population figures are taken from the 1980 U.S. Census.

[2] *Colorado:* Julesburg (population 1,524), Holyoke (population 2,096); *Nebraska:* Chappell (population 1,086), Oshkosh (population 1,060); Rushville (population 1,240), Valentine (population 2,824); and *South Dakota:* Martin (population 1,017), Philip (population 1,088).

would be precluded from future assignments on Channels 233 and 234. Numerous channels are said to be available to the precluded communities. Inasmuch as the petitioner did not submit a *Roanoke Rapids* study we assume that no first or second service will be provided by the assignment. The channel can be assigned in compliance with the miminum distance separation requirements.

5. In view of the foregoing information and the fact that the proposed assignment would provide a second commercial FM broadcast service to Chadron, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules as follows:

City	Channel No.	
	Present	Proposed
Chadron, Nebraska	248	234, 248

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

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

7. Interested parties may file comments on or before June 14, 1982, and reply comments on or before June 29, 1982, and are advised to read the Appendix for the proper procedures.

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

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 82-12793 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 97

[PR Docket No. 82-83, RM-3705, RM-3729, RM-3734, RM-3776, RM-3831, RM-3833, RM-3860]

Amateur Radio Service; Expansion of the Telephony Segments of the High Frequency Bands; Extension of Time To File Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and proposed rule; extension of comment deadlines.

SUMMARY: The Commission is extending the deadlines for filing comments in the above proceeding concerning expansion of the telephony segments of the Amateur Radio Service High Frequency bands. The American Radio Relay League, Incorporated has requested that the Commission extend the comment period in the Notice of Inquiry in order to provide a greater opportunity for

information to be disseminated to interested parties and therefore provide a greater amount of informed participation in the proceeding. The Commission, recognizing that the issues involved are complex, agrees that an extension of time would serve the public interest and is granting the request. The extension of the comment period will also apply to the Notice of Proposed Rule Making for administrative reasons.

DATES: New closing date for filing comments is August 16, 1982. New closing date for filing reply comments is September 16, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1982.

Released: April 30, 1982.

1. On February 24, 1982 the Commission released a Notice of Inquiry and Proposed Rule making in the above-captioned matter (47 FR 8798, March 2, 1982). That Notice proposes expanding the segments available for radiotelephone use in the 14 MHz amateur frequency band. The Notice also inquires about expanding the segments for such use in the other high frequency (HF) amateur bands (the bands between 3 and 30 MHz). As specified in the Notice, comments were to be due on July 1, 1982 and reply comments were to be due August 2, 1982.

2. The Commission now has before it a request from the American Radio Relay League, Incorporated (ARRL) for an extension of time to file comments on the Inquiry in the Notice. In support of its request the ARRL states that while "(t)he League plans to file timely comments in response to the proposal contained in the *Notice* . . . (i)t was determined that the Commission's inquiry was of such magnitude and breadth, especially in view of the detailed questions asked in paragraph numbered 17 in the *Notice*, that an extensive effort should be made to publicize the Inquiry and the questions asked therein, and to seek membership input." The request goes on to state that "(i)t is thus necessary to request a brief extension of time in order to accomplish the above. No party to the proceeding will be disadvantaged thereby, and the public interest will be served by a greater amount of informed participation in the proceeding occasioned by the publicity permitted by the brief extension of time." The ARRL specifically requests that ". . . the Commission extend the time for filing comments and reply comments in response to the Inquiry portion of the *Notice of Inquiry and Proposed Rule Making* in this proceeding to and including August 16, 1982 and September 16, 1982, respectively."

3. The Commission concurs with the ARRL that well informed comments are most important to the subject proceeding due to the complex issues involved. It is also evident that more time for dissemination of information on the issues would aid in meeting this objective and thus be in the public interest. However, due to the large number of informal comments that the Commission has already received which address both the proposal in the Notice and the Inquiry in the same filing, it is not feasible to separate these two aspects of the proceeding for the purpose of setting comment deadlines. Therefore, the Commission is granting the request of the ARRL, but is also applying the extension of time for filing comments to the proposal in the Notice as well.

4. Accordingly, it is ordered that the time period for filing comments in the above-captioned proceeding is extended from July 1, 1982 to August 16, 1982 and it is further ordered that the time period for filing reply comments in the above-captioned proceeding is extended from August 2, 1982 to September 16, 1982. This action is taken pursuant to the authority contained in § 0.331 of the Commission's rules and regulations.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-12775 Filed 5-10-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 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

Agricultural Stabilization and Conservation Service

Fire-Cured (Types 21–24) and Dark Air-Cured (Types 35 and 36); Marketing Quota Referenda Results; 1982 Through 1984 Crops of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (USDA).

ACTION: Notice of results of marketing quota referenda for 1982 through 1984 crops of fire-cured (types 21–24) and dark air-cured (types 35 and 36) tobaccos.

SUMMARY: This notice proclaims the results of marketing quota referenda for fire-cured (types 21–24) and dark air-cured (types 35 and 36) tobaccos which were held during the period February 22–26, 1982, in accordance with section 312(c) of the Agricultural Adjustment Act of 1938, as amended. The referenda were conducted in order to determine whether producers of those kinds of tobacco favor or oppose marketing quotas. Producers of these kinds of tobacco approved marketing quotas which will be in effect for the 1982, 1983, and 1984 marketing years.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major." The provisions of this rule 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 a geographic region; 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.

The title and number of the Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051. This notice will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service 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.

In a notice of determination published in the **Federal Register** on February 9, 1982 (47 FR 5916) the Secretary of Agriculture announced that marketing quotas would be in effect for the 1982 through 1984 marketing years for fire-cured and dark air-cured tobaccos. The Secretary also announced the amount of the national marketing quota and national acreage allotments for fire-cured, dark air-cured, Virginia sun-cured, cigar-binder and cigar-filler and binder tobaccos for the 1982 marketing year. In addition, it was announced that referenda for fire-cured and dark air-cured tobaccos would be held during the period February 22–26, 1982, inclusive, in accordance with section 312(c) of the Agricultural Adjustment Act of 1938, as amended. That statute requires that within thirty days after the proclamation of national marketing quotas, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years.

Since the only purpose of this notice is to announce the results of referendums, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referenda are set forth below:

Notice

Results of the national marketing quota referenda for the 1982 through 1984 crops of fire-cured (types 21–24) and dark air-cured (types 35 and 36) tobaccos.

(1) *Referendum period.* The national marketing quota referenda for the 1982 through 1984 crops of fire-cured and dark air-cured tobaccos were held by mail ballot during the period February 22–26, 1982, inclusive, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary of the results by State of votes by producers engaged in the production of the 1981 crop of fire-cured and dark air-cured tobaccos:

FIRE-CURED [1] (TYPES 21–24)

State	Yes	No	Total
Kentucky	3,926	159	4,085
Tennessee	3,445	245	3,690
Virginia	2,158	108	2,266
Total	9,529	512	10,041

[1] Of those voting, 9,529 producers, or 94.90 percent, favored fire-cured tobacco marketing quotas, and 512 producers, or 5.10 percent, opposed quotas.

DARK AIR-CURED [1] (TYPES 35 AND 36)

State	Yes	No	Total
Indiana	11	4	15
Kentucky	7,661	374	8,035
Tennessee	1,951	145	2,096
Total	9,623	523	10,146

[1] Of those voting, 9,623 producers, or 94.85 percent, favored dark air-cured tobacco marketing quotas, and 523 producers, or 5.15 percent, opposed quotas.

(3) *Marketing quotas will be in effect for the 1982 through 1984 crops of fire-cured and dark air-cured tobaccos.* Since more than two-thirds of the producers voting favored quotas, and since the 1981–82 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect, a national marketing quota shall be in effect for fire-cured (types 21–24) and dark air-cured (types 35 and 36) tobaccos for the marketing years 1982–83, 1983–84, and 1984–85, inclusive.

(Secs. 312(c), 52 Stat. 46, as amended; 7 U.S.C. 1312(c))

Signed at Washington, D.C. on May 4, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-12620 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Big Slough Watershed, Georgia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Big Slough Watershed project, Mitchell and Grady Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404-546-2273.

SUPPLEMENTARY INFORMATION: A determination has been made by Dwight M. Treadway that the proposed works of improvement for the Big Slough Watershed project will not be installed. The sponsoring local orgainzations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Dwight M. Treadway, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 9, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82-12734 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended April 30, 1982

Subpart Q application—The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Apr. 26, 1982	40634	United Air Carriers, Inc., d/b/a Overseas National Airways, c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036. Application of United Air Carriers, Inc., d/b/a Overseas National Airways pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers, property, and mail, as follows: a. Interstate scheduled air transportation between and among all points within the United States. Conforming Applications, motions to modify scope, and Answers may be filed by May 24, 1982.
Do.	40635	United Air Carriers, Inc., d/b/a Overseas National Airways, c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of United Air Carriers, Inc., d/b/a Overseas National Airways pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers, property, and mail, as follows: a. Foreign scheduled air transportation between a point or points in the United States and a point or points in Belgium, the Netherlands, Luxembourg and the Federal Republic of Germany. Conforming Applications, motions to modify scope, and Answers may be filed by May 24, 1982.
Apr. 27, 1982	40639	Aeroamerica, Inc., c/o A. Joel Eisenberg, 7777 Perimeter Rd. S. Seattle, Washington 98108. Application of Aeroamerica, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessary to engage in interstate charter air transportation of persons and property. Conforming Applications, motions to modify scope, and Answers may be filed by May 25, 1982.
Apr. 28, 1982	40647	Trans World Airlines, Inc. 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests amendment of its certificate of public conveniance and necessity for Route 147 to expand the number of areas and/or points for which its authority would be on a permanent basis, rather than temporary. Specifically, TWA requests that in its present certificate for Route 147 the third paragraph following the enuerated terms and conditions be revised as follow: "The authority in this certificate for Segment I, except with respect to Boston, MA; New York, NY-Newark, NJ; Philadelphia, PA; Washington, DC-Baltimore, MD; Chicago, IL; Detroit, MI; Los Angeles and San Franciso-Oakland-San Jose, CA; McGuire Air Force Base, NJ; Dover Air Force Base, DL; intermediate points within Ireland, Switzerland, Greece, Egypt, Israel, Jordan, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Sri Lanka, that portion of India which lies south of the twentieth parallel, and Thailand; and the intermediate points Paris, France, Hamburg, Cologne-Dusseldorf, Frankfurt, Stuttgart and Munich, Germany, and Rome, Italy, shall expire on January 26, 1983." "The authority in this certificate for Segement II, except with respect to Boston, MA; New York, NY-Newark, NJ; Philadelphia, PA; Washington, DC-Baltimore, MD; Chicago, IL; Detroit, MI; Los Angeles and San Franciso-Oakland-San Jose, CA; and intermediate points within Egypt, shall expire on January 26, 1983." Conforming Applications, motions to modify scope, and Answers may be filed by May 25, 1982.
Do	40649	Global International Airways Corp., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Suite 900 South, Washington, D.C. 20036. Application of Global International Airway Corp., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authority to provide scheduled foreign air transportation of persons, property, and mail as follows: Between a point or points in the United States and a point or points in Kuwait, Bahrain, Egypt, Oman, Qatar, the United Arab Emirates, and Athens, Greece. Conforming Applications, motions to modify scope, and Answers may be filed by May 26, 1982.
Apr. 29, 1982	40651	Pan American World Airways, Inc., Pan Am Building, 200 Park Ave. New York, New York 10158.

Date filed	Docket No.	Description
		Application of Pan American World Airways, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests the Board to renew its certificate of public convenience and necessity for Route 246 on a permanent basis, or alternatively for a period of five years, to engage in foreign air transporatation of persons, property and mail between the coterminal points Los Angeles, California; New York, New York; San Francisco, California; Honolulu, Hawaii; the intermediate point Tokyo or another intermediate point in Japan; and the terminal points Beijing and Shanghai, the People's Republic of China. Conforming Applications, motions to modify scope, and Answers may be filed by May 27, 1982.
Apr. 30, 1982	40652	Air Nauru, c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Application of Air Nauru pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment to its foreign air carrier permit to authorize it to engage in foreign air transportation of persons, property and mail over a new and revised Segment 1 as follows: "1. Between a point or points in the Republic of Nauru; the intermediate points Tarawa, Kiribati; and Majuro, Trust Territory of the Pacific Island; and the terminal point Honolulu, Hawaii." Answers may be filed by May 29, 1982.
Do.	40653	Air Nauru, c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Application of Air Nauru pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment to its foreign air carrier permit to authorize it to engage in foreign air transportation of persons, property and mail over a new and revised Segment 4 as follows: "4. Between a point or points in the Republic of Nauru; the intermediate points Tarawa, Kiribati; Canton Island; Apia, Western Samoa; Pago Pago, American Samoa: and (a) Beyond Pago Pago, the intermediate point Rarotonga, Cook Islands; and the terminal point Papeete, Society Islands; and (b) Beyond Pago Pago, the intermediate point Niue Island, Nieu; and the terminal point Auckland, New Zealand." Answers may be filed by May 28, 1982.
Do.	40654	Air Nauru, c/o Andrew Air Nauru, c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Application of Air Nauru pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment to its foreign air carrier permit so as to delete the restriction set forth in Condition 2 to that permit. Condition 2 reads as follows: "The authority of the holder to serve Ponape and Guam, on the one hand, and Okinawa, on the other, and to serve Ponape on the one hand and Kagoshima on the other, is subject to the limitation that the holder shall not deplane at one of said points persons, property or mail enplaned at the other including stopover, connecting or any other revenue traffic." Answers may be filed by May 28, 1982.
Do.	40658	The Hawaii Express, Inc. c/o Eric L. Martin, Verner, Liipfert, Bernhard & McPherson, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036. Application of The Hawaii Express, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for a certificate of public convenience and necessity to engage in interstate and overseas air transportation in the Los Angeles-Honolulu market. Conforming Applications, motions to modify scope, and Answers may be filed by May 28, 1982.
Do.	40655	T-Bird Air, Inc. c/o Richard J. Kendall, Shaw, Pittman, Potts, & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of T-Bird Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authority to provide additional foreign charter air transportation of persons, property, and mail, between a point or points in the United States, and: a. Any point in Greenland, Iceland, the Axores, Europe, Africa, and Asia as far east of (and including) India, and b. Any point in Australisia, Indonesia, or Asia as far west as longitude 70 degrees east via a transpacific routing. Conforming Applications, motions to modify scope, and Answers may be filed by May 28, 1982.

Phyllis T, Kaylor,
Secretary.

[FR Doc. 82-12760 Filed 5-10-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40534]

Braniff-Pan American Route Transfer Case; Cancellation of Prehearing Conference and Hearing

By Order 82-4-113, Issued April 20, 1982, the Board instituted the *Braniff-Pan American Route Transfer Case,* Docket 40534, to determine, among other issues, whether it is in the public interest to approve the transfer of Braniff Airways' Latin American route system to Pan American World Airways.

By Order 82-4-144, the Board granted interim approval to an agreement reached between Braniff and Eastern Air Lines, Docket 40636, for a similar route transfer and stayed all proceedings in Docket 40534, pending further Board Order.

In light of the Board's action in Order 82-4-144, notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference (47 FR 18159, April 28, 1982), which was assigned to be held on May 12, 1982, at 9:30 a.m. (local time), in Room 1003, Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., and the hearing (47 FR 18159, April 28, 1982), which was assigned to be held commencing on June 7, 1982, at 9:30 a.m. (local time), in Room 1003, Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., in the above-entitled proceeding, are cancelled.

Dated at Washington, D.C., May 6, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-12761 Filed 5-10-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40253]

Northeast Sunrise Airlines, Inc., Fitness Investigation; Postponement of Hearing

On April 6, 1982, a procedural schedule was established during the prehearing conference held in this proceeding. Pursuant to this schedule, the applicant was to submit responses to the Bureau of Domestic Aviation's (BDA) request for information by May 4, 1982; BDA was to notify all parties and the undersigned of a need for a hearing by May 13, 1982; and the hearing, if needed, was scheduled for May 20, 1982.

By letter dated May 3, 1982, counsel for the applicant notified the undersigned that they have been unable to reach satisfactory economic arrangements with the applicant and requested permission to withdraw from the case. On May 4, 1982, the undersigned received a letter from the case. on May 4, 1982, the undersigned received a letter from the applicant's new representative. In this letter, counsel states that he was not engaged by the applicant until the previous day (May 3) and requests an extension of time until May 14, 1982, for filing the information responses. BDA does not object to this request provided it also

receives a 10-day extension to evaluate the material to be submitted on May 14.

Upon consideration of these documents, all the above requests will be granted. The applicant's response to BDA's request for information will be submitted on or before May 14, 1982. BDA will notify all parties and the undersigned of a need for hearing on or before May 24.

Accordingly, notice is hereby given that the hearing in this proceeding, assigned to be held on May 20, 1982 (47 FR 16364, April 16, 1982) is postponed until further notice.

Dated at Washington, D.C., May 5, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-12763 Filed 5-10-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40583]

Saipan/Guam/Palau-Philippines Service Case; Postponement of Prehearing Conference

This case was instituted by Order 82-3-179, issued March 31, 1982, to decide which carrier should be authorized to engage in foreign air transportation of persons, property and mail between Saipan, Guam, Palau and points in the Philippines, and to determine the fitness of Island Aviation, an applicant for authority in this proceeding, to provide the scheduled air transportation included in its application. The Instituting Order consolidated into this proceeding the Application of Continental Air Lines, Inc., in Docket 40346, the Application of Air Micronesia Inc., in Docket 40347 and the Application of Island Aviation, Inc., in Docket 40369, and set April 26, 1982 as the date by which additional applications for authority were due. No further applications were filed.

On April 27, 1982, Island Aviation filed a Motion for Leave to Withdraw Application. Island's Motion was granted by Order of the undersigned dated May 6, 1982.

On April 30, 1982, Continental and Air Micronesia filed a Motion for Final Order Granting Certificates of Public Convenience and Necessity. Continental/Air Micronesia argued that since Island has requested that it be permitted to withdraw its application, and there are no other competing applicants, no need exists for holding an oral evidentiary hearing that the Board should enter an Order amending the carriers' certificates to grant the authority requested. Answers to Continental/Air Micronesia's Motion are not due until May 11, 1982, the scheduled date of the prehearing conference in this matter.

In light of the changed procedural posture of this case it would be inadvisable to hold further proceedings until answers, if any, have been received and Continental/Air Micronesia's Motion has been ruled upon. Accordingly, notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference in the above-entitled proceeding (47 FR 16364, April 16, 1982) which was assigned to be held on May 11, 1982, at 9:30 a.m. (local time), in Room 1003, Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., will be postponed until further notice.

Dated at Washington, D.C., May 6, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-12762 Filed 5-10-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40269]

Visit USA Fare/Export Inland Contract Rate Investigation; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to be held on May 6, 1982 (47 FR 18159, April 28, 1982) is hereby postponed until May 25, 1982 at 10:00 a.m. (local time) in Room 1012, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. In addition to the matters specified in the earlier notice of prehearing conference, the status of this proceeding and need for further procedural dates will also be discussed.

Dated at Washington, D.C., May 5, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-12764 Filed 5-10-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Idaho Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Idaho Advisory Committee to the Commission will convene at 12:00 p.m., and will end at 5:00 p.m., on May 22, 1982, at the Sheraton-Red Lion Hotel, 1901 Main, Boise, Idaho, 83702. The purpose of this meeting is to orientate the new members of the Advisory Committee and discuss program plans for the remaining period of Fiscal Year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rudy M. Pena, 2410 Joretta, Boise, Idaho, 83704, (208) 334-3993 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington, (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 4, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-12683 Filed 5-10-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Membership of the Bureau of the Census Performance Review Board

The following individuals shall serve as members of the Census Bureau Performance Review Board:

(1) Barbara A. Bailar
(2) Shirley Kallek
(3) James D. Lincoln
(4) Jerome A. Mark
(5) Stanley D. Moore

Dated: May 5, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-12681 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-7-M

International Trade Administration

Instant Potato Granules From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On November 30, 1981 the Department of Commerce published the preliminary results of its administrative review and its tentative determination to revoke in part the antidumping finding on instant potato granules from Canada. This review covers the three known producers/exporters of this merchandise to the United States and consecutive periods generally from January 1, 1974 through September 30, 1980. This review indicates the existence of dumping margins in particular periods for one producer/exporter.

Interested parties were given an opportunity to submit written comments or request a hearing on the preliminary results. The Department received comments from representatives of one exporter. Based on these comments, the Department has made adjustments which result in reduced weighted-average margins for that firm. We will revoke the finding with regard to one other company, if appropriate, at the time we publish the final results of our next review.

EFFECTIVE DATE: (Date of publication in the **Federal Register**.)

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4793/2657).

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1972, a dumping finding with respect to instant potato granules from Canada was published in the **Federal Register** as Treasury Decision 72-263 (37 FR 18505). On November 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding and a tentative determination to revoke in part (46 FR 55297-55298). The Department has now completed the administrative review.

Scope of the Review

Imports covered by the review are shipments of instant potato granules, currently classifiable under item 140.7000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of three Canadian firms engaged in the production and exportation of instant potato granules to the United States. This review covers separate time periods through September 30, 1980 for each of the firms. The Treasury Department reviewed all prior time periods.

One firm, Vauxhall Foods, did not ship during its review period. There were no exportations by Carnation, Inc. at less than fair value for the period January 1, 1974 through December 3, 1978, and there have been no shipments since that time. Carnation has requested a revocation.

Analysis of Comments Received

In our notice of preliminary results, we stated that we had not allowed a claimed adjustment for a volume rebate by McCain Foods because it was not properly quantified. During the comment period, McCain demonstrated the actual amounts given, rather than the average, to our satisfaction. Therefore, we have made an adjustment to the home market price for the volume rebate in our final results.

Final Results of Review

As a result of our analysis of comments received, we determine that the following weighted-average margins exist:

Exporter	Time	Margin (percent)
Carnation, Inc.	1/74 to 12/78	0
	1/79 to 9/80	[1] 0
McCain Foods, Inc.	1/76 to 12/77	25.17
	1/78 to 12/78	27.92
	1/79 to 12/79	.71
	1/80 to 9/80	8.7
Vauxhall Foods	1/74 to 9/80	[1] 38.5

[1] No shipments during period.

The Department will examine exports by Carnation made during the period October 1, 1980 through November 30, 1981 in its next administrative review and, if Carnation had no sales with dumping margins or no shipments, we will publish a revocation of the finding with respect to Carnation together with the final results of that review.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates or export dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins listed above shall be required on all shipments by these firms of Canadian instant potato granules entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

For any shipment from a new exporter not covered in this administrative review, unrelated to the covered firms, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: May 3, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-12714 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-25-M

[A-435-007]

Pig Iron From Czechoslovakia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On March 18, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from Czechoslovakia. The review covers the only known exporter of this merchandise to the United States, Ferromet, and the period October 1, 1980 through September 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received no comments.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1968, an antidumping finding with respect to pig iron from Czechoslovakia was published in the **Federal Register** as Treasury Decision 68-262 (33 FR 15904). On March 18, 1982, the Department of Commerce ("The Department") publishes in the **Federal Register** (47 FR 11743) the preliminary results of its administrative review of that finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such

as pig, automobile castings, and machinery parts. Pig iron is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one exporter of pig iron from Czechoslovakia to the United States, Ferromet. The review covers the period October 1, 1980 through September 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this time period and there are no known unliquidated entries.

Since there have been no shipments for over 13 years the Department waives the requirement for a cash deposit of estimated duties, as provided for by § 353.48(b) of the Commerce Regulations, on any shipments of pig iron from Czechoslovakia entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: May 3, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-12715 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-25-M

Pig Iron From East Germany; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on pig iron from East Germany. The review covers the only known exporter of this merchandise to the United States, Deutshe, Stahl-Metall, and the period October 1, 1980 through September 30, 1981. There have been no known shipments to the U.S. during this period and there are no known unliquidated entries.

As a result of this review, the Department has decided to require a cash deposit equal to the margin calculated during the original fair value investigation. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4793/2657).

SUPPLEMENTARY INFORMATION:

Background

On November 20, 1981 the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 57103-57104) the final results of its first administrative review of the antidumping finding on pig iron from East Germany and announced its intent to conduct the next administrative review by the end of October 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under items 606-1300 and 606-1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of one exporter of pig iron from East Germany to the United States, Deutsche Stahl-Metall. The review covers the period October 1, 1980 through September 30, 1981.

Preliminary Results of the Review.

As a result of our review, we preliminary determine that there were no shipments by Deutsche Stahl-Metall during the review period and there are no known unliquidated entries. Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent margin for the firm shall be required on all shipments of pig iron from East Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Deutsche Stahl-Metall failed to respond to our questionnaire for the review period. The most recent margin calculated for Deutsche Stahl-Metall is the rate of 70 percent calculated during the original fair value investigation. This rate shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53)).

Dated: May 3, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-12716 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-25-M

Pig Iron From the U.S.S.R.; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on pig iron from the U.S.S.R. The review covers the only known exporter of this merchandise to the United States, Promysrioimport, and the period October 1, 1980 through September 30, 1981. There have been no known shipments to the U.S. during this period and there are no known unliquidated entries.

As a result of this review, the Department has decided to require a cash deposit equal to the margin calculated during the original fair value investigation. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4793/2657).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1981 the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 56227–56228) the final results of its first administrative review of the antidumping finding on pig iron from the U.S.S.R. and announced its intent to conduct the next administrative review by the end of October 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of one exporter of pig iron from the U.S.S.R. to the United States, Promysrioimport. The review covers the period October 1, 1980 through September 30, 1981.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that there were no shipments by Promysrioimport during the review period and there are no known inliquidated entries. Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent margin for the firm shall be required on all shipments of pig iron from the U.S.S.R. entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Promysrioimport failed to respond to our questionnaire for the review period. The most recent margin calculated for Promysrioimport is the rate of 70 percent calculated during the original fair value investigation. This rate shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 33.53 of the Commerce Regulations (19 CFR 353.53).

Dated: May 3, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc 82–12717 Filed 5–10–82; 8:45 am]

BILLING CODE 3510–25–M

[A–423–065]

Viscose Rayon Staple Fiber From Belgium; Preliminary Results Of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on viscose rayon staple fiber from Belgium. The review covers the only known exporter of the merchandise to the United States, Fabelta Zwijnaarde N.V., for the period December 1, 1980 through November 30, 1981. There were no known shipments to the U.S. of this merchandise during the period. There are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits equal to the calculated margins on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Linnea Bucher of John Kugelman, Office of Compliance, International trade Administration, U.S. Department of Commerce Washington, D.C. 20230 (202–377–4273/5289).

SUPPLEMENTARY INFORMATION:

Backgound

On September 23, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 46982–3) the final results of its administrative review of the antidumping finding on viscose rayon staple fiber from Belgium (43 FR 55240, November 27, 1978) and announced its intent to conduct the next administrative review by the end of November 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments). Viscose rayon staple fiber is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated (TSUSA).

Fabelta Zwijnaarde N.V. is the only known exporter to the United States of Belgian viscose rayon staple fiber. This review covers the period December 1, 1980 through November 30, 1981. There were no known shipments to the United States during the review period and there are no known unliquidated entries.

Preliminary Results of the Review

As provided by § 353.48(b) of the Commerce Regulations, we preliminarily determine that a cash deposit of 57.6%, based upon the last known shipments by Fabelta Zwijnaarde, shall be required on any shipments of Belgian viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: May 5, 1982

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

[FR Doc. 82-12718 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement; Business Development Center (BDC) Program; Shreveport, Louisiana, and Beaumont/Port Arthur/Orange, Texas, SMSA's

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for cooperative agreements under its Business Development Center (BDC) program to operate pilot projects for a twelve (12) month period.

Applicants will be required to contribute at least 10% to the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fees for services or in-kind contributions.

The estimated cost of each project includes the maximum federal participation and the minimum amount required for non-federal participation is included in the following description of each project.

CLOSING DATE: June 11, 1982.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Williams at (214) 767-8001.

(1) A cooperative agreement for BDC services to operate in Beaumont/Port Arthur/Orange, Texas (SMSA) counties of Hardin, Jefferson and Orange. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. number is 06-10-82015-01.

(2) A cooperative agreement for BDC services to operate in Shreveport, Louisiana (SMSA) parishes of Bossier, Caddo, and Webster. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. Number is 06-10-82011-01.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled. Legal services are excluded.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, forprofit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. Capability and Experience of Firm/Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: Inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort-i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint ventures.

—provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as guides and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the

profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing in that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. Cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Are charges to the client for asstance provided by BDC.

C. *In-Kind contribution*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. Costs

Demonstrate in narriative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

OMB Number: 0640-0006.

(Catlog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: May 4, 1982.

Richard H. Sewing,

Regional Director.

[FR Doc. 82-12706 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammal Protection; Issuance of Permit

On March 26, 1982, Notice was published in the Federal Register (47 FR 13024), that an application had been filed with the National Marine Fisheries Service by Mr. William Ford Dolphin, Department of Biological Sciences, Boston University, 2 Cummington Street, Boston, Massachusetts 02215, for a permit to take humpback whales (*Megaptera novaeangliae*) by potential harassment including close approaches up to 10 individual whales for deployment of ingestible transmitters for the purpose of scientific research.

Notice is hereby given that on May 5, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Scientific Research Permit to Mr. William Ford Dolphin for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973, is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-12756 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Protection; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217 through 222).

1. Applicant:

a. Name: LGL Alaska Research Associates, Inc. (P273A).

b. Address: P.O. Box 80607, Fairbanks, Alaska 99706.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Gray whales (*Eschrichtius robustus*).

4. Type of Take: Harassment by shipboard and underwater observations.

5. Location of Activity: Chirikof Basin in Bering Sea.

6. Period of Activity: 6 months.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, by June 10, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particiular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-12757 Filed 5-10-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Meeting

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule of the fourth full meeting of the National Commission on Excellence in Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: May 25, 1982.

LOCATION: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Penthouse, Room 800.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, 1200 19th Street, NW., Washington, D.C. 20208, (202) 254-7920 or Betty Baten, Administrative Liaison, (202) 254-7920.

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

The meeting of the Commission is open to the public. The agenda will include:

- Issues related to the transition between different levels of schooling;
- Reports of previous Commission hearings held to date; and
- Preliminary discussion by the Commission on aspects of the Final Report.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, NW., room 639, from the hours of 8:00 a.m. to 5:00 p.m.

Dated: May 5, 1982.

Fred Decker,

Deputy Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-12629 Filed 5-10-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board, Conservation Panel; Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: June 18, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Building, Room 4A-110, 1000 Independence Avenue, SW, Washington, DC 20585.

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board

To advise the Department of Energy on the overall research and development conducted in DOE and to provide longrange guidance in these areas to the Department.

Tentative Agenda

—Discussion of final draft report to be submitted to ERAB in September.

Public Participation

—The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 6, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-12708 Filed 5-10-82; 8:45 am]

BILLING CODE 6450-01-M

Solar Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Solar Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770).

Date and time: June 14, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Building, Room 4A-110, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board

To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

—Discussion of the Draft Report Outline.

—Federal Solar R&D Programs.

—Industrial Solar R&D Programs.
—Future Meeting Plans.

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forestal Building, 1000 Independence Avenue, SW, Washington, D.C. between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 6, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82–12707 Filed 5–10–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 6166–000]

Banta Carbona Irrigation District; Exemption From Licensing

May 5, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Pumping Plant No. 6, Project No. 6166, was filed on April 5, 1982, by Banta Carbona Irrigation District. The proposed hydroelectric project would have an installed capacity of 108 kW and would be located on Banta Carbona's major water conveyance system, San Joaquin County, California.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of May 5, 1982.

Robert E. Cackowski,

Acting Director, Office of Electric Power Regulation.

[FR Doc. 82–12676 Filed 5–10–82; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 80–765; FCC 82–179]

American Telephone and Telegraph Co.; Instituting Investigation

Memorandum Opinion and Order

Adopted: April 14, 1982.

Released: April 16, 1982.

By the Commission: Commissioner Fogarty concurring in the result and issuing a separate statement.

1. As a result of several proceedings before both this Commission and the U.S. Court of Appeals for the District of Columbia Circuit,[1] the American Telephone and Telegraph Company ("AT&T") in September 1980 proposed extensive revisions to its WATS tariff.[2] These revisions, among other things would have:

(a) Established separate rates for InWATS and OutWATS;

(b) Changed the Full Business Day and Measured Time options into a tapered structure with lower hourly rates as usage increased;

(c) Reduced the number of WATS service areas from 6 to 5; and

(d) Unbundled access lines charges (*i.e.*, recovered these costs through a fixed monthly charge rather than as part of the initial period change).

See Tr. No. 13555, cost justification, Vol. I at 2–7 to 2–9.

2. Although in some respects the September tariff revisions appeared to improve the then existing, unlawful WATS tariff, we nevertheless recognized that AT&T still had failed to adequately address our often-stated concerns with the effect of WATS on efficient use of the public switched telephone network ("PSN"). *See* 84 FCC 2d at 168. Therefore, we decided to investigate the revisions and to suspend them for five months for the protection of users. In the past, we had attempted to investigate all problem areas of previous WATS filings at the same time. However, since this proved very unwieldly and had not resulted in lawful WATS rates, we decided to separate issues for this investigation in a more manageable fashion in the hope that this would lead expeditiously to lawful WATS rates.

3. One of the most apparent defects of the WATS rate structure was its failure to incorporate peak/off-peak, time-of-day pricing. We decided to resolve this issue as a first step. After examining the problem, we concluded that AT&T's failure to incorporate a time-of-day sensitive rate element into its WATS tariff was unlawful.[3] 86 FCC 2d 820, 827–30 (1981) (hereafter "Time-of-day Order"), *appeal docketed sub nom. Southern Pacific Communications Company* v. *FCC*, D.C. Cir. No. 81–1594. However, we took note that AT&T in its comments had proposed a time-of-day rate structure element which could be incorporated into the September filing. *Id.* at 851–54. We recognized that this hybrid structure was only an initial effort, but it nevertheless provided incentives for off-peak use and represented a move toward more equitable rates for peak and off-peak users as well. *Id.* at 834–35, 852. Thus, we authorized AT&T to file tariff revisions incorporating its proposal. *Id.* at 856. These revisions in turn were permitted to become effective on June 1, 1981. We now set for investigation the remaining issues raised by that filing.[4]

---

[1] Among the more significant of these are our prescription of unlimited reseale and sharing of Wide Area Telecommunications Service ("WATS") and Message Telecommunications Service ("MTS"); our prescription of new costing methodologies for AT&T's interstate service offerings; and a judicial mandate to obtain a just and reasonable WATS tariff. *See* Matter of Regulatory Policies Concerning Resale and Shared Use of Common Carrier Domestic Public Switched Network Services (Docket No. 80–54), 77 FCC 2d 274 (1980), 83 FCC 2d 167 (1980), 86 FCC 2d 820 (1981); Manual and procedures for the Allocation of Costs (Docket No. 79–245), 73 FCC 2d 629 (1979), 78 FCC 2d 1296 (1980), 84 FCC 2d 384 (1981), *recon.*, 86 FCC 2d 667 (1981); AT&T (Long Lines Department), 66 FCC 2d 9 (1977), *recon.*, 69 FCC 2d 1672 (1978), *remanded and jurisdiction retained sub nom.* MCI Telecommunications Corp. v. FCC ("MCI v. FCC"), 627 F. 2d 322 (D.C. Cir. 1980).

[2] WATS consists of Outward WATS, or OutWATS, and Inward WATS or InWATS, now called 800 Service. We will refer to each service separately when appropriate, and otherwise use the term WATS inclusively.

[3] Additionally, we prescribed a time-of-day sensitive rate structure element for WATS as a general matter. *See* 86 FCC 2d at 856.

[4] We have subsequently denied both a petition for expedited reconsideration and a motion for stay of that order. *See* 86 FCC 2d 883 (1981). Additionally, there are several pleadings before us which were filed after that action. Specifically, Southern Pacific Communications Company ("SPCC") has filed an Emergency Motion for Temporary Stay and the Common Carrier Conference—Irregular Route, a user group affiliated with the American Trucking Association, Inc., has petitioned for stay. We deny both on the same grounds discussed at length in our previous order. Specifically, the possibility of irreparable injury has not been shown, and we are not convinced in any case that there is a substantial likelihood that our orders will be overturned on judicial review. *See id.*

The Common Carrier Conference-Irregular Route has also petitioned to suspend and investigate the tariff filing AT&T made pursuant to our Time-of-day Order. Additionally, Comdata Network, Inc. ("Comdata") urges suspension. We deny both petitions. As explained in our Time-of-day Order, the June 1, 1981 revisions are a distinct improvement over the unlawful WATS rates then in effect. Moreover, we are continuing to investigate other criticisms of the WATS offering in this proceeding.

Finally, we note that AT&T has submitted a conditional request to defer the effective date of

Discussion

4. Since many issues concerning the WATS tariff have already been addressed by the parties to this proceeding, we draw on an extensive record in moving to the next stage of our investigation. This record includes the petitions to suspend or reject the original September filing; AT&T's reply; the comments and reply comments from the first stage of our investigation; and the pleadings submitted after AT&T refiled its WATS tariff revisions with a time-of-day sensitive rate structure. Based on our analysis to date, we believe that the following issues raised by the September WATS filing now warrant immediate attention.

I. Issues To Be Investigated

A. The Current Rate Structure

5. (i) *AT&T's Cost Justification.* In 1978, following an inquiry, we determined that WATS and MTS are "like" communication service under Section 202(a) of the Act, 47 U.S.C. § 202(a). [5] As a result, AT&T was required to either justify rate differentials between MTS and WATS, or eliminate such discrimination. *See* 70 FCC 2d at 612–15.

6. By way of justification for the rate differentials it retained, AT&T has submitted a cost comparison study of MTS and WATS ("Volume 3–10") conducted in three phases.[6] There, traffic load patterns on the domestic PSN, including time-of-day message distribution, minutes of use, conversation holding time and length of haul, are analyzed. The information is then used to develop the costs of handling both MTS and WATS traffic loads. Specifically, OutWATS is compared to the MTS Business Direct Distance Dial ("DDD") category, while InWATS is compared to the MTS Operator Station Business Collect category. These MTS categories purportedly have been selected on the basis of their resemblance to the respective WATS offerings based on relative usage by time of day, relative length of haul, and average conversation holding time by time of day. *See* Vol. 3–10 at 2–9, 2–11 to 2–29.

7. According to AT&T, while there is little difference in investment costs between WATS and the chosen MTS category, per minute WATS expenses are significantly lower than the corresponding MTS figures. *Id.* at 1–2. Thus, the third phase of AT&T's study attempts to quantify the underlying expense differences between WATS and the selected MTS category of service. This phase consists of an analysis of the expenses of the services which was conducted by AT&T Long Lines with the assistance of selected Bell Operating Companies. *Id.* at 3–2. AT&T asserts that this survey confirms that traffic and administrative costs are lower for WATS. *Id.* at 1–2.

8. In the suspension order, we found the submission inadequate to meet the carrier's burden under the like service test, stating that AT&T had failed to provide sufficient information to permit us to determine whether the per-minute cost differences it attempts to demonstrate between MTS amd WATS are accurately reflected in the rate differences between MTS and WATS. *See* 84 FCC 2d at 198.[7] We noted that the task of making rate comparisons between the two services was complicated by, among other things, the following pronounced dissimilarities in the tariff structures:

(1) WATS ratemaking uses the concept of service areas or bands; the "like" or comparable MTS rate classification uses rates based on distance usage.

(2) The sizes of the bands used in WATS rate making are determined by measures of telephone density and geographical area, while interstate MTS ratemaking relies simply on point-to-point measurement.

(3) The WATS tariff utilizes volume discounts; MTS does not.

(4) Access line charges are bundled in the per-minute charges for MTS, but are unbundled for WATS.

(5) MTS utilizes a ratemaking scheme whereby each discrete conversation or message is individually priced, whereas WATS does not.

(6) WATS is billed in one-tenth of an hour increments whereas MTS is charged on a per-minute basis.

9. As a result of these differences in rate structures between WATS and MTS, there are no two readily comparable categories for cost and rate purposes, a problem we discussed in the suspension order. 84 FCC 2d at 200–03. This problem is best illustrated by the choice of MTS Operator Station Business Collect for comparison with InWATS. AT&T's study shows that there are large cost savings for InWATS over MTS Operator Collect. However, Operator Collect MTS is certainly more expensive to provide in large part because it is a labor intensive service whereas InWATS is, in effect, an automatic reverse billing feature. Alternatively, AT&T might have based its comparison on an MTS category, such as direct dial Day Rate MTS or Remote Call Forwarding ("RCF"), which has service features similar to InWATS. [8] In any event, the difficulty of the comparisons necessary to obtain some idea of the rate differences involved should not obscure the basic fact that InWATS is simply a PSN service like MTS, with additional blocking and billing options which make it attractive to certain large volume PSN users. *See Like Service,* 70 FCC 2d 593 (1978).

10. In spite of the difficulty of comparing the two services, we were able to obtain some idea of the magnitude of the rate discounts involved. Thus, our calculations, based on Volume 3–10 and certain assumptions necessary to permit comparsion of the two dissimilar rate structures, showed that even the revamped WATS tariff structure gave OutWATS users substantial discounts over MTS users. *See* 84 FCC 2d at 199. Now, in the face of AT&T's new time-of-day sensitive WATS rate structure, we have repeated the process for OutWATS and, although the figures are approximate, the following chart

resale and sharing of MTS and WATS should the proposed WATS tariff be stayed. In view of our denial of these pleadings, AT&T's request is now moot.

[5] AT&T, 66 FCC 2d 224 (1977), 67 FCC 2d 246 (1977), 70 FCC 2d 593 (1978), *recon. denied,* 79 FCC 2d 10 (1980), *appeal docketed sub nom.* Ad Hoc Telecommunications Users Committee v. FCC, D.C. Cir. No. 80–1785 ("Like Service"). Section 202(a) in pertinent part makes it unlawful for any common carrier to unjustly or unreasonably discriminate in connection with like communication services. A more complete discussion of the Like Service proceeding may be found at 84 FCC 2d at 162–63, 197–203.

[6] This material was provided as part of the economic cost support material filed with its September 1980 WATS tariff revisions. The study of cost differences between services was done for AT&T by the Management Analysis Center, Inc. and Professor Gordon Shillinglaw, and constitutes Section 2 of Vol. 3–10.

[7] A number of petitioners criticize AT&T's September proposal on this score as well. *See, e.g.,* petitions of MCI Telecommunications Corp. ("MCI"), Satellite Business Systems ("SBS") SPCC, United States Transmission Systems, Inc. ("USTS"), and Western Union Telegraph Company ("WU"). *See also* the comments submitted during the first phase of this investigation by SBS, SPCC, MCI, and the reply comments of SPCC.

[8] Remote Call Forwarding ("RCF") permits a call placed to a given number in one exchange to be automatically forwarded to a customer-designated station in another exchange. *See* 84 FCC 2d at 201–02. In our view, RCF is a better basis for comparing InWATS and MTS because it, unlike Operator Assisted Collect MTS, enables a customer to construct an InWATS-equivalent network (albeit with less geographic coverage) priced on the basis of MTS. *Id.* at 201. Further, as discussed above, the per minute expense for RCF is more comparable to InWATS than Operator Assisted Collect MTS because both use automatic billing.

demonstrates that substantial discounts remain:[9]

OUTWATS DISCOUNT FROM MTS AS A PERCENT OF MTS RATES [1]

WATS rate step	MTS mileage	Hours of usage			
		15 (per-cent)	40 (per-cent)	80 (per-cent)	140 (per-cent)
Business Day					
1	71 to 124	26.3	31.4	37.0	43.1
9	431 to 925	27.0	32.0	37.5	43.6
18	1,911 to 3,000	25.6	30.8	36.4	42.6
Evening					
1	71 to 124	26.4	31.4	37.1	43.2
9	431 to 925	27.0	32.0	37.5	43.6
18	1,911 to 3,000	25.7	30.8	36.4	42.7
Night/Weekend					
1	71 to 124	36.0	36.0	36.0	36.0
9	431 to 925	36.0	36.5	36.6	36.6
18	1,911 to 3,000	35.0	35.0	35.0	35.0

[1] The source of the figures used in our calculations for WATS rates is Tariff F.C.C. No. 259 at 9th revised page 14.1, effective June 28, 1981 and for MTS rates Tariff F.C.C. No. 263 at 19th revised page 26, effective June 28, 1981. AT&T supplied information in Vol. 3–10 showing that the average MTS Business DDD call is 4.5 minutes, and the average conversation holding time for total MTS is 7.5 minutes. Six minutes is the average of these two numbers. Thus, in computing MTS hourly rates, we have assumed 10 six-minute calls per hour; hence, each hour of use contains 10 initial minutes and 50 additional minutes.

Despite these actual rate differentials, the data supplied by AT&T in Volume 3–10 reflects actual cost differentials between MTS and OutWATS of only about 11 percent.[10]

11. A comparison between InWATS and MTS reveals a similarly wide margin between differentials in actual rates and expenses as set forth in Volume 3–10. As shown in the following chart, InWATS rates are on the order of 50 to 60 percent lower than Business DDD, whereas we clculate that AT&T's cost figures in Volume 3–10 show a differential of approximately only 30 percent: [11]

INWATS DISCOUNT FROM MTS AS A PERCENT OF BUSINESS DAY MTS RATES [1]

WATS rate step	MTS mileage	Hours of usage			
		15 (per-cent)	40 (per-cent)	80 (per-cent)	140 (per-cent)
1	71 to 124	50	52	55	59
9	431 to 925	52	55	58	61
18	1911 to3000	54	54	58	61

[1] The source of the figures used in our calculations for WATS rates is Tariff F.C.C. No. 259 at 9th revised page 14.2 and for MTS rates Tariff F.C.C. No. 263 at 19th revised page 26. In converting MTS rates to an hourly basis, we have relied on AT&T data which shows that the average conversation time for a business collect call is 5.27 minutes. *See* Vol. 3–10 at p. 4–16. Each hour, therefore, contains on the average 11 calls, or 11 initial three-minute periods and 27 additional minutes.

12. These discrepancies between the relative costs of providing WATS and MTS as contrasted with their actual rate differences are a major shortcoming of AT&T's cost comparison study. It has failed in this regard to take the important last step of showing a nexus between cost savings and the large rate discounts available to WATS users, as opposed to similarly situated MTS users. As a result, AT&T does not answer the very question which most concerns us, that is what are the real cost differences between WATS and MTS? Further, we are left without a basis for determining whether alleged expense differences are, in fact, the reason for the differential between WATS and MTS rates. It seems clear to us that AT&T must provide solid justification for rate differences which so substantially exceed corresponding differentials in costs. In sum, AT&T still has not faced squarely our basic concern in the *Like Service* decision, which is "to ensure fair and equitable rate treatment of *all* users of the public switched network such that one user class is not unduly discriminated against. . ." 70 FCC 2d at 613.

13. (ii) *The PSN Tariff Structures.* The record before us raises other questions of lawfulness concerning AT&T's PSN tariff structures. As explained (para. 8, *supra*,) AT&T offers functionally similar PSN services under rate structures which differ substantially. There are several reasons why these rate structure differences concern us. For one, the structures as currently constituted effectively impede meaningful comparisons between MTS and WATS by this Commission, customers, and even competitors. Moreover, these rate structure differences have never been shown to stem from technological imperatives, and as such seem unnecessary. Perhaps the most compelling reason for our concern, however, is that rate structure symmetry between these like PSN services may be a necessary prerequisite for assuring that actual rates being charged are just and reasonable. As we emphasized in discussing AT&T's September submission:

> These and other ratemaking differences (between MTS and WATS) make it exceedingly difficult or impossible to compare the costs and charges for equivalent units of service under MTS and WATS * * * If AT&T does not meet its justification burden in the investigation we plan to conduct, it may become necessary to order changes to the WATS rate structure which may for the first time * * * achieve the service comparability necessary for us to prescribe WATS rates. 84 FCC 2d at 198–99.

14. Equally significant, it is uncontested that WATS and MTS calls use the network in the same way once they enter the PSN. *See* 70 FCC 2d at 596. It follows that they are also indistinguishable in terms of cost causation to the PSN.[12] Further, service usage patterns are strikingly similar. AT&T itself states that "all service categories and subcategories of service that were examined * * * tend to exhibit relatively similar length-of-haul patterns." Vol. 3–10 at 2–13.[13]

15. Such heterogeneous tariff structures for functionally equivalent services make the detection of price discrimination extremely difficult. Price discrimination arises where firms charge different prices for goods or services which cost the same per unit to produce. One prerequisite for such discrimination is the ability of the price discriminator to segment markets by customer price elasticities of demand. The general effect of such discrimination is a redistribution of income from the customers discriminated against to the price discriminator or favored customers. *See* 83 FCC 2d at 174.

16. The notion that rate structure elements in the WATS tariff may be a means to achieve price discrimination is not a new one. Indeed, we have evidence that WATS provisions in the past may have prevented economic activity, such as arbitrage, the effect of which is to reduce price discrimination between users of the like services, MTS and WATS.[14] For example, in the *Resale*

[9] AT&T recently established rate changes for MTS. *See* Transmittal No. 13904 ("Equalization Filing"), effective April 2, 1982. Our rate comparison between OutWATS and these new MTS rates demonstrates that the discounts set forth in the following charts have not changed significantly as a result of the Equalization Filing.

[10] This calculation is based on Tr. No. 13555, cost justification material, Vol. 3–10. The 16 percent figure we calculated in the suspension order (84 FCC 2d at 199) has been adjusted to include not only expense differentials but also a return factor.

[11] The 30 percent discount figure, also derived from Volume 3–10, has been adjusted from the 50 percent figure calculated in the suspension order (84 FCC 2d at 200) in order to take into account a return factor.

[12] We assume here that the calls are made to the same point at the same time of day.

[13] The similarity shown by AT&T in the average distance of MTS and WATS calls is striking, and underscores the question of why WATS is priced by area while MTS is priced on a point-to-point basis. Indeed, given the close correspondence, we are reluctant to rule out the possibility that service area pricing may be an unreasonable discrimination. *See* Vol. 3–10 at 2–13, 2–16, 2–19, 2–22, 2–27. Accordingly, parties may wish to comment on this question as well.

[14] Arbitrage is the purchase of a product in one market and the resale of it in another market at a higher price, thereby obtaining a guaranteed profit.

and Shared Use proceeding, we found that restrictions on resale and sharing of MTS and WATS artificially segmented the PSN market by preventing arbitrage. *See* 83 FCC 2d at 174–76. When we ordered the restrictions removed, AT&T admitted that unless it was allowed to drastically revise its WATS tariff, it would lose $0.7 to $1.3 billion per year. *See* AT&T comments in Docket No. 80–54 at 26 and Appendix B. The possibility, therefore, that the disparities identified earlier (*supra.*, paras. 10–11) between rates and expenses may reflect unjust discrimination is one that warrants serious consideration.

17. There is a definite link between complex, difficult to compare PSN tariff structures and this Commission's continuing difficulties in assuring cost-based, non-discriminatory rates for PSN services. To the extent AT&T tariffs functionally similar PSN services in structurally different ways, it not only permits possible price discrimination, but greatly impedes effective regulatory oversight.[15] In the face of statutory deadlines and limited resources, we are frequently unable to analyze each filing in terms of possible interservice discrimination or broad market implications. Instead, the filing as a practical matter is frequently analyzed as an isolated, separable whole. As a result, we may not detect even over time basic market manipulations or possible underlying discriminations which may be present.

18. The situation here, then, may be simply summarized. WATS and MTS have been found to be like service. They have similar costs within the PSN, and exhibit virtually identical calling patterns in terms of distance. However, the tariff structures as designed by AT&T are different in many important respects. Such completely different structures have created market segmentation, which is one prerequisite for price discrimination. That massive price discrimination among PSN services previously existed is evidenced by the WATS tariff revisions AT&T made as a result of the introduction of arbitrage activity pursuant to our *Resale and Sharing* decision. The probability that price discrimination still exists is evidenced by the wide difference between the discounts still obtainable by large volume WATS users *vis-a-vis* similarly situated MTS users, despite the relatively minor cost differences suggested by the showing in Volume 3–10. This situation persists notwithstanding our many years of investigating, questioning, and rejecting WATS tariffs in an effort to obtain a lawful WATS tariff.[16] Thus, it is probable that unreasonable discrimination may still be present in these offerings, and that the current tariff structures contribute to the continuation of such discrimination.

19. (iii) *Focus of the Investigation.* As a result of the differences in rates between MTS and WATS and the failure of the data supplies by AT&T to justify this discrimination, we conclude that the time has come to resolve whether it is reasonable for AT&T to maintain two separate PSN rate structures which result in MTS customers paying far more than those who can avail themselves of the discounted offering, WATS. Mindful of the need for a definitive answer, we shall now pursue two parallel courses of action. First, AT&T may attempt for a final time to justify the rate discrimination and disparate tariff structure practices between the two services. Second, in order to be prepared to resolve these issues in the event AT&T does not meet its burden to demonstrate that the discrimination in its current WATS tariff is reasonable, we will invite comment on whether some form of unified PSN tariff encompassing both MTS and WATS would overcome such discrimination. In this regard, we will invite AT&T as well as other parties to submit proposals for a unified PSN rate structure.

20. Consistent with this view, we first will investigate whether the differences between the WATS and MTS tariffs and rate structures are justified. Specifically, we seek comment on whether, under Section 202(a), 47 U.S.C. § 202(a), the discrimination between WATS and MTS is lawful. This will require AT&T to submit data which neutralizes structural differences between MTS and WATS so that we may determine whether any remaining cost differences justify the rate differentials.[17] To this end, special concern should be given to ascertaining, in light of our discussion above the para. 9, a proper basis for comparing costs of InWATS and MTS. We also seek comment on whether, under Section 202(a), the volume discount incorporated into the WATS tariff gives these customers an unlawful preference over MTS customers for whom such a discount is not made available. In this regard, AT&T should demonstrate [by its data submission that the volume discount structure characteristic of WATS which is denied MTS users has a basis in costs or other justification.

21. We will also investigate whether the current WATS tariff is unjust and unreasonable, and hence unlawful, under Section 201(b) of the Act.[18] Here we will focus on the question of whether WATS, which we have found to be discounted MTS with auxiliary switching, accounting, and billing functions, can justly and reasonably be offered under a tariff differing so completely from MTS. AT&T's use of completely different rate structure elements does not automatically make WATS a separate service from MTS. As discussed above, the offering of PSN service pursuant to nonuniform rate structures provides a foundation for possible segmentation of the PSN market into submarkets for customer price elasticities of demand. *See* para. 15, *supra.* Moreover, the two rate structures give rise to unnecessary complexity in AT&T's offering of PSN service, thereby hampering customer efforts to assess which options would best meet their service requirements.[19] We will therefore expressly require AT&T to justify under Section 201(b) its classification of the PSN into two separate services, MTS and WATS, rather than a single service offering having various optional features.

22. In the event AT&T does not satisfy our Section 201 and 202 concerns, we next will consider whether resolution of

---

See 83 FCC 2d at 175. In the present context, arbitrage would limit AT&T's ability to charge different prices for the same product, *i.e.* PSN service. *See id.*

[15] Greatly varying tariff structures for similar services are not desirable generally, as they impose costs on regulators, consumers, and competitors alike, without any obvious efficiency gains. It is arguable that, to the extent such structures permit price discrimination, they may be desirable if such price discrimination permits the achievement of economies of scale which then benefit all consumers. However, we have no evidence that this latter phenomenon is occurring in the case of PSN services. *See generally* 83 FCC 2d at 174 n.17.

[16] For a discussion of the twenty year history of our efforts to regulate WATS, *see* 83 FCC 2d at 176–77; 84 FCC 2d at 159–64.

[17] As a related matter, we note that AT&T has recently proposed in its Equalization filing to increase the discount available to evening MTS users from 35 percent to 40 percent. It will be recalled that in designing its WATS time-of-day rate structure, AT&T based its off-peak discounts on those applicable to MTS. We therefore expect AT&T to address in its comments here whether, in light of the Equalization filing, it intends to increase the WATS evening discount, and if not, to provide justification for this omission.

[18] 47 U.S.C. 201(b). This section declares unlawful any unjust and unreasonable charge, practice or classification.

[19] For example, it is difficult even to compare the rate for a basic MTS telephone call with the equivalent rate for a WATS call. The MTS rate would be for a given point-to-point call regardless of the caller's previous PSN use, whereas the WATS schedule would yield multiple rates for the same call depending on service area and volume of previous calling. Thus, not only are similarly situated PSN users treated differently under the two tariffs, but a comparison of costs given the differing tariff structures must necessarily be imprecise.

these issues will require creation of a unified PSN tariff. Generally, such a tariff would result in similar services involving PSN use being offered as part of a simple, unified tariff. There could be separate service options for cases in which the major component is PSN use, but for which additional features (*e.g.*, operator assistance and automatic collect calling) are desired.[20] Volume discounts, if justified by cost data, might be based on total monthly messages, while distance discounts could be based on airline mileage. For example, all interstate calls made within a given mileage radius over a specified volume level might be discounted. Similarly, customers who desire more expensive options, such as itemized billing, would bear the cost associated with their choice.

23. Although we do not prejudge the merits of this approach, it appears that a unified tariff could overcome many of the problems with the WATS tariff we have repeatedly identified in the past. For example, by pricing the major component of WATS and MTS, *i.e.* PSN use, in the same way for similarly situated users, a unified PSN tariff would reduce the opportunity for market segmentation and thus price discrimination. Users of like PSN service would be treated more equitably; if usage patterns justify a cost-based volume or distance discount, it would be available to all. As such, we seek to fulfill our duty under Section 202(a) to prevent unjust discrimination against users of like service, as well as unreasonable preference to a particular class of similarly situated customers.

24. Equally important, a unified tariff structure would permit customers, competitors, and the Commission to compare PSN service options. Monitoring the costs of a unified tariff would be easier than the rough comparisons between MTS and WATS rates now possible. Customers could more readily determine the costs and options which would maximize their utility, and competitors would be better able to determine where entry might be profitable.

25. A further potential benefit is that rates under such a structure would be more cost-based, since the relationship between options and their associated costs would be more apparent. This is one of our long-standing policy objectives. *See AT&T* (Docket No. 19989), 59 FCC 2d 671, 178 (1976) and cases cited there; 83 FCC 2d at 167; 84 FCC 2d 835. In other words, the costs a PSN user imposes on the system by its choice of options would be directly reflected in the rates for that option. Subsidies between users could thus be more easily detected, quantified and evaluated. If individual uses of the PSN are priced according to the costs they cause, more efficient allocation of telecommunications resources can also be expected. *See* 86 FCC 2d at 836–38.[21] Thus, under a unified tariff, we would expect to achieve not only more equitable, cost-based rates, but a more efficient allocation of telecommunications resources as well.

26. Finally, many of the cost phenomena which are particularly difficult to analyze, such as non-traffic sensitive ("NTS") and traffic sensitive ("TS") cost allocations or costs associated with appropriate peak load pricing, are intractable precisely because they should properly be considered on a PSN-wide basis. For example, since all PSN services (not just WATS) contribute to PSN peaks, it is much more useful to consider the effect of WATS usage on peak cost causation when the analysis is based on a PSN-wide approach. A unified tariff would make the essential nature of InWATS, OutWATS and MTS as PSN services more apparent, and allow better regulatory oversight of such phenomena as peak costs and NTS and TS cost allocation. This is highly desirable since one of the most serious impediments to effective Commission regulation of WATS has been the division and assignment of common PSN costs to a number of unnecessarily differentiated PSN services. Thus, we have too often been called upon to evaluate such phenomena in the context of a restrictive tariff filing for a particular PSN service. A unitary PSN tariff structure would help alleviate this situation.

27. At the same time, implementation of a unified tariff would not seem to involve any undue expense to AT&T or result in less efficient or more expensive service to the telecommunications consumer. Indeed, the unbundling involved in implementing such a structure can be expected to increase consumer choice. By providing that some elements of present bundled PSN service be made optional, it is likely that lower costs to consumers would ensue. Thus, althought we recognize that any tariff structure change involves some short run transitional costs as consumers, competitors, and AT&T itself adjust, it appears to us that the potential benefits of such a tariff structure far outweigh these minimal costs.[22]

28. In sum, a unified PSN tariff structure could reasonably be anticipated to further the public interest in several ways. It would reduce the opportunity for market segmentation and thus price discrimination, as well as aid the effectiveness of our regulation of PSN services by providing a simpler structure under which costs associated with the service can be more easily determined. It would facilitate comparability among PSN options by customers, competitors, and the Commission. It should result in more cost-based rates, in keeping with long-standing Commission policy. This in turn could be expected to result in a more efficient allocation of telecommunications resources. A unified PSN tariff, by making the similar nature of MTS, OutWATS and InWATS clear, would aid sound regulatory oversight of such PSN-wide phenomenon as peak costs and proper allocation of TS and NTS costs. Finally, the unbundled nature of such a tariff has the potential to result in increased choice and lower rates to customers.

29. In considering the possibility of creating a unified PSN tariff, we are not treading on entirely unfamiliar ground. SPCC, for example, has already submitted one such proposal in this proceeding (Comments at 36–37):

> * * * WATS service (should) be offered as a bulk discount of MTS. It should be made available to those customers who have a sufficient volume of usage to warrant qualifications for a bulk discount. Charges will accrue to each customer on a call-by-call basis, as with MTS, based on length of call, distance, and time-of-day. Customers will be charged the effective MTS rate for all hours of use below the minimum volume needed for the bulk discount. Above that minimum they will receive a bulk discount. That discount may be flat or increasing with usage, but in the aggregate it cannot exceed that amount AT&T demonstrates is saved by providing WATS * * * Additionally customers will receive a time-of-day discount equivalent to that of MTS (*i.e.*, 35% in the evening and 60% during the late night). To obtain WATS service a customer must use an access line dedicated to interstate toll use. The full cost of the access line and any other non-traffic sensitive costs not already included in the

[20] Indeed, many of the expense differences listed by AT&T in Vol. 3–10 could easily be offered as options (*e.g.* credit card calling and billing expenses, public coin service expenses, hotel/motel billing expenses, bill itemization, different payment methods) *See* Vol. 3–10 at 3–2 to 3–9.

[21] For example, optional itemized billing would provide users with a choice between itemized bills with detailed usage information or a less expensive non-itemized bill. Those who desired the additional service could pay the charges for it. Indeed, most WATS customers can obtain itemized bills for a small additional charge at the present time. *See* 70 FCC 2d at 610–11.

[22] Of course, some users who may now be enjoying the fruits of any unjustified price discrimination present in the WATS tariff structure would lose such benefits. *See 86 FCC at 834–36.*

MTS tariff should be charged as a flat monthly fee. This proposal eliminates the requirement for mileage bands to restrict calling distance.*

*Although the carrier may continue to offer such service under WATS, the customers should be charged separately to cover the added costs of screening equipment and its maintenance.

30. We do not endorse SPCC's plan, but we do view it as one possible structure. Others are surely conceivable, and we do not bind ourselves to any particular proposal at this stage. Nevertheless, we observe that several features would appear to be necessary for cost-based rates. Becuase much of PSN investment is driven by peak usage patterns (*see* 84 FCC 2d at 177, 86 FCC 2d at 830–33 and n. 17), the first prerequisite is some form of time-of-day sensitive, peak/off-peak pricing. A second is that any volume or distance discount justified by cost differences should be available to all users whose usage patterns result in the appropriate cost savings. The conceptual focus of such a rate structure should be a simple, unified tariff reflecting the common PSN use of InWATS, OutWATS and MTS, with specialized functions for various features, such as the billing and blocking funtions of InWATS and OutWATS, offered as additional options. The basic offering, of course, should be expressed in terms of a common service unit.

31. With these considerations in mind, we invite commenting parties to originate proposals for a unified tariff structure. We specifically encourage AT&T to submit a complete sample unified tariff structure based on our comments here. It should make the submission sufficiently detailed to permit meaningful analysis by the Commission and the parties.[23] Although rates need not be specified in this regard, discount rate levels and other structural elements should be provided. We believe that this submission would greatly assist us in the expeditious resolution of the discrimination issues previously discussed in the event AT&T is unable to justify such discrimination. Parties choosing to respond to the proposals in their reply comments should frame their analyses in terms of the regulatory goals we have enunciated for such a rate structure. Finally, notice is given that the record established in this investigation may form the basis for further Commission action under Section 205 of the Act, 47 U.S.C. § 205.[24]

B. Issues Relating to the Current Peak/Off-Peak Rate Structure

32. (i) *The Taper.* Rates under the current WATS tariff are determined by use of a taper.[25] The taper consists of four rate periods, or blocks of time. Although AT&T did not show that its per unit costs in providing WATS lessen as customers accumulate hours of use throughout the month, unit charges on the taper decrease as hours of use increase. The original stated justification for this feature was to encourage off-peak use of the PSN. *See* AT&T reply, Tr. No. 13555, at 57; 84 FCC 2d at 178–80; 86 FCC 2d at 829. The taper was retained in AT&T's proposal as a result of the expedited pace of the first phase of the investigation, as well as because lengthy proceedings would have been required if a completely new rate structure had been proposed by AT&T. *See* 84 FCC 2d at 210; 86 FCC 2d at 850–51. At the time, however, we explicitly recognized that the rate structure as proposed was only an initial effort, to be improved in light of further experience. *See* 84 FCC 2d at 181, 86 FCC 2d at 851–52.

33. We believe that it is now time to consider whether the tapers, which by AT&T's admission reflect increasing off-peak usage, are redundant in the presence of the current peak/off-peak rate structure element. Moreover, the Peak/Off-Peak study recently submitted by AT&T (see discussion below) may contain information useful in making this determination. AT&T, of course, will have the opportunity to advance other justifications for some form of tapered structure. However, in doing so it should be prepared to meet our concern that the tapered rate structure may constitute an unjustifiable bulk discount.

34. (ii) *Non-Cumulative Billing.* AT&T's non-cumulative billing approach, which arises as a direct result of the tapered schedule, also raises questions of reasonableness. Under the non-cumulative rate structure presently in effect for WATS, a user's charges for evening discounts begin on the first taper regardless of how much day use has been accumulated. By contrast, under a cumulative rate structure, a user with extensive peak use would move directly to a more heavily discounted evening taper. For example, a user who had accumulated 45 hours of peak use would have his first hour of evening use billed at the discount rate in effect for the 40–80 hour evening taper, as opposed to the higher 0–15 hour taper rates.

35. In allowing AT&T to implement its peak/off-peak rate structure element, we recognized that the effect of its non-cumulative billing feature might be to lessen the incentive of WATS customers to shift use to off-peak periods. *See* 86 FCC 2d at 852. This result is at cross purposes to the basic goals of such a rate structure. However, we explicitly declined to take a position on this issue because it had not been fully explored in the record. *Id.* at n. 40. We believe that by inviting the public to comment now on this issue we will be able to determine its effect on peak/off-peak usage.

36. (iii) *Group Average Billing.* One of the most controversial issues raised by the September filing is AT&T's use of group average billing. This feature of the WATS tariff provides that a customer's usage is to be averaged over the number of access lines in a WATS service group.[26] A customer who uses two lines for 80 hours each and a third line for 5 hours would pay for 55 hours of use on each of the three lines instead of receiving the benefits of greater discounts for 80 hours usage on its two lines, with overflow routed to the third line. (Calculating the actual billing rate is much more complex than in our simplified example; in actuality, nine separate steps are required to arrive at the appropriate charge. *See* 84 FCC 2d at 183.) Accordingly, the general effect of the structure has been to increase charges to customers who are unable to maintain approximately equal usage levels on each access line.

37. In particular, this rate structure element has been extensively criticized in petitions to suspend or reject AT&T's September filing. *See, e.g.*, petitions of

[23] We recognize that the need to bill InWATS calls to the receiving rather than originating station may give rise to technical differences between the handling of InWATS and other calls made on the PSN. These technical differences may create difficulties in any attempt to bill InWATS calls on the basis of actual airline mileage distance of each individual call. Although it would appear that such difficulties will be ameliorated as Common Channel Interoffice Signaling ("CCIS") becomes more widely available, we would in the meantime allow the necessary flexibility to implement a practical rate consolidation plan.

[24] Section 205 authorizes the Commission after full opportunity for hearing to determine and prescribe just, fair and reasonable tariff charges, classifications, regulations, or practices.

[25] The current WATS taper consists of four rate periods reflecting increases in monthly usage per WATS access line (*i.e.* 0 to 15 hours, 15 to 40 hours, 40 to 80 hours, and over 80 hours). Under the taper, per unit charges decrease during business day (8 a.m. to 5 p.m.) and evening (5 p.m. to 11 p.m.) periods as hours of use are accumulated. The night (11 p.m. to 8 a.m.) and weekend schedule is not tapered, rather a flat rate applies during these periods.

[26] An OutWATS service group consists of one or more OutWATS access lines for the same service area terminating in the same system at the same premises. An InWATS service group consists of access lines for the same service area arranged in central office equipment furnished by the carrier as part of a given hunting arrangement. *See* 84 FCC 2d at 182–84 and n. 55.

Aeronautical Radio, Inc. ("ARINC"); American Telemarketing Association ("American Telemarketing"); Comdata; Howard Johnson Co.; National Data Corp. ("National Data"); and Ryder Systems, Inc. ("Ryder"). These petitioners complain that the requirement is unreasonable, because it results in higher charges for a given amount of monthly usage than would be paid by a similarly situated customer with fewer access lines. The Commission itself highlighted this problem when AT&T first proposed such a rate structure element in 1977. ("The filing fails to demonstrate that this *per se* discrimination between users based on the number of access lines used is just and reasonable and does not constitute an unreasonable preference in favor of customers with approximately equal per-line usage.") *AT&T (Long Lines Department)* (WATS Rejection), 66 FCC 2d 9, 45 (1977).

38. AT&T has sought to justify the group average billing requirement as a reflection of peak use patterns and a step towards cost-based, usage sensitive WATS rates. *See* AT&T reply, Tr. No. 13555, at 64–70; 84 FCC 2d at 180, 182–84; 86 FCC 2d at 829. The carrier also claims that technical problems have precluded the collection of usage data on an individual line basis for all WATS customers. *See* AT&T reply, Tr. No. 13555 at 67. We have previously indicated that we do not find this argument persuasive, since AT&T routinely gathers such information and provides it to WATS customers at extra cost. *See* 84 FCC 2d at 183 n. 61. Nonetheless, we also recognize that there may be isolated instances of technical inability to capture the necessary data. Therefore, we will require AT&T to document any such instances in its comments, and to advance proposals for alleviating the situation.

39. At the same time, we recognize that elimination of the group average billing requirement may have implications for the WATS time-of-day rate structure. The present tariff, as we have stated, is a preliminary effort at time-of-day pricing, and may require adjustment to account for revenue shifts in the event group average billing is terminated. If this is the case, we expect AT&T to quantify the revenue shifts involved and provide an explanation of necessary adjustments to the peak/off-peak time-of-day rate structure to counter such effects.

40. (iv) *AT&T's Peak/Off-Peak Study.* In our order prescribing a peak/off-peak rate structure element for WATS, we directed AT&T to perform a study on the functioning of its time-of-day proposal ("Peak/Off-Peak Study"). *See* 86 FCC 2d at 834. AT&T submitted its study on February 1, 1982 and our analysis of it is on-going. We invite the public to comment on the study itself, as well as to consider any implications it may have for the taper, non-cumulative billing and group average billing issues discussed above.

C. Non-Traffic Sensitive Costs

41. In preparing the cost justification material for its September filing, AT&T divided the costs it associated with the usage rates into two categories, traffic sensitive ("TS") and non-traffic sensitive ("NTS") costs. TS costs generally relate to trunking and switching functions, while NTS costs (along with the catch-all "other" category of costs) are essentially the residual costs. *See* 84 FCC 2d at 195–96. According to AT&T, NTS costs account for about 60 percent of WATS usage costs. Under its methodology, these NTS costs are allocated in the same manner as TS costs.[27] Thus, larger volume users pay rates which appear to cover TS costs as well as an increasing percentage of NTS costs.

42. This approach has been the subject of substantial controversy, with numerous large users arguing that it is unjustly discriminatory. *See, e.g.,* petitions of American Telemarketing, AHMA, the Executive Agencies, Firestone, National Data Corp., SPCC, ARINC. AT&T responds that under separations procedures,[28] non-traffic sensitive costs are allocated to the intrastate and interstate jurisdictions on the basis of usage, and, as a result, large volume WATS users cause more non-traffic sensitive costs to be allocated to the interstate jurisdiction.

43. In our suspension order, we noted that such a scheme for allocating costs among rate elements was not the only alternative, and expressed dissatisfaction with the residual methodology AT&T used to derive NTS costs, which include "other" costs. *See* 84 FCC 2d at 195. Accordingly, we directed staff to obtain data from the carrier to determine what specific costs were included in this category. We indicated that we would determine our future action after analysis of AT&T's response. *Id.* at 196. Subsequently, on March 2, 1981 AT&T provided its response to the staff's information request. Although our review of the submission is still on-going, we believe it would be helpful to allow other parties to comment on the document. We will therefore entertain comments on AT&T's submission.

44. It is our preliminary view that the ultimate questions relating to AT&T's chosen allocation methodology may best be considered once the unified PSN tariff issues discussed above have been fully explored in this investigation. It appears in this regard that the allocation methodology may be affected by the like service problem. As with peak/off-peak concerns, the assignment of NTS costs to rate elements calls for a consideration of the PSN as a whole. The question as we see it is not so much how to assign NTS costs to WATS elements, but how to properly assign NTS costs for all PSN rate elements. Underlying all of the costing issues is the requirement that rates be cost-based or otherwise cost-justified. In the case of WATS and MTS, most of the costs derive from precisely the same source, namely use of the PSN. Thus, the most effective means of resolving this issue may be to consider PSN cost allocation as a whole. In short, it is only the present WATS–MTS rate structure dichotomy which raises the question of NTS use *vis-a-vis* WATS alone.

II. Issues That Do Not Warrant Investigation

45. Since mid-1974 AT&T has required that WATS calls be billed as if they averaged a minimum of one minute. This is the so-called "minimum average time requirement," or "MATR." Although we have not yet ascertained whether this requirement is directly cost-based, we have noted that this rate mechanism appears to be an attempt to recover the set-up costs of each WATS call. *See* 84 FCC 2d at 184. Thus, there is some rationale for this billing procedure, and accordingly, we see no basis to devote our limited resources to its investigation at this time.[29]

46. Several parties have also argued that the rate differences between InWATS and OutWATS, which have separate rate schedules for the first time as a result of the revisions, are not justified. *See, e.g.,* petitions against Transmittal No. 13555 by American Hotel and Motel Association ("AHMA") and Howard Johnson Company. However, as we have already observed,

[27] For a detailed description of AT&T's rate development procedure, *see* 84 FCC 2d at 192–96.

[28] The Separations Manual, incorporated by reference in Part 67 of the Commission's Rules, essentially allocates investment and expenses between the intra- and interstate jurisdictions. For a brief description of the process, *see* MTS and WATS Market Structure, Docket No. 78–72, 77 FCC 2d 224, 226–32 (1980).

[29] This is not to say we approve of MATR, or, for that matter, any of the other issues which we choose not to investigate here.

the rate differences involved are generally small (*see* 84 FCC 2d at 187–188; 86 FCC 2d at 852–53), and we are aware there may be actual technical differences in the way each of these services is provided. Furthermore, there are more important issues which should receive our immediate attention. Therefore, we choose not to investigate this issue.

47. Finally, two other issues raised by the September WATS filing which we chose to defer are the requirement that an InWATS user order a minimum of two lines, and a provision authorizing AT&T to compel a subscriber to add more lines or face termination of service. Both provisions appear to be designed to protect the PSN from over load conditions that would occur in the event an excessive number of calls were accessing limited facilities. Such overloads impose additional costs on the PSN. It therefore appears, in the framework of separate rate structures for MTS and WATS, that these provisions are a reasonable means of maintaining the integrity of the PSN, and we will not require AT&T to justify them. However, in the event that this investigation gives rise to a unified PSN rate structure and AT&T decided to retain these requirements, we may need to consider this matter further.

48. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting, or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

Ordering Clauses

49. Accordingly, it is ordered, That the motion filed by Southern Pacific Communications Company and the petitions filed by the Common Carrier Conference-Irregular Route and Comdata Network, Inc., are denied.

50. It is further ordered, That, the conditional request to defer the effective date of resale and sharing of MTS and WATS filed by American Telephone and Telegraph Company is dismissed as moot.

51. It is further ordered, That pursuant to the provisions of Sections 4(i), 4(j), 201–205 and 403 of the Communications Act, 47 U.S.C. 154(i), (j), 201–205 and 403, the issues set forth in this order shall be investigated.

52. It is further ordered, That the American Telephone and Telegraph Company and other interested parties shall file comments on the matters set for investigation in this Memorandum Opinion and Order, as well as on the interim submissions filed by AT&T, on or before June 17, 1982. Reply comments shall be filed on or before July 15, 1982. An original and five copies of all pleadings shall be filed with the Commission. Parties are on notice that these comments may form the basis for further Commission action under section 205, 47 U.S.C. 205. 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.

53. It is further ordered, that the Chief, Common Carrier Bureau, is delegated authority to require the submission of additional information, make further inquiries, and modify dates and procedures if necessary to provide for a fuller record and more efficient proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Joseph R. Fogarty

In Re: American Telephone and Telegraph Company, Revisions to Tariff F.C.C. No. 259, Wide Area Telecommunications Service (WATS).

I concur in the Commission's decision to initiate the second stage of the WATS investigation. I support consideration of a unified public switched network (PSN) tariff because, given this Commission's decision in the *Like Service* case [1] that MTS and WATS are "like" services, such a tariff is probably inevitable.

I am particularly pleased by the discussion contained in this Order of the problem of rate discrimination. This discussion strongly underscores the aberrant nature of the majority's recent *RCAA* decision.[2] In discussing the difference between MTS and WATS rates, we state at Paragraph 12 that "it is clear to us that AT&T must provide solid justification for rate differences which so substantially exceed corresponding differentials in costs. In sum, AT&T still has not faced squarely our basic concern in the *Like Service* decision, which is 'to ensure fair and equitable rate treatment of *all* users of the public switched network such that one user class is not unduly discriminated against.'" At Paragraph 15 we state:

> Such heterogeneous tariff structures for functionally equivalent services make the detection of price discrimination extremely difficult. Price discrimination arises where firms charge different prices for goods or services which cost the same per unit to produce. One prerequisite for such discrimination is the ability of the price discriminator to segment markets by customer price elasticities of demand. The general effect of such discrimination is a redistribution of income from the customers discriminated against to the price discriminator or favored customers.

This is a perfect description of the tariff we confronted in the *RCAA* case. Additionally, Paragraph 16 of this Order states: "we have evidence that WATS provisions in the past may have prevented economic activity, such as arbitrage [i.e., resale], the effects of which is to reduce price discrimination between users of the like services, MTS and WATS." It is interesting to note that in the *RCAA* decision one of the justifications for the $13 million Fixed Rate tariff was that it would end arbitrage by shifting profits to the carrier from the resellers.

The only difference between those two decisions appears to be that while the Commission considers AT&T a dominant carrier, a majority would like to act as if RCAA is not, even though according to applicable Commission decisions and reality both are dominant carriers in their fields. In the case of AT&T we are actively pursuing an investigation of the WATS tariff. However, with regard to RCAA we have no plans to investigate and probably never will

---

[1] *AT&T*, 66 FCC 2d 224 (1977), 67 FCC 2d 246 (1977), 70 FCC 2d 593 (1978), *recon. denied*, 79 FCC 2d 10 (1980), *appeal docketed sub nom. Ad Hoc Telecommunications Users Committee v. FCC*, D.C. Cir. No. 80–1785.

[2] *RCA American Communications, Inc.*, —— FCC 2d —— (1982), *appeal docketed sub nom. Authority for Kentucky Educational Television and UTV Cable Network, Inc. et al. v. FCC*, D.C. Cir. Nos. 82-1318, 82–1323, 82–1320.

investigate RCAA's Fixed Rate tariff even though on its face that tariff is more discriminatory than the WATS tariff before us today. There is no consistency nor reason for this disparate treatment. It is the public interest—the interest of consumers—which suffers from this disparity.

[FR Doc. 82-12726 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1350]

Petitions for Reconsideration of Actions in Rule Making Proceedings

May 5, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 14 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (North Charleston, Eastover, and Ravenel, South Carolina) (BC Docket No. 80-201, RM's 3249 & 3710)
Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Elloree, South Carolina) (BC 80-211, RM-3579)
Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mount Pleasant, Parris Island, Manning, Bamberg, and Batesburg, South Carolina) (BC Docket No. 80-213, RM's 3406, 3718 & 3719)
Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Johnston, Leesville, Winnsboro Mills, Saluda, Union, and Batesburg, South Carolina) (BC Docket No. 81-171, RM's 3518, 3556, 3613, 3666 & 3771)
Filed by: Clarence E. Jones, db/as Santee-Cooper Broadcasting Company, on 4-7-82.
Lawrence J. Bernard, Jr., Attorney for Clarendon County Broadcasting Company, (WTWE-FM), on 4-7-82. (Addendum filed 4-8-82)
Subject: An Inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System. (BC Docket No. 78-253)
Filed by: Sherman Block, Sheriff for The Los Angeles Sheriff's Department on 4-27-82.
Subject: Amendment of Form 324, Annual Financial Report of Broadcast Stations (BC Docket No. 80-190)
Filed by: Jeffrey H. Olson, Attorney for Media Access Project on 4-21-82.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-12725 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows: Special Committee No. 79, "Universal Marine Radiotelephone Compatibility," Notice of 6th Meeting, Wednesday, May 19, 1982—9:30 a.m., Conference Room A-106, FCC Annex, 1229 20th Street, N.W., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC-79, WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109, Phone: (901) 789-3800.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission

William J. Tricarico,

Secretary.

Justification for less than two weeks notice in Federal Register:

This meeting is a continuation meeting of RTCM Special Committee 79. The date of this meeting was not made firm until the 1982 RTCM Assembly Meeting which was conducted in Seattle, Washington, April 25-29, 1982. This is the first opportunity to initiate action to put the notice in Federal Register.

[FR Doc. 82-12724 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

May 5, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 26, 1982, at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications question relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Federal Communications Commission.

William J. Tricarico,

Secretary

[FR Doc. 82-12723 Filed 5-10-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

West Coast of India and Pakistan/U.S.A. Conference; Cancellation

FILING PARTY: Charles F. Fischer, Chairman, West Coast of India and Pakistan/U.S.A. Conference, 19 Rector Street, New York, New York 10006.

AGREEMENT NO. 8040.

SUMMARY: On April 26, 1982, the Commission received notice to cancel Agreement No. 8040, the West Coast of India and Pakisan/U.S.A. Conference effective May 1, 1982 since the remaining members Hoegh Lines and Sea-Land Service tendered their resignations to the conference to become effective May 1, 1982.

By Order of the Federal Maritime Commission.

Dated: May 5, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-12682 Filed 5-10-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 3, 1982.

Thursday, June 10, 1982.
Thursday, June 17, 1982.
Thursday, June 24, 1982.

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW, Washington, D.C. 20415 (202–632–9710).

William B. Davidson, Jr.,
Chairman, Federal Prevailing Rate, Advisory Committee.

May 6, 1982.

[FR Doc. 82–12667 Filed 5–10–82; 8:45 am]
BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

Acquistion of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares 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 Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Royal Trustco Limited,* Toronto, Canada, and its wholly-owned subsidiary, Royal Trust Bank Corp., Miami, Florida; to acquire 80 percent of the voting shares or assets of Century First National Bank of Pinellas County, St. Petersburg, Florida. Comments on this application must be received not later than May 27, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Munter Agency, Inc.;* Strawberry Point, Iowa; to retain 10.92 percent of the voting shares or assets of Union Bank and Trust Company, Strawberry Point, Iowa. Comments on this application must be received not later than June 1, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corp.,* Wichita, Kansas; to retain 8.1 percent of the voting shares or assets of The Towanda State Bank, Towanda, Kansas. Comments on this application must be received not later than May 27, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C.:

1. *Bank Securities, Inc.,* Albuquerque, New Mexico; to acquire 100 percent of the voting shares or assets of International State Bank, Raton, New Mexico. Comments on this application must be received not later than June 4, 1982.

Board of Governors of the Federal Reserve System, May 5, 1982.

Dolores S. Smith,
Assistant Secretary of the Board.

[FR Doc 82–12677 Filed 5–10–82; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N–0150]

Antibiotic Drugs and Antibiotic Susceptibility Medical Devices; Interim Certification Procedures

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an interim policy of discretionary replication of manufacturer's tests of batches of antibiotic drugs and antibiotic susceptibility devices. The agency is inviting public comments on the interim policy to assist FDA in deciding whether revisions in it are warranted. The purpose of the interim policy is to avoid interruption of supplies of antibiotic drug products pending its final decision on the proposed rule to exempt these products from certification published in the Federal Register of May 7, 1982 (47 FR 19954).

DATES: Effective May 11, 1982; comments by June 11, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, RM. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: For human drugs: Robert J. Meyer, Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

For animal drugs: Frank G. Pugliese, Bureau of Veterinary Medicine (HFV–103), Food and Drug Administration,

5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

For medical devices: Thomas M. Tsakeris, Bureau of Medical Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 7, 1982 (47 FR 19954), FDA proposed to amend the antibiotic drug and new animal drug regulations to exempt all classes of antibiotic drugs from batch certification requirements. FDA also proposed to exempt antibiotic susceptibility devices from batch certification. Because of the high level of manufacturer compliance with existing standards, FDA tentatively determined that batch-by-batch certification by FDA is not necessary to ensure the safety and efficacy of antibiotic drugs and antibiotic susceptibility devices. Under the exemption, manufacturers would not be required to obtain, before marketing, certification of each batch of antibiotic drug.

Under the Federal Food, Drug, and Cosmetic Act (the act), antibiotic drugs, like most other new drugs, are required to be shown to be both safe and effective on the basis of adequate and well-controlled investigations, before marketing. Sections 507 and 512(n) of the act (21 U.S.C. 357, 360b(n)), however, in setting forth requirements for the approval of antibiotic drugs for human use and certain antibiotic drugs for animal use (i.e., antibiotic drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof), respectively, require that each batch of antibiotic drug also be subject to certification before marketing. Certification procedures, which are set forth in §§ 431.1 and 514.50 (21 CFR 431.1 and 514.50), involve the testing of each batch for compliance with monograph requirements set forth in 21 CFR Parts 436 through 460 and 536 through 555, and require that manufacturers submit to FDA information on the product, a sample of each batch, and the results of their own tests. If, on the basis of the information and replication testing of the batch, FDA determines that the antibiotic drug conforms to the applicable standards of identity, strength, quality, and purity found in the monograph, the agency certifies the batch and issues a certificate attesting that the batch conforms to the applicable monograph standards.

On several occasions in the past, the agency has been informed by manufacturers that the length of time that it has taken to obtain certification delayed the distribution of products and sometimes resulted in unnecessary disruption in the supply of certain antibiotic drug products to the marketplace. In the past, the agency has responded to this problem by issuing a certificate or release based only upon a manufacturer's test results and before the agency's replication of the manufacturer's tests. Upon completion of the agency's testing, the certificate or release was amended and reissued based upon the agency's test results.

The agency is adopting a new policy in order to avoid any potential operational difficulties in FDA's laboratory during the pendency of the proposed rule which might result in long delays in certification and unnecessary disruption in the supply of some antibiotic drug products to the marketplace.

The agency has conducted a review of the certification process with the objective of initiating procedures to avoid these delays and shortages. Based on this review, the agency is adopting an interim policy of discretionary replication of manufacturer tests to avoid interruption of supplies of antibiotic drug products. Under this interim policy, if batch certification submissions of any antibiotic drug product exceed the agency laboratory's capacity to perform all replicate testing within usual and customary time frames, the agency will not, for randomly selected branches, replicate some or all of the manufacturers' tests. Thus, the agency may issue a certificate of certification or release for a batch of an antibiotic drug product based solely or in part on manufacturers' test results, without agency replication. As it has been done in the past, when the availability of facilities permits, the agency may replicate the manufacturer's tests at a later time, and amend and reissue certificates issued on the basis of manufacturer test results alone.

This interim policy, which is authorized by sections 507 and 512(n) of the act and § 431.10 of the regulations (21 CFR 431.10) will not require the submission of additional data by persons requesting certification or release of antibiotic drug products above that which is routinely received with each request for batch certification or release. The Commissioner of Food and Drugs believes that there is good cause for putting this interim policy into effect immediately to prevent disruption in the supply of antibiotics to the marketplace caused by certification delays. Furthermore, because of the high degree of industry compliance in this area, this action will not compromise the safety or efficacy of these drug products. The agency requests comments on this interim policy and will consider comments received in determining whether revisions of the interin policy are warranted.

Interested persons may, on or before June 10, 1982, submit to the Dockets Management Branch (address above), written comments regarding this interim policy. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-12885 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

Radiological Health and Safety Advisory Committee; Request for Nominations of Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for membership on the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC). Four vacancies will occur on December 31, 1982.

DATE: Nominations must be received by July 12, 1982.

ADDRESS: Nominations must be submitted to the Executive Secretary, TEPRSSC (HFX–460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Zory R. Glaser, Executive Secretary, TEPRSSC, at the address shown above; 301–443–3429.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services, and by delegation, the Commissioner of Food and Drugs, and the Director of the Bureau of Radiological Health, are charged with administration of those portions of the Public Health Service Act that are designed to protect the public health from hazardous radiation emissions from electronic products.

TEPRSSC, established under section 358(f)(1)(A) of the Public Health Service

Act as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f(f)(1)(A), must be consulted before promulgation of any performance standard for electronic product radiation safety.

Nominations Due Date, and Accompanying Information

All interested persons are invited to nominate qualified condidates for consideration as members of this Committee. Nominations must be received by July 9, 1982 and be accompanied by a curriculum vitae that states where the nominee may be contacted and that provides detailed evidence of the nominee's qualifications, including current employment and professional affiliations. Nominations must also state that the person nominated is aware of the nomination, is interested in becoming a member of TEPRSSC, and appears to have no conflict of interest. FDA will ask candidates from the public and government sectors to provide detailed information concerning financial holdings, consultancies, and research grants or contracts to permit evaluation of possible conflicts of interest.

FDA has a special interest in ensuring that women, minoirity groups, and he physically handicapped are adequately represented on advisory committees and, therefore, particularly encourages the nomination of appropriately qualified female, minority, and physically handicapped candidates. FDA also welcomes the nomination of technically qualified individuals to represent the consumer perspective on issues before the Committee. People who have previously served are eligible for reappointment.

Further information on requirements of eligibility for membership on the Committee is provided below.

In a notice published in the **Federal Register** of May 22, 1981 (46 FR 28012), the Commissioner requested nominations of qualified persons to replace members of TEPRSSC whose terms expired in 1981. Eligible individuals nominated in response to that earlier **Federal Register** publication who did not receive committee appointments will be reconsidered for a period of 2 years after nomination, along with those newly nominated for the vacancies. The following are the names and affiliations of the members of TEPRSSC, including those appointed as a result of the May 22, 1981 request for nominations.

Current members of TEPRSSC are (dates shown are December 31 of the year in which their appointments expire):

1. Public sector: Dr. Valerie A. Brookeman (1982), Professor, Radiology Department, University of Florida College of Medicine, Gainesville, FL; Dr. Thomas F. Budinger (1985), Professor of Bioinstrumentation and Electrical Engineering, Donner Laboratory, University of California, Berkeley, CA; Ms. Janice L. Gordon (1985), Safety and Health Coordinator, International Union of Electrical, Radio and Machine Workers, Washington, DC; Dr. Wende W. Logan (1983), Consultant in Radiology, Rochester, NY; and Ms. Mary E. Moore (1983), Associate Radiological Physicist, Cooper Medical Center, Camden, NJ.

2. Industrial sector: Mr. Cazamer L. Crouch (1983), Consultant in Illumination Engineering, Bellerose, NY; Dr. William R. Ingles (1983), Director of Radiological Services, American Medical International, Inc., Beverly Hills, CA; Mr. Howard W. Johnson (1982), Staff Vice President, Product Safety, RCA Corp., Cherry Hill, NJ; Mr. Gerald A. Richardson (1982), Technical Director, Irex Medical Systems Corp., Upper Saddle River, NJ; and Dr. Max M. Weiss (1985), Director, Radiation Protection Group, Industrial Hygiene and Safety Administration Department, Bell Laboratories, Murray Hill, NJ.

3. Government: Mr. David E. Janes (1985), Chief, Nonionizing Radiation Surveillance Branch, Office of Radiation Programs, Environmental Protection Agency; Mr. Maurice E. Neuweg (1985), Deputy Director, Office of Radiation Safety, Illinois Department of Nuclear Safety, Springfield, IL; Mr. Gerald S. Parker (Chairperson) (1982), Assistant Commissioner for Environmental Health, Massachusetts Department of Public Health, Boston, MA; Mr. David H. Sliney (1985), Chief, Laser/Microwave Branch, U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD; and Ms. Goldie B. Watkins (1983), Deputy Commissioner for Prevention and Special Health Programs, New York State Health Department, New York, NY.

Since its inception in 1969, TEPRSSC has provided valuable technical and scientific advice to the Bureau of Radiological Health, FDA, on the development of electronic product radiation safety performance standards. Thus far, regulatory performance standards have been issued under 21 CFR Chapter I, Subchapter J, for television receivers, cold cathode gas discharge tubes, microwave ovens, diagnostic x-ray systems and their major components, cabinet x-ray equipment (including x-ray baggage inspection devices for use at airports and similar facilities), laser products, sunlamp products (for skin tanning purposes), high-intensity mercury vapor discharge lamps, and ultrasound therapy equipment. The Committee meets approximately once each year for approximately 2 days and occasionally also reviews documents transmitted by mail.

Under section 358(f) of the Radiation Control for Health and Safety Act of 1968, members will be appointed by the Commissioner after consultation with public and private agencies concerned with the technical aspect of electronic product radiation safety. Each member shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. As required by that Act, the Committee is composed of 15 members selected as follows:

1. Five from governmental agencies, including State and Federal governments;

2. Five from the affected industry, after consultation with industry representatives; and

3. Five from the general public, one of which shall be a representative of organized labor. The representative of organized labor also must be technically qualified by education or experience in one or more fields of electronic product radiation safety.

Effective December 31, 1982, two members from industry, one member from the public sector, and one member from the governmental sector will complete their terms.

FDA solicits nominations of individuals qualified in electronic radiation safety to fill these vacancies for a 4-year term. It invites nominations from labor, industry, consumer, government, trade, and professional organizations, as well as from the public at large. Curriculum vitae and other pertinent information should be submitted with nominations.

Dated: May 3, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-12571 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 80P-0501 and 81P-0115]

Coherent, Inc. and Cooper Medical Devices Corp.; Microsurgical Argon Laser Intended for Use in Otology; Panel Recommendations on Petitions for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendations of the Ear, Nose and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel (the Section) that the microsurgical argon laser intended for use in otolaryngology (otology and laryngology) be reclassified from class III (premarket approval) into class II (performance standards). The recommendations were made after review by the Section of reclassification petitions filed by two manufacturers of the same generic type of device: Cooper Medical Devices Corp. (formerly Spectra-Physics, Inc.), Mountain View, CA 94042 (Docket No. 81P-0115) and Coherent, Inc., Palo Alto, CA 94303(Docket No. 80P-0501). After reviewing the Section recommendation and any public comments received, FDA will approve or deny the reclassification petitions by order in the form of letters to the petitioners. FDA has tentatively concluded that the device should be reclassified into class II when it is intended for use in otology, but not when it is intended for use in laryngology or general use in otolaryngology. FDA's decisions on the reclassification petitions will be announced in the Federal Register.

DATE: Comments by June 10, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Harry R. Sauberman, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

SUPPLEMENTARY INFORMATION:

Petition 81P-0115

Cooper Medical Devices Corp.

On November 8, 1979, Cooper Medical devices Corp. (formerly Spectra-Physics, Inc.), Mountain View, CA 94042, submitted to FDA a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)) stating that it intended to market an argon laser device model 770 with microsurgical attachments for use in otolaryngological surgery. After reviewing the information in the premarket notification, FDA determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976, nor is the device substanially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Accordingly, the new device is automatically classified into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approved application for premarket approval under section 515 of the act. Such a device may be shipped in commerce, however, if there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)). There is no approved premarket approval application or investigational device exemption in effect for the argon laser with microsurgical attachments for use in otolaryngological surgery.

On October 15, 1980, Cooper Medical Devices Corp. submitted to FDA under section 513(f)(2) of the act a reclassification petition for an argon laser device model 770 with microsurgical attachments intended for use in otolaryngological surgery. Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate advisory panel and to receive a recommendation on whether to approve or deny the petition. Before submission to a panel, however, section 513(f)(2)(A) of the act (21 U.S.C. 360c(f)(2)(A) and § 860.134(b)(2) (21 CFR 134.(b)(2)) of the regulations governing reclassification under section 513(f) require FDA to determine whether the petition contains any deficiency which prevents FDA from making a decision on the petition and to notify the petitioner of any such deficiency. FDA determined that the petition contained certain deficiencies and sent a letter to the petitioner requesting additional information. Cooper submitted a supplement to the petition, and FDA determined that the petition, with the supplement, was in the proper format with sufficient data for review.

Petition 80P-0501

Coherent, Inc.

On August 12, 1980, Coherent, Inc., Palo Alto, CA 94303, submitted to FDA a premarket notification under section 510(k) of the act stating that it intended to market an argon laser device model 900S with microsurgical attachments for surgical applications in otology (a subspecialty of otolaryngology). After reviewing the information in the premarket notification, FDA determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Accordingly, the new device is automatically classified into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approved application for premarket approval under section 515 of the act. Such a device may be shipped in commerce, however, if there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)). There is no approved premarket approval application or investigational device exemption in effect for the argon laser with microsurgical attachments for use in otolaryngological surgery.

On December 4, 1980, Coherent submitted to FDA under section 513(e) of the act (21 U.S.C. 360c(e)) a reclassification petition for an argon laser device model 900S with microsurgical attachments intended for surgical application in otology. For a petition submitted under section 513(e) of the act, FDA may receive from the appropriate advisory panel a recommendation respecting the proposed change in the devices classification. In this case, before submitting the petition to an advisory panel, FDA determined that the petition contained certain deficiencies and sent a letter to the petitioner requesting additional information. Coherent submitted a supplement to the petitition, and FDA determined that the petition, with the supplement, was in the proper format with sufficient data for review.

FDA has determined that the two petitions (81P-0115 and 80P-0501) concern the same generic type of device as that term is defined in § 860.3(i) of the classification regulations (21 CFR 860.3(i)). Further, FDA has determined that the devices subject to the two petitions are substantially equivalent to each other. Petition 80P-0501 was submitted under section 513(e) of the act; petition 81P-0115 was submitted under section 513(f) of the act. However, because both petitions concern the same generic type of device, and because the devices subject to the petitions are substantially equivalent to each other, FDA has processed both petitions under the procedures specified in section 513(f) of the act and § 860.134 of the regulations. Accordingly, FDA referred both petitions to the Ear, Nose, and Throat Device Section of the Ophthalmic Ear, Nose, and Throat Device Section of

the Ophthalmic; Ear, Note, and Throat; and Dental Devices Panel (the Section), and in accordance with section 513(f)(2) and § 860.134(b)(6) of the regulations will, after reviewing the Section recommendations and any public comments received, approve or deny both petitions by orders in the form of letters to the petitioners.

Section Review

On April 27 and 28, 1981, the Section reviewed petition 80P–0501, from Coherent, as well as petition 81P–0115, from Cooper. The Section recommended that the generic type of device, the microsurgical argon laser intended for use in otolaryngology, be reclassified from class III into class II.

To determine the proper classification of the generic type of device subject to the two petitions, the Section considered the criteria specified in section 513(a)(1) of the act. For the purpose of classification, the Section assigned to this generic type of device the name, "argon laser for use in otolaryngology," and identified the device as having indications for use in otolaryngological surgery. The Section noted that the use of the argon laser is an alternative modality for surgical excision or alteration of soft tissue and bone in the middle and inner ear. The Section noted that the device has applications in general otoloaryngology as, for example, it may be used for ablation of acoustic neuronomas or for removal of laryngeal papillomas.

Summary of the Reasons for the Recommendation

The Section gave the following reasons in support of its recommendation:

1. The device is not an implant, is neither life sustaining nor life supporting, and, when used in accordance with instructions in the labeling, does not present a potential unreasonable risk of illness or injury.

2. Although general controls alone are insufficient to provide reasonable assurance of safety and effectiveness of the device, sufficient scientific and medical data exist to establish a performance standard to provide such assurance. Many safety features of medical lasers are already controlled by existing FDA standards (21 CFR 1040.10 and 1040.11). A new standard or amendments to the existing standard for medical laser products may be developed for this device.

3. Failure of the device to perform in accordance with a standard possibly could cause injury to tissue in or around the operating site. Inappropriate use could lead to risks to the health of the patient. The Section noted that specific risks include thermal injury due to beam exposure, electrical shock from excessive voltage or current limits, and explosion from operating the device in an oxygen-enriched environment.

Summary of Data Upon Which the Recommendation is Based

The Section based its recommendation on the safety and performance characteristics of the generic type of device identified in the two petitions and the supplements to the petitions (Refs. 1 and 2). FDA's evaluation of the two petitions and supplements were considered by the Section (Ref. 3). The Section also considered the information on the generic type of device that was presented to the Section during its meetings of October 27 and 28, 1980, and April 27 and 28, 1981 (Refs. 4 and 5).

The Section noted that Drs. DiBartolomeo and Ellis reported on the use of the argon laser in treating 30 patients during otologic surgery for disease of the middle and external ear. Fifteen of the patients had surgical alteration of soft tissues, and 15 patients were treated for disease of the bony external canal or disease of the middle ear ossicles, including otosclerosis (ref. 6). Results revealed the ability of the argon laser to ablate tissue or bone. When the laser was used to perform a myringotomy, the procedure was accomplished without disturbing the fluid of the middle ear or the natural bone behind the eardrum. Of 10 patients who had a stapedectomy performed with an argon laser, 3-month postoperative findings indicated that 9 of the patients had satisfactory closure of the air-bone gap. One patient demonstrated closure of the air-bone gap at 2 months, but developed a major dental infection on the same side as the ear surgery. When treatment by root canal surgery using a high speed dental drill was completed, the patient reported the return of the preexisting conductive hearing loss.

Because the light energy generated by the argon laser is converted to thermal energy upon absorption, members of the Section asked about possible injury to structure of the inner ear during middle ear surgery. DiBartolomeo and Ellis reported that patients under local anesthesia were questioned as to any sensation of vertigo and observed for the presence of nystagmus (involuntary movement of the eyeball). None of the patients evaluated experienced any vertigo during removal of their stapes footplate. Observation for ocular movements also failed to reveal any nystagmus that might be due to disturbances in the labyrinth. The authors concluded that use of the argon laser is compatible with conventional surgery of the soft tissues and ossicular structures within the temporal bone. They stated that of 10 patients tested for sensorineural hearing loss following stapedectomy, only 1 patient demonstrated a loss at 4,000 hertz; this loss was less than 10 decibels. (db) (Ref. 6)

Dr. Perkins provided audiometric results following a series of stapedotomies on 11 patients that were performed with an argon laser (Ref. 7). All the patients had 6-week postoperative audiograms available for analysis; seven patients had 8-week audiograms; and five patients had 4-month audiograms. At 6 weeks, all 11 patients showed closure of the air-bone gap between 0 to 10 db with 82 percent closing between 0 to 5 db. At 8 weeks, all seven patients showed closure between 0 to 10 db with 86 percent closing between 0 to 5 db. At 4 months, all five patients showed closure between 0 to 10 db, and 80 percent closing between 0 to 5 decibels. Dr. Perkins noted that the majority of patients in the study reported no intra-operative or postoperative balance disturbances. Dr. Perkins stated, however, that some patients exhibited a mild, temporary, postoperative, positional disequilibrium. For eight patients examined on the second postoperative day, nystagmus was not present.

Dr. Perkins discussed the absorption of argon laser energy by middle and inner ear structures, with respect to device safety and effectiveness during otologic surgery. Dr. Perkins explained that the energy density of the laser beam decreases as the square of the distance from the focal point, i.e., from the point of surgery. Dr. Perkins also discussed use of the argon laser in surgery of different tissue areas encountered in general otolaryngology. As an example, use of the laser was described for treatment of acoustic neuromas (Ref. 7).

The current performance standards for light-emitting products in §§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11) contain safety requirements that apply to medical lasers. The intent of the standard issued under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f) is to reduce the possibility of injury from electromagnetic radiation from a laser device by providing the operator with improved control of the emitted radiation and by assuring that individuals who use lasers are adequately warned of the hazards

associated with this type of nonionizing radiation. The standard is designed to assure adequate protection for the patient, the surgeon, and others from inadvertent exposure to hazardous levels of radiation that are outside the direct field of device operation. The Section noted that the FDA laser standard relates only to the radiation safety of the device, and not to the effectiveness of the device, or to the particular skills of the user or operator. Thus, the laser standard may not prevent an undesired exposure of a patient during a surgical procedure because this exposure is under the surgeon's control. The Section also noted that, although FDA can regulate a device's safety and effectiveness, it cannot regulate a surgeon's skill.

Recommendation of Section

The Section believed that the petitioners had shown that reclassification of the generic device into class II would assure the safety and effectiveness of the microsurgical argon laser intended for use in otolarygology. The Section also believed that application in otology represented the most precise and critical use of the device. On this basis, and upon the judgment and expertise of its members, the Section recommended reclassification of the microsurgical argon laser from class III into class II when it is intended for use in surgery in both otology and laryngology (otolaryngology).

Risks to Health

The Section noted that inappropriate use of the argon laser can lead to injury to patients. Beam overexposure may cause thermal injury; excessive voltage or current limits may produce electrical shock; and operation of the device within an oxygen-enriched environment may cause explosion.

Additional Findings

The Section recommended that FDA assign a high priority to the establishment of a performance standard for the microsurgical argon laser intended for use in otolaryngology. The Section recommended that labeling for the device include a comprehensive description of the techniques, risks, and hazards which accompany the use of the argon laser for applications in otolaryngology. In addition, the Section recommended that labeling of the device include a discussion on how the attendant risks and hazards can be avoided.

FDA Position

Petition 81P–0115 requested reclassification of the generic type of device from class III into class II when the device is intended for use in otolaryngology. Petition 80P–0501 requested reclassification of the generic type of device from class III into class II when the device is intended for use in otology. The Section recommended that the generic type of device be reclassified from class III into class II when the device is intended for general use in otolaryngology.

FDA disagrees in part with the Section and believes that the microsurgical argon laser should be reclassified from class III into class II only for use in otology. FDA bases its belief on the medical and scientific data presented in the two petitions, the supplements to the petitions, and the information presented at the Section meetings of October 27 and 28, 1980, and April 27 and 28, 1981. FDA notes that most of the data available on the device involve its use in otology. Only brief remarks were made during the meetings of the Section citing its general use in otolaryngology,and no medical or scientific reports or published clinical studies were submitted to support its general use in otolaryngology. FDA informed Cooper that insufficient information had been provided to support reclassification from class III into class II of the generic device when it is intended for uses other than otological surgery. Cooper responded by submitting to FDA additional supplements to its petition which were intended to substantiate use of the device in general otolaryngology. These supplements to petition 81P–0115 were insufficient to alter FDA's belief that the manufacturer had failed to demonstrate that the device should be reclassified from class III into class II when intended for use in otolaryngology. Further, on October 27, 1980, Stuart M. Strong, M.D., Section consultant, advised the Section that the microsurgical argon laser has had very limited use within otolaryngology other than in otology and that medical and scientific questions remain to be answered concerning use of the device for soft tissue destruction. Thus, FDA has tentatively concluded that the petition should be denied insofar as it requests reclassification of the generic type of device for use in laryngology or general use in otolaryngology.

In FDA's judgment, a microsurgical argon laser intended for medical purposes other than in otology presents a sufficiently serious risk to the health, safety, or welfare of patients and that it therefore is a "significant risk" device (see 21 CFR Part 812). FDA advises, therefore, that any investigational study of such use of the device is required to be conducted in accordance with the investigational device exemption regulations applicable to "significant risk" devices.

References

The following material is on public file in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, where it may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Cooper Medical Devices Corp., petition and supplements.

2. Coherent, Inc., petition and supplements.

3. FDA evaluation of petitions and supporting data.

4. Summary Minutes: Ear, Nose, and Throat Device Classification Section Meeting, Washington, DC, October 27, and 28, 1980.

5. Summary Minutes: Ear, Nose, and Throat Device Classification Section Meeting, Washington, DC, April 27, and 28, 1981.

6. DiBartolomeo, J. R. and M. Ellis, "The Argon Laser in Otology," *Laryngoscope*, pp. 1786–1796, November 1980.

7. Perkins, R. C., "Laser Stapedotomy for Otosclerosis," *Laryngoscope*, pp. 228–241, February 1980.

After considering the economic consequences of approving these reclassification petitions, FDA certifies that this notice requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). If FDA approves the petition that requests reclassification of the device when it is intended for use in otology, the petitioners and any other future manufacturer of the device intended for this use would be relieved of the costs of complying with the premarket approval requirements in section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e). The costs the petitioners would incur from reclassification into class II cannot be quantified until performance standards are developed. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the Federal Register as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the Federal Register this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Interested persons may, on or before June 10, 1982, submit to the Dockets Management Branch (address above), written comments on this recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the generic name of the device and the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 3, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-12680 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0125]

Puerto Rico Community Blood Center, Inc.; Opportunity for Hearing on Intent To Revoke U.S. License No. 397

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is giving notice of opportunity for hearing on a proposal to revoke the establishment and product licenses issued to Puerto Rico Community Blood Center, Inc., for the manufacture of Whole Blood (Human). The proposed revocation is based on failure to conform to certain provisions of the biologics regulations specified in this document.

DATES: The firm may submit a written request for a hearing by June 10, 1982, and any data justifying a hearing must be submitted by July 12, 1982; other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by July 12, 1982.

ADDRESS: Written requests for hearing and written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA is proposing to revoke the establishment and product licenses (U.S. License No. 397) issued to Puerto Rico Community Blood Center, Inc., 1824 Fernandaz Juncos Ave., Santurce, PR 00909, for the manufacture of Whole Blood (Human). The proposed revocation is based on the failure of the firm and its responsible management to conform to the applicable standards and conditions establised in its license and the requirements in Parts 600, 601, 606, 610, and 640 (21 CFR Parts 600, 601, 606, 610, and 640) and failure to comply with § 600.10 (21 CFR 600.10) in that no person exercised control over the establishment in matters relating to compliance with the biologics regulations for a significant period of time. FDA concludes that these actions present an unreasonable hazard to the health of donors and recipients of whole blood collected at the establishment.

An FDA inspection of this firm from July 15 to August 17, 1981, revealed numerous deviations from applicable standards designed to ensure the well-being of blood donors and the continued safety, purity, and potency of the product. FDA concluded that the nature and extent of noncompliance with the applicable standards observed during this inspection also demonstrated a failure of responsible personnel to exercise control over the establishment's operations.

By letter dated September 15, 1981, issued under § 601.6 (21 CFR 601.6), FDA suspended U.S. establishment License No. 397 and the product license for Whole Blood (Human) issued to Puerto Rico Community Blood Center, Inc. The letter detailed the grounds for suspension and instructed the firm to, among other things, cease collecting and shipping Whole Blood (Human) until otherwise notified and to notify the Bureau of Biologics in writing of the specific actions taken to correct all of the deviations noted. The letter also offered the firm the opportunity to request that revocation be held in abeyance pending resolution of the matters involved.

In a telephone conversation on September 25, 1981, the Executive Director of the firm requested that the revocation be held in abeyance. The verbal request for abeyance was confirmed in a letter to FDA dated October 5, 1981, which indicated that the firm's corrective measures would consist of training two identified "responsible heads," purchasing new equipment, meeting with FDA, and remodeling its building. The letter acknowledged the absence of a responsible head (a term in 21 CFR 600.10 that applies to an individual appointed by the firm and approved in advance by FDA, whose responsibilities include assuring compliance with all applicable regulations), and admitted to "much harm" done to the firm by unidentified individuals. In apparent recognition of its deficiencies, the firm, in its letter, requested probation (of its establishment license) for 6 months instead of revocation of its license. The regulations do not provide for "probation" of an establishment license and, irrespective, such an action would be tantamount to reinstatement of the firm's license—an unacceptable alternative. On the basis of a review of the firm's records obtained during the July 15 through August 17, 1981 inspection and the firm's October 1981 letter, FDA has determined that the firm's response is totally inadequate to determine compliance with the applicable regulations and, moreover, demonstrates a lack of understanding of the meaning and intent of the regulations. Accordingly, FDA is proceeding directly to revocation without providing the firm further opportunity to achieve compliance.

In a letter dated January 18, 1982, issued under § 601.5(b) (21 CFR 601.5(b)), FDA provided the firm with due notice of the agency's intent to revoke U.S. License No. 397 and to issue a notice of opportunity for hearing. The letter also instructed the firm to contact the Director, Division of Compliance, Bureau of Biologics within 10 working days of receipt of the letter if its wished to waive the opportunity for a hearing. In a telephone conversation with FDA's San Juan District on March 11, 1982, the Executive Director of the firm responded to FDA's notice of intent to revoke U.S. License No. 397 by declining to waive the right of an opportunity for a hearing. Accordingly, FDA is now issuing a notice of opportunity for hearing on the matter under § 12.21(b) (21 CFR 12.21(b)).

Copies of the letter dated September 15, 1981, detailing the grounds for suspension, the letter dated October 5, 1981, in response to this suspension, and the letter dated January 18, 1982, setting forth the notice and intent to revoke U.S. License No. 397 are on file at the Dockets Management Branch (address above).

The grounds for revocation include, but are not limited to, the following significant deviations found during the July 15 through August 17, 1981 FDA inspection of the firm at the location cited above. Further grounds are set forth in the September 15, 1981 and January 18, 1982 letters.

1. For at least the period June 18, 1981, through July 22, 1981, no person exercised control of the establishment in all matters relating to compliance with the provisions of 21 CFR 600.10(a).

2. Records were not made of each step in the collection, processing, storage, and distribution of each unit of blood and blood components so that all steps

could be clearly traced (21 CFR 606.160(a)(1), for example:

a. Many donor records for units collected between June 18 and July 22, 1981, lacked, among other things, medical histories, vital signs, dates of collection, and/or hemoglobin determinations (21 CFR 606.160(b)(1));

b. Processing records for units BA56791 through BA56861 lacked results of ABO and Rh blood group tests (21 CFR 606.160(b)(2)(i));

c. Although blood components were prepared and distributed, there were no records of component preparation, including relevant dates and times (21 CFR 606.160(b)(2)(ii));

d. There were no records available of tests for the presence of the hepatitis B surface antigen (HB_sAg) for units BA56768 through 56777 and BA56805 through 56861 (21 CFR 606.160(b)(2)(i));

e. Distribution records were incomplete or inaccurate (21 CFR 606.160(b)(3)); and

f. Compatability test/distribution records often contained several different collections and/or expiration dates for the same unit (21 CFR 606.160(a)(1)).

3. Units of Whole Blood (Human) collected in anticoagulant citrate phosphate dextrose solution (CPD) were labeled with expiration dates well in excess of 21 days, some as much as 35 days; and at least one unit collected in CPD was relabeled with collection and expiration dates different from those on the original label (21 CFR 606.120(b)(5) and 610.53(a)).

The Commissioner of Food and Drugs is offering an opportunity for a hearing under § 12.21(a) on the proposed revocation of the establishment and product licenses (U.S. License No. 397) issued to Puerto Rico Community Blood Center, Inc., for the manufacture of Whole Blood (Human). The firm may submit written request for a hearing to the Dockets Management Branch by June 10, 1982, and any data justifying a hearing must be submitted by July 12, 1982; other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by July 12, 1982.

The procedures and requirements governing this notice of opportunity for hearing, other comments, a grant or denial of hearing, a notice of appearance and request for hearing, the submission of data, and information and analyses to justify a hearing are contained in 21 CFR Part 12 and 21 CFR 314.200 (see 21 CFR 601.7(a)).

The failure of a licensee to file timely written appearance and request for a hearing constitutes an election of the licensee not to avail itself to the opportunity for a hearing concerning the proposed license revocation and a waiver of any contentions governing the legal status of the product at issue. Any such product may not thereafter lawfully be marketed, and FDA will initiate appropriate regulatory action to remove such product from the market. Any biological product marketed without an approved license is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears on the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact that precludes the revocation of the license, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the licensee requesting the hearing, making findings and conclusions that justify denying a hearing.

Two copies of any submissions are to be submitted, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371).)

Dated: May 4, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-12679 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81P-0167]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to the Bison Canning Co., Inc., to market test tomato juice from concentrate. This action enables the Bison Canning Co. Inc., to initiate its experimental market testing of tomato juice from concentrate.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than August 9, 1982. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the Federal Register of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kaufman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued to the Bison Canning Co., Inc., 200 South Main St., Angola, NY 14006, under § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the Federal Register of June 2, 1981 (46 FR 29542). The Bison Canning Co., Inc., has requested that the existing temporary permit be extended for the duration of the administrative proceedings pertaining to the proposal to amend the standard of identity for tomato juice published in the Federal Register of May 9, 1978 (43 FR 19864). Because the firm did not begin market testing under the original permit before the August 31, 1981 deadline, it is necessary that the agency issue a new temporary permit. The permit covers limited interstate marketing tests of tomato juice that deviated from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145). The product is prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The test product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. The permit provides for the temporary marketing of a total of 25,000 cases of twenty-four 13½-ounce cans of the product to be distributed in the State of New York, and in Metropolitan Detroit, MI, Cleveland, OH, and Pittsburgh, PA.

The test product is to be packed at the Bison Canning Co., Inc., plant located in Angola, NY.

The principal display panel of the label will state the product name as "Tomato Juice From Concentrate." Each of the ingredients used will be stated on the label as required by the applicable sections of Part 101 (21 CFR Part 101), except that the tomato ingredient complying with the requirements of § 155.191(a)(1) will be declared as "tomato concentrate."

This permit is effective for 15 months beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than August 9, 1982. If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: May 4, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-12678 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and time: May 24, 1982 (10:00 a.m. to 5:00 p.m.); May 25, 1982 (9:00 a.m. to 12 noon).

Place: Multi-Purpose Room, Altmeyer Building, 6401 Security Boulevard, Woodlawn, Maryland 21235.

Purpose of the Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On May 3, 1982, a tentative agenda will be made available to the public.

The meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Daniel E. Nickelson, National Professional Standards Review Council, Health Standards and Quality Bureau, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Md., 21207, (301) 594-9207.

Dated: April 24, 1982.

Daniel E. Nickelson,

National Professional Standards Review Council.

[FR Doc. 82-12759 Filed 5-10-82; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

[Program Announcement 13612-825]

Availability of FY 1982 Financial Assistance for Native Hawaiian Economic Development Project

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of Availability of Fiscal Year 1982 Financial Assistance for one Native Hawaiian Economic Development Project.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Eligible applicants are Native Hawaiian organizations as described in the Eligible Applicant Section. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing date for the receipt of applications is July 12, 1982.

Program Purpose

The purpose of the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency of American Indians, Alaskan Natives and Native Hawaiians through financial assistance, training and technical assistance, and research, demonstration, and evaluation activities as authorized by the Native American Programs Act.

The concept of self-sufficiency is defined by ANA as follows:

Self-sufficiency is the level of development and degree of ability in which a Native American community can provide for the needs of community members and pursue its own social and economic goals.

- Responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups.
- Development of self-sufficiency entails economic progress, together with establishment or improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.
- Achievement of self-sufficiency is based on the community's ability to plan, organize and direct resources to meet community needs and goals.

The Administration for Native Americans bases it program and policy initiatives on the following three program goals:

- To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision making over all resources.
- To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on social services.
- To support local access to, and coordination of, services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

Project Goal and Objectives

The goal of this program is to increase the economic self-sufficiency of a specific community within the Native Hawaiian population in Hawaii. Financial assistance will be provided to a Native Hawaiian organization to be used as a catalyst for economic growth, for establishing a viable community-based economic institution and/or for increasing Native Hawaiian participation in the economy of the State of Hawaii.

Applicants must indicate that the project will address one or more of the following ANA program objectives:

- Implement economic development projects which provide for more effective use of available land, minerals and other natural resources for the benefit of the Native Hawaiian constituency.
- Develop Native Hawaiian entrepreneurship, and economic development projects which support current and future private enterprise development.
- Develop community controlled enterprises and cooperative ventures.
- Increase employment opportunities for Native Hawaiians.

The following project ideas are offered in the hope that they will stimulate the thinking of applicants as they develop projects and objectives specific to their own community needs:

- Development of a project design to increase Native Hawaiian ownership of business and/or to assist those Native Hawaiian businesses already established;
- Development of a specific Native Hawaiian community-owned enterprise in any of a number of areas. This objective could be oriented toward an agricultural, aquacultural, commercial or industrial project which would increase the economic stability and livelihood of a given community; or
- A project designed to create or increase Native Hawaiian employment opportunities and/or employability of community members. Such a project might, for instance, be related to development of a job/skills bank, matching individual Native Hawaiian skills with available jobs. A subobjective might be to develop an affirmative action plan in conjunction with appropriate State/local agencies and/or private employers.

Project Considerations

In the application, assurance must be provided that the proposed project will in no manner replace or duplicate economic related activities supported by another Federal or State agency, but ANA encourages linkages with Federal and State economic development activities.

The economic feasibility or viability of the project must already be determined and must be clearly presented in the application. Additionally, the application must provide objective(s) for interacting and coordinating with appropriate Federal, State or local governmental agencies or community-based projects with economic development responsibilities.

Since the expected project period will be for two years, all applications should include objectives for each of the two years with clear explanation as to how one year's funding relates to the other.

ANA is interested in funding projects which will result in benefits to the community which extend beyond the project period. The projects developed by the applicant must relate to clearly identified community needs and must be a priority of the applicant organization. The application is expected to reflect significant community involvement and support in the development of project goals, and ensure continuing community input in project implementation. The projects to be funded are expected to be self-sustaining or completed at the end of the project period.

The applicant should also identify by source, purpose and amount, other Federal and non-Federal resources and show how these resources will be coordinated with the proposed project.

The description of the activities in the application to accomplish each objective will be a major consideration by which ANA will review the reasonableness of estimated costs.

We encourage applicants, where feasible, to develop their projects jointly with other Native Hawaiian organizations, or colleges, universities, community agencies or business and industry interests that result in multi-organizational support or the potential of future joint funding.

Eligible Applicants

Any non-profit Native Hawaiian organization in Hawaii governed by an openly and publicly elected board of at least 51% of Native Hawaiians, and not presently receiving direct ANA funding, is eligible to apply for a grant under this program announcement. Island Centers are eligible applicants.

Available Funds

ANA expects to award $200,000 in Fiscal Year 1982 for one grant award under this program announcement. The budget period will be 12 months and the project period will be two (2) years.

Refunding after the first year will depend upon the grantee's satisfactory progress, the availability of funds, the grantees' compliance with the Native American Program Regulations, and the submission of a quality application in response to ANA's FY '83 Funding Guidance.

However, the applicant must note that expected funding for the second year will be less than the $200,000 for the first year and must analyze and propose costs accordingly.

Grantees Share of Project

Grantee must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contributions must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q and must be project related.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. Clarification and/or explanation on the grant application process as well as the application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245–7730; Attention: No. 13612–825.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program

annoucement are subjected to a competitive review and evaluation by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria: (100 points)

1. The overall application is consistent with the ANA program objectives as described in this program announcement and reflect efforts directed towards achieving self-sufficiency for the constituent community. (10 points)

2. Applicant's objectives are quantifiable, measurable, and are supported by and interrelated to the activities, budget, and personnel components of the application. If training and technical assistance is required to support the objectives/activities, the T/TA plan must detail tasks specifying resources available and/or required, person-days allocated, time and cost. (20 points)

3. That the proposed activities are defined, detailed, in support of the objectives and, if well executed, will achieve the intended results. (14 points)

4. Applicant's objectives reflect community priorities as evidenced by references to the applicant's short- and long-range plans and by the involvement of the community in the development of the project objectives. (10 points)

5. Applicant's budget is presented in detail, with complete explanations and justifications of line items and is of reasonable cost to the government. (15 points)

6. Project personnel are or will be well qualified to achieve project objectives as demonstrated by resumes and/or position descriptions. (7 points)

7. Applicant demonstrates the necessary management and administrative capabilities in such areas as financial, personnel, property, travel, etc., to justify receipt of Federal funds and to ensure accountability of funds, and that the applicant has adequate facilities. (4 points)

8. Applicant demonstrates that at the end of the 2-year project period, the project will be (1) completed, (2) self-sustaining, or (3) continuing with non-ANA support. If the project will continue beyond the project period, the applicant describes their plan for coordination of non-ANA resources. (10 points)

9. That the project is economically feasible or viable as presented in the application. (10 points)

Closing Date for Receipt of Application

The closing dates for receipt of all applications under this program announcement are July 12, 1982.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Applications submitted by other means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

Applications recieved after July 12, 1982 because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: April 26, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: May 5, 1982.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 82–12670 Filed 5–10–82; 8:45 am]

BILLING CODE 4130–01–M

[Program Announcement 13612–826]

Availability of FY 1982 Financial Assistance for Native American Projects

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Available Fiscal Year 1982 Financial Assistance for Native American Projects.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93–644, as amended. Eligible applicants are indian tribes and Native American groups and organizations as described in the Eligible Applicant Section. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATE: The closing date for receipt of all applications is July 12, 1982.

Program Purpose

The purpose of the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency of American Indians, Alaskan Natives and native Hawaiians through financial assistance, training and technical assistance, and research, demonstration, and evaluation activities as authorized by the Native American Programs Act. The concept of self-sufficiency is defined by ANA as follows:

Self-sufficiency is the level of development and degree of ability in which a Native American community can provide for the needs of community members and pursue its own social and economic goals.

- Responsibility for achieving self-sufficiency rests with the governing bodies of indian tribes and in the leadership of Native American groups.
- Development of self-sufficiency entails economic progress, together with establishment or improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.

- Achievement of self-sufficiency is based on the community's ability to plan, organize and direct resources to meet community needs and goals.

The Administration for Native Americans bases its program and policy initiatives on the following three program goals:

(1) To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision making over all resources.

(2) To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on social services.

(3) To support local access to, and coordination of, services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

The overall strategy followed by ANA in the accomplishment of these goals is centered on supporting tribal governments and other Native American organizations in the development and implementation of community-based, long-term social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This strategy is based on two fundamental principles:

(1) That the local community and its leadership are responsible for determining their own needs, setting priorities, planning and implementing programs aimed at satisfying those needs; the unique mix of socio-economic, political and cultural factors operating at each community make this a necessity; only the local community is in a position to apply its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which invariably have socio-cultural as well as economic consequences.

(2) That economic and social development are interrelated, and that development in one area should be balanced with development in the other, in order to enhance self-sufficiency. Without a careful balance of the two, serious dislocations may result that can jeopardize all of the community's development efforts. It is now an accepted premise that an expansion of social services, without a concomitant strengthening of incentives for employment and economic development, will invariably lead to greater dependency; conversely, inadequate social services can seriously impede efforts aimed at increased productivity and economic development.

The fundamental task which Native American communities face is that of building an enduring social and economic foundation in keeping with local needs, resources and cultural values. This goal is impeded by underdevelopment or inaccessibility of human, natural and financial resources at all levels of the public and private sector—as these resources relate to Native American needs. The problem of social and economic underdevelopment is characterized by:

- Inadequate development of tribal governments, community institutions and Native American leadership to assume the role they must plan in controlling and directing development toward social and economic self-sufficiency;
- Inaccessible, fragmented and uncoordinated services at all levels of government—tribal, state and federal—resulting in a social service base for Native Americans which is insufficient to support and advance economic development;
- Non-existent or infrequent linkages with the private sector economy and social service systems; and
- Undeveloped or underdeveloped local economies so lacking in diversification that they cannot provide the jobs, the economic stability or the foundation for economic progress which would increase individual productivity and reduce dependence on welfare services.

Project Goals and Objectives

The goal of this program announcement is to assist Indian tribes and local, community-based Native American organizations to develop and implement a joint effort with the private sector segment of the community to undertake a project(s) which will increase the social and economic self-sufficiency of the Native American community. The private sector refers to all non-government sectors in the community and has two sub-sectors. The first one is the business sector with a basic setting in the commercial marketplace, operating for profit through competitive economics; the second is the voluntary sector, dependent largely on voluntary donations of time and money, operating through persuasion and social and moral incentives. The business sector encompasses major corporations, small businesses, and industry associations, such as Chambers of Commerce, National Association of Manufacturers. The voluntary sector is comprised of foundations, unions, professional organizations (i.e., American Nurses Association), civic, fraternal and denominational organizations (i.e., Kiwanis, Junior League, United Methodist Church) and organizations whose members provide direct services (i.e., American Hospital Association, National League for Nursing).

ANA considers a joint effort to be a partnership between two or more parties where each agrees to contribute its own distinctive talents/resources to a common enterprise. By stimulating private sector involvement in Native American communities, ANA seeks to reduce Native Americans' dependency on public services, encourage local control of resources and promote economic growth. ANA is interested in funding alternative strategies, undertaken jointly by Native Americans and the private sector, which can best assist Native American communities and tribal governments achieve a *balanced* social and economic development, overcome economic isolation, build community-based and diversified local economies, and maximize the utilization of the existing capacities/resources (human, financial, natural) at the community level for development purposes.

Applicants, in the development and implementation of a partnership arrangement with the private sector, must indicate that the proposed project(s) will address one or more of the following ANA program objectives:

- Achieve effective use of available land, minerals and other natural resources for the benefit of the Native American constituency.
- Achieve effective and efficient management, planning, and coordination of economic development projects.
- Develop Native American entrepreneurship, and economic development projects which support current and future private enterprise development.
- Develop community controlled enterprises and cooperative ventures.
- Increase employment opportunities for Native American.
- Obtain the legal capabilities necessary for economic development in the Native American community.
- Increase the accountability and responsiveness of social service delivery organizations to the Native American constituency.
- Develop or access the resources, services, and/or benefits which are necessary for meeting the health, education, and social needs of the Native American constituency in a culturally appropriate way.

- Achieve comprehensive, effective and efficient management, planning, and coordination of social development services and programs.

ANA is interested in funding initiatives or projects where the private sector partner assumes an active role in the development and implementation of the project, not merely contributes money to the effort. ANA is seeking projects where the private sector plays a substantive role. The following project ideas are offered in the hope that they will stimulate the thinking of applicants as they develop projects and objectives specific to their own community needs.

- A partnership where one party provides training and the other party provides guaranteed employment.
- A partnership in which one party provides institutional infrastructures, and/or legal and regulatory support and the other party provides the technical expertise and resources necessary for a common effort.
- A partnership that might include the exchange of technical, managerial, legal, administrative expertise.
- A partnership in which one party provides access to capital and the other party provides market guarantees.
- A Native American applicant may act as a catalyst to bring about a partnership between two parties in the community in order to increase Native American employment, widen/increase the economic and/or tax base of the community, or in other ways increase the Native American community's self-sufficiency.

Contact Person

Applicants who wish further clarification of this announcement may call Ms. Janice Phalen, ANA, Washington, D.C., [202] 245–7730.

Eligible Applicants

Indian tribes, community-based Indian urban centers, rural, nonreservation Indian groups, Native American nonprofit organizations serving one or more specifically defined Native American communities, Native Hawaiian community-based organizations, and Alaskan Native nonprofit regional corporations are eligible to apply for a grant under this program announcement.

Available Funds

ANA expects to award $300,000 in Fiscal Year 1982 under this program announcement. It is anticipated that 4–6 grant awards will be made with a range of $40,000 to $50,000 per award. The budget period will be 12 months and the project period will be one year.

Grantee Share of Project

Grantees must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contributions must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q and must be project related.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. Clarification and/or explanation on the grant application process as well as the application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245–7730; Attention: No. 13612–826.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria: (100 points)

1. The overall application is consistent with the ANA program announcement and reflects efforts directed towards achieving self-sufficiency for the constituent community. (20 points)

2. Applicant's objectives are quantifiable, measurable, and are supported by and interrelated to the activities, budget, and personnel components of the application. If training and technical assistance is required to support the objectives/activities, the T/TA plan details tasks specifying resources available and/or required, person-days allocated, time and cost. (20 points)

3. Applicant's proposed activities are defined, detailed, in support of the objectives and, if well executed, will achieve the intended results. (10 points)

4. Applicant's objectives reflect community priorities as evidenced by references to the applicant's short- and long-range plans and by the involvement of the community in the development of the project objectives. (10 points)

5. Applicant's budget is presented in detail, with complete explanations and justifications of line items and is of reasonable cost to the government. (10 points)

6. Project personnel are or will be well qualified to achieve project objectives as demonstrated by resumes and/or position descriptions. (15 points)

7. Applicant demonstrates the necessary management and administrative capabilities in such areas as financial, personnel, property, travel, etc. to justify receipt of Federal funds and to ensure accountability of funds, and that the applicant has adequate facilities. (5 points)

8. The applicant evidences active involvement by the private sector; projects proposed are viable, feasible, and are supported by the private sector. (10 points)

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is July 12, 1982.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Potal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Applications submitted by other means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: April 26, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: May 5, 1982.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 82-12871 Filed 5-10-82; 8:45 am]

BILLING CODE 4130-01-M

[Program Announcement 13612-823]

Availability of FY 1982 Financial Assistance for Native American Projects

AGENCY: Office of Human Development Services, HHS.

ACTION: Announcement of Availability of Fiscal Year 1982 Financial Assistance for Native American projects.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644 as amended. Eligible applicants are Indian Urban Centers and rural non-reservation tribes. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is July 12, 1982.

Program Purpose

The purpose of the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency of American Indians, Alaskan Natives and Native Hawaiians through financial assistance, training and technical assistance and research, demonstration, and evaluation activities as authorized by the Native American Programs Act. The concept of self-sufficiency is defined by ANA as follows:

Self-sufficiency is the level of development and degree of ability in which a Native American community can provide for the needs of community members and pursue its own social and economic goals.

- Responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups.
- Development of self-sufficiency entails economic progress, together with establishment or improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.
- Achievement of self-sufficiency is based on the community's ability to plan, organize and direct resources to meet community needs and goals.

In order to accomplish its mission, ANA has established three broad program goals as follows:

(1) To develop or strengthen tribal and/or community institutions and Native American leadership to assure local control and decision-making over all resources.

(2) To foster development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being and reduce dependency on social services.

(3) To support efforts to develop local access to and coordination of projects and services which are necessary to achieve *balanced* social and economic development, which safeguard the health and well-being of Native American people, and which are essential to a thriving self-sufficient community.

To accomplish these goals, ANA supports tribal governments and other Native American organizations in the development and implementation of community-based, long-term social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This strategy is based on two fundamental principles:

(1) That the local community and its leadership are responsible for determining their own needs, setting priorities, planning and implementing programs aimed at satisfying those needs; the unique mix of socio-economic, political and cultural factors operating in each community make this a necessity; only the local community is in a position to apply its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which invariably have socio-cultural as well as economic consequences.

(2) That economic and social development are interrelated, and that development in one area should be balanced with development in the other, in order to enhance self-sufficiency. Without a careful balance of the two, serious dislocations may result that can jeopardize all of a community's development efforts. It is now an accepted premise that an expansion of social services, without a concomitant strengthening of incentives for employment and economic development, will invariably lead to greater dependency; conversely, inadequate social services can seriously impede efforts aimed at increased productivity and economic development.

The fundamental task which Native American communities face is that of building an enduring social and economic foundation in keeping with local needs, resources and cultural values. This goal is impeded by underdevelopment or inaccessibility of human, natural and financial resources at all levels of the public and private sector—as these resources relate to Native American needs. The problem of social and economic underdevelopment is characterized by:

- Inadequate development of tribal governments, community institutions and Native American leadership to assume the role they must play in controlling and directing development toward social and economic self-sufficiency;
- Inaccessible, fragmented and uncoordinated services at all levels of government—tribal, state and federal—resulting in a social service base for Native Americans which is insufficient to support and advance economic development;
- Non-existent or infrequent linkages with the private sector economy and social service systems; and
- Undeveloped or underdeveloped local economies so lacking in diversification that they cannot provide the jobs, the economic stability or the foundation for economic progress which would increase individual productivity and reduce dependence on welfare services.

Project Goals and Objectives

The goal of this program announcement is to provide financial assistance to urban Indian organizations and rural non-reservation Indian organizations to join together with local governments (city and county) to develop and carry out joint efforts in planning and/or delivering human services and in creating a better economic environment for Indians in the community.

Many of the social and economic development efforts undertaken by and for Indians are not as effectively linked with similar efforts underway in cities/counties as they could be. This results from cultural and historic traditions, as well as the separate administration of many Indian grant-in-aid prgrams. In many instances neither planning nor programmatic efforts are coordinated. As a result, many cities/counties do not take full advantage of information and expertise that rests with the Indian organizations, many local Indian organizations do not take full advantage of the resources that may be available to them, and there is overlap and duplication of efforts in many program areas.

Some local officials are not sufficiently aware of their Indian constituency, of its needs, and of its resources. Indians have not always effectively sought out services and assistance from city or community agencies. To begin to link Indian efforts in a city/county with other local efforts, lcoal officials require more information about the urban Indian population and Indian organizations need to strengthen their linkages with local government officials and agencies. Under a joint venture, both local governments and Indian agencies may need initially to assess Indian social and economic service needs and determine the costs of those services. In addition, many cities need information on the resources available to serve the Indian population.

- It is anticipated that, as linkages of programs are undertaken, Indian needs and resources will be integrated with those of the rest of the community in the planning process.
- There is a need to develop joint Indian/local government efforts to coordinate planning, programming and budgeting of social programs.
- There is need to find mechanisms to involve Indian organizations in local economic development efforts and to assist them to build relationships with the private sector.

Under this program announcement an applicant must submit as part of the application a formal agreement between the applicant and a local government official and/or agency to address one or more of the following ANA program objectives:

- Achieve effective and efficient management, planning, and coordination of economic development projects.
- Develop Native American entrepreneurship, and economic development projects which support current and future private enterprise development.
- Develop Native American community controlled enterprises and cooperative ventures.
- Increase employment opportunities for Native Americans.
- Increase the accountability and responsiveness of social service delivery organizations to the Native American constituency.
- Develop or access the resources, services, and/or benefits which are necessary for meeting the health, education, and social needs of the Native American constituency in a culturally appropriate way.
- Achieve more comprehensive, effective and efficient management, planning, and coordination of social development services and programs.

The following project ideas are provided in the hope that they will stimulate the thinking of applicants as they develop projects and objectives specific to their own community needs. ANA wishes to make clear that this list is offered simply to provide suggestions. It is not intended to be a total list of project ideas.

- Operating human service programs that reduce duplication;
- Local/city affirmative action plans which address urban/off-reservation Indians;
- Joint training, apprenticeship or intern programs with the private sector and/or government agencies;
- Work study programs with colleges and universities;
- Increasing city procurement of services and goods from Indian vendors;
- Creating or strengthening Indian-owned businesses; and
- Utilizing Indians for outreach efforts of the local government agency.

Additional Information

Concurrent with this program announcement ANA is publishing Program Announcement 13612–824, with the purpose of funding one grant award to a national Indian organization representative of urban and rural/non-reservation Indian interests. This grantee will provide for exchange of information among the grantees of 13612–823 and coordinate and provide assistance to the grantees and local governments in undertaking these joint ventures. It is to be noted that the national grant will not be operating until after the individual grants to urban centers and/or off-reservation tribes have been awarded.

It should be noted that ANA views the resultant grant awards of this announcement as essentially "seed money" for the projects. The project development should not be limited by the size of the grant award ($40,000 to $60,000) or by the project period (12 months). ANA expects that projects funded under this announcement will continue to benefit the community beyond the project period.

Conditions for Funding

The applicant must submit in the application a signed formal agreement between the Indian organization and the local government official or agency to undertake this joint venture. If the application does not contain the agreement, the application will be

considered non-conforming and will not be reviewed.

The costs incurred by the local government for staff time and project related direct costs may be reimbursed through the ANA grant, not to exceed 50% of the Federal share of the grant award. Therefore, an appropriate sub-grant or contractual arrangement for reimbursement between the applicant and the local government should be included in the application.

Contact Person

Applicants who wish further clarification of this announcement may call Ms. Janice Phalen, ANA, Washington, D.C. (202) 245–7730.

Project Consideration

ANA is interested in funding projects which will result in benefits to the community which extend beyond the project period. The projects developed by the applicant must relate to clearly identified community needs and must be a priority of the applicant tribe/organization, as evidenced through long-range goals, comprehensive plans, community profiles.

The applicant should also identify by source, purpose and amount, other Federal and non-Federal resources and show how these resources will be coordinated with the proposed project.

The description of the activities in the application to accomplish each objective will be a major consideration by which ANA will review the reasonableness of estimated costs.

Applicants must have an adequate system for evaluating their progress toward meeting goals and objectives.

Eligible Applicants

Multi-purpose Indian urban centers and non-profit, rural, nonreservation tribes and groups are eligible to apply for a grant award under this announcement. Federally recognized tribes are *not* eligible applicants.

Available Funds

ANA expects to award $350,000 in Fiscal year 1982 for new projects under this program announcement. It is anticipated that 6–7 grant awards will be made with a range of $40,000 to $60,000 per award.

The project period for each grant will be twelve (12) months.

Grantee Share of Project

Grantees must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q and must be project related.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. Clarification and/or explanation on the grant application process as well as an application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245–7730; Attention: No. 13612–823.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria: (100 points)

1. The overall application is consistent with the ANA program objectives as described in this program announcement and reflect efforts directed towards achieving self-sufficiency for the constitutent community. (15 points)

2. Applicant's objectives are quantifiable, measurable, and are supported by and interrelated to the activities, budget, and personnel conmponents of the application. If special assistance is required to support the objectives/activities, the T/TA plan must detail tasks, specifying resources available and/or required, person-days allocated, time and cost. (15 points)

3. Applicant's proposed activities are defined, detailed, in support of the objectives and, if well executed, will achieve the intended results. (15 points)

4. Applicant's objectives reflect community priorities as evidenced by references to the applicant's short- and long-range plans. (5 points)

5. Applicant's budget is presented in detail, with complete explanations and

justifications on line items and is of reasonable cost to the government. (15 points)

6. Project personnel are or will be well qualified to achieve project objectives as demonstrated by resumes and/or position descriptions, and the applicant has adequate facilities for the project. (7 points)

7. Applicant's plan for monitoring and evaluation clearly describes how progress toward meeting the project objectives will be measured. (8 points)

8. Applicant describes their plan for a coordinated use of current non-ANA and future non-ANA resources for the project which will support continued social and economic development for the constituent community. (5 points)

9. That the agreement between the applicant and local government clearly indicates the ways in which the responsibility to actively develop a stronger working relationship between the two parties is to be carried out. (15 points)

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is July 12, 1982.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications submitted by other means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: April 26, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: May 5, 1982.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 82-12868 Filed 5-10-82; 8:45 am]

BILLING CODE 4130-01-M

[Program Announcement 13612-824]

Availability of FY 1982 Financial Assistance for Native American Project

AGENCY: Office of Human Development Services, HHS.

ACTION: Announcement of Availability of Fiscal Year 1982 Financial Assistance for a Native American project.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644 as amended. Eligible applicants are national Indian organizations representing urban Indian centers and rural/nonreservation Indian tribes and groups. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is July 12, 1982.

Program Purpose

The purpose of the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency of American Indians, Alaskan Natives and Native Hawaiians through financial assistance, training and technical assistance, and research, demonstration, and evaluation activities as authorized by the Native American Programs Act. The concept of self-sufficiency is defined by ANA as follows:

Self-sufficiency is the level of development and degree of ability in which a Native American community can provide for the needs of community members and pursue its own social and economic goals.

- Responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups.
- Development of self-sufficiency entails economic progress, together with establishment or improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.
- Achievement of self-sufficiency is based on the community's ability to plan, organize and direct resources to meet community needs and goals.

In order to accomplish its mission, ANA has established three broad program goals as follows:

(1) To develop or strengthen tribal and/or community institutions and Native American leadership to assure local control and decision-making over all resources.

(2) To foster development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being and reduce dependency on social services.

(3) To support efforts to develop local access to and coordination of projects and services which are necessary to achieve *balanced* social and economic development, which safeguard the health and well-being of Native American people, and which are essential to a thriving and self-sufficient community.

To accomplish these goals, ANA supports tribal governments and other Native American organizations in the development and implementation of community-based, long-term social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This strategy is based on two fundamental principles:

(1) That the local community and its leadership are responsible for determining their own needs, setting priorities, planning and implementing programs aimed at satisfying those needs; the unique mix of socio-economic, political and cultural factors operating in each community make this a necessity; only the local community is in a position to apply its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which invariably have socio-cultural as well as economic consequences.

(2) That economic and social development are interrelated, and that development in one area should be balanced with development in the other, in order to enhance self-sufficiency. Without a careful balance of the two, serious dislocations may result that can jeopardize all of a community's development efforts. It is now an accepted premise that an expansion of social services, without a concomitant strengthening of incentives for employment and economic development, will invariably lead to greater dependency; conversely, inadequate social services can seriously

impede efforts aimed at increased productivity and economic development.

The fundamental task which Native American communities face is that of building an enduring social and economic foundation in keeping with local needs, resources and cultural values. This goal is impeded by underdevelopment or inaccessibility of human, natural and financial resources at all levels of the public and private sector—as these resources relate to Native American needs. The problem of social and economic underdevelopment is characterized by:

- Inadequate development of tribal governments, community institutionals and Native American leadership to assume the role they must play in controlling and directing development toward social and economic self-sufficiency;
- Inaccessible, fragmented and uncoordinated services at all levels of government—tribal, state and federal—resulting in a social service base for Native Americans which is insufficient to support and advance economic development;
- Non-existent or infrequent linkages with the private sector economy and social service systems; and,
- Undeveloped or underdeveloped local economies so lacking in diversification that they cannot provide the jobs, the economic stability or the foundation for economic progress which would increase individual productivity and reduce dependence on welfare services.

Project Goals and Objectives

The goal of this program announcement is to provide assistance to a national Indian organization to work with urban Indian organizations and rural non-reservation Indian organizations and local governments to carry out joint efforts in planning and/or delivering human services and in creating a better economic environment for Indians in the community.

Many of the social and economic development efforts undertaken by and for Indians are not effectively linked with similar efforts which serve non-Indian populations in the community. In many instances neither planning nor programmatic efforts are coordinated. As a result, many cities do not take full advantage of information and expertise that rests with the Indian organizations, many local Indian organizations do not take full advantage of the resources that may be available to them, and there is overlap and duplication of efforts in many program areas.

Some local officials are not sufficiently aware of their Indian constituency, of its needs, and of its resources. Indians have not always effectively sought out services and assistance from city or community agencies. To begin to link Indian efforts in a city with other local efforts, city officials require more information about the urban population and Indian organizations need to strengthen their linkages with local government officials and agencies. Under a joint venture, both local governments and Indian agencies may need initially to assess Indian social and economic service needs and determine the costs of those services. In addition, many cities need information on the resources available to serve the Indian population.

- It is anticipated that, as linkages of programs are undertaken, Indian needs and resources will be integrated with those of the rest of the community in the planning process.
- There is a need to develop joint Indian/local government efforts to coordinate planning, programming and budgeting of social programs.
- There is a need to find mechanisms to involve Indian organizations in local economic development efforts and to assist them to build relationships with the private sector.

Concurrently with Program Announcement 13612–823, under which grant awards will be made to Indian centers and Indian tribes to undertake specific joint ventures with local government agencies, ANA is interested in funding one national grant to provide oversight assistance to those Indian grantees and local governments and to disseminate information among the grantees and other interested Indian organizations and local governments about the efforts being undertaken as a result of Program Announcement 13612–823. ANA hopes the efforts of the national grantee will encourage more local and perhaps state governments to enter effective joint efforts with their Indian constituencies.

Under this program announcement the national Indian organization applicant must indicate that the proposed project will assist the grantees of 13612–823 to address one or more of the following ANA program objectives:

- Achieve effective and efficient management, planning, and coordination of economic development projects.
- Develop Native American entrepreneurship, and economic development projects which support current and future private enterprise development.
- Develop Native American community controlled enterprises and cooperative ventures.
- Increase employment opportunities for Native Americans.
- Increase the accountability and responsiveness of social service delivery organizations to the Native American constituency.
- Develop or access the resources, services, and/or benefits which are necessary for meeting the health, education, and social needs of the Native American constituency in a culturally appropriate way.
- Achieve more comprehensive effective and efficient management, planning, and coordination of social development services and programs.

The projects which the applicant may undertake to achieve the above ANA program objectives *must include,* but are not limited to the following:

- Identify exemplary Indian/local government practices.
- Assist Indian organizations to adopt exemplary coordinative practices.
- Disseminate to Indian organizations information regarding exemplary coordination practices via publications, workshops, etc.
- In cooperation with city governments, and human services and health agencies, bring together Indian leaders and city officials to plan and carry out activities that increase Indian participation in services, employment and in the formulation of policies and procedures.
- Inform mayors and city human service officials of their responsibilities to provide services to Indians notwithstanding the right to Indians to IHS, BIA, Indian CETA or other federal Indian programs.
- Promote city/urban Indian cooperation through training sessions, publication, and annual conferences.
- Bring together Indian leaders and city officials to plan and carry out activities that increase Indian participation in services, employment, and in the formulation of policies and procedures.
- Identify exemplary city government practices that promote Indian participation in services and in policy boards.
- Develop a summary of the efforts of the grantees of 13612–823 to disseminate among the grantees and interested parties. The summary should analyze the impact of the projects under 13612–823 on the Native American communities.
- Determine if, as a result of the national organization's efforts, similar

projects have been undertaken in other communities without ANA support.

Contact Person

Applicants who wish further clarification of the program aspects of this announcement may call Ms. Janice Phalen, ANA, Washington, D.C. (202) 245–7730.

Eligible Applicants

National Indian non-profit organizations representing Indian urban centers and rural/non-reservation Indian tribes and groups are eligible to apply for a grant award under this announcement. National Indian organizations must have the comprehensive direct access to mayors and local governments necessary for the purpose of this grant award, either through their own experience or through a delegate agency or contractual agreement with a national organization representing mayors and/or city/local governments.

The applicant, or subcontractors, if appropriate, must demonstrate that it has an existing network and regular communications, through vehicles such as meetings and publications, with mayors and lay city officials such as city human service directors, city health officers, CETA prime sponsors and community development directors. In addition, the applicant organization must show it has experience in providing technical assistance to these local officials, that it has existing linkages with organizations representing urban and rural/non-reservation Indians, and that it has experience in carrying out similar national initiatives with local off-reservation Indian community-based organizations.

Available Funds

ANA expects to award $150,000 in Fiscal Year 1982 for one grant under this program announcement. The project period for the grant will be 15 months.

Grantee Share of Project

The grantee must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to plant, equipment, and services. The contribution must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q and must be project related.

Under certain circumstances, some or all of the non-Federal share of the projects may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. Clarification and/or explanation on the grant application process as well as an application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 254–7730; Attention: to No. 13612–824.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and other use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirement.

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria: (100 points)

1. The overall application is consistent with the ANA program objectives as described in this program announcement. (15 points)

2. Applicant's objectives are quantifiable, measurable, and are supported by and interrelated to the activities, budget, and personnel components of the application. (25 points)

3. Applicant's proposed activities are defined, detailed, in support of the objectives and, if well executed, will achieve the intended results. (15 points)

4. Applicant's budget is presented in detail, with complete explanations and justifications of line items and is of reasonable cost to the government. (15 points)

5. Project personnel are or will be well qualified to achieve project objectives as demonstrated by resumes and/or position descriptions, the the applicant has adequate facilities for the project. (15 points)

6. The applicant organization and the sub/grantee (contractor) evidence their capability to undertake the project objectives as described in the program announcement. (15 points)

Closing Date for Receipt of Applications

The closing date for receipt of all applications under this program announcement is July 12, 1982.

Mailed applications. Applications mailed through the U.S. Postal Service

shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Servcie. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications submitted by other means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: April 26, 1982.

A. David Lester,

Commissioner Administration for Native Americans.

Approved: May 5, 1982.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 82-12869 Filed 5-10-82; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of Photoplethysmography for Diagnosis of Peripheral Artery Disease. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than August 9, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: May 3, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-12672 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinial effectiveness of Endothelial Cell Photography. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than August 9, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: May 3, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-12673 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-172-M

Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of Liver Transplantation as a Treatment for Liver Disease. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than August 9, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: May 3, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-12874 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of Photocoagulation Treatment for Macular Degeneration. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than August 9, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: May 3, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-12875 Filed 5-10-82; 8:45 am]

BILLING CODE 4160-17-M

Privacy Act of 1974; Notification of New Routine Uses

AGENCY: Public Health Service, HHS.

ACTION: Notification of new routine uses permitting disclosure of information from Privacy Act system of records 09-25-0099, "Clinical Research: Patient Medical Records," HHS/NIH/CC.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish three new routine uses and to modify two existing routine uses permitting disclosure of information from Privacy Act system of records 09-25-0099, "Clinical Research: Patient Medical Records," HHS/NIH/CC.

The National Institutes of Health (NIH) Clinical Center maintains this system of records to document patient care and provide for clinical research. The new and modified routine uses are compatible with and will facilitate accomplishment of these established purposes.

In addition, NIH is deleting an existing routine use which has become obsolete.

PHS invites interested persons to submit comments on the proposed routine uses on or before June 10, 1982.

DATE: NIH will adopt the new routine uses without further notice on June 10, 1982, unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the NIH Privacy Act Coordinator at the address listed below. Comments received will be available for inspection during office hours, Monday through Friday, in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205, or call 301-496-4606.

SUPPLEMENTARY INFORMATION: The new and modified routine uses are wholly compatible with the purposes of this system. Those purposes are to document treatment of patients in the NIH Clinical Center and to provide data for clinical research.

NIH is modifying an existing routine use which allows for disclosure to HHS grantees, contractors and collaborators. The modification clarifies when and why such disclosures are made.

NIH is also modifying a routine use permitting release of information by the Clinical Center Social Work Department. The modification specifies that the Social Work Department makes such disclosures when needed to assist the families of patients as well as the patients themselves. This modification is desirable because in some cases illness creates serious financial or other problems for the family of a patient. In such cases disclosure of some information from the medical record may be necessary to establish that the family is qualified to receive assistance or to indicate what kind of assistance is needed. This modification was inadvertently included in the annual republication of HHS systems of records in the **Federal Register** of October 27, 1981. It is being republished at this time to allow for public comment.

The first two proposed new routine uses are directly related to patient care and clinical research. The first one will allow the Clinical Center to disclose medical information to physicians or agencies who refer patients to assist them in continuing treatment of the patients after discharge from the Clinical Center. The second one will allow for disclosure to tumor registries which maintain information on tumor occurrence for research purposes.

The third proposed new routine use will allow the Clinical Center to disclose medical information to the Joint Commission on Accreditation of Hospitals for audit or review of medical care or medical record-keeping. Thus these disclosures will be in the interest of patients.

NIH is also deleting a routine use which allowed disclosure of research information to the Smithsonian Science Information Exchange, Inc. (SSIE). This routine use has become obsolete because the SSIE has been discontinued.

The system notice was last published in the **Federal Register** on October 27, 1981 (46 FR, p. 52824). We are republishing the entire notice to incorporate the proposed new and modified routine uses, and to update the "Safeguards" section of the notice. This last change is technical in nature and does not require a public comment period.

Dated: April 27, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-25-0099

SYSTEM NAME:

Clinical Research: Patient Medical Records. HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10, Room 1N116, 9000 Rockville Pike, Bethesda, MD 20205.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registered Clinical Center patients. Some individuals not registered as patients but seen in Clinical Center for diagnostic tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical treatment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 248.

PURPOSE(S):

1. To provide a continuous history of the treatment afforded individual patient in the Clinical Center;

2. To provide a data base for the clinical research conducted within the hospital.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF THE USERS AND THE PURPOSES OF SUCH USES:

Information may be used to respond to Congressional inquiries for constituents concerning admission to NIH Clinical Center.

Social Work Department may give pertinent information to community agencies to assist patients or their families.

Information regarding diagnostic problems, or having unusual scientific value may be disclosed to HHS contractors, grantees, collaborators or to appropriate medical or medical researcher organizations in connection with treatment of patients or in order to accomplish the research purpose of this system. For example, tissue specimens may be sent to the Armed Forces Institute of Pathology; X-rays may be sent for the opinion of a radiologist with extensive experience in a particular kind of diagnostic radiology. The recipients are required to protect such records from improper disclosure.

Referring physicians receive medical information for continuing patient care after discharge.

Medical information may be disclosed to tumor registries for maintenance of health statistics regarding tumor occurrence.

Records may be disclosed to representatives of the joint commission on Accreditation of Hospitals conducting inspections to ensure that the quality of Clinical Center medical record-keeping meets established standards.

Certain infectious diseases are reported to State Government as required by law.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employer of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice of other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche and computer tapes.

RETRIEVABILITY:

Records are retrieved by unit number and patient name.

SAFEGUARDS:

(1) Authorized Users: Employees maintaining records in this system are instructed to grant regular access only to physicians and dentists and other health care professionals participating in patient care or for whom a specific authorization is on file.

(2) Physical Safeguards: All record facilities are locked when system personnel are not present.

(3) Procedural Safeguards: Access to files is strictly controlled by the system manager. Records may be removed only by system personnel following receipt of a request signed by an authorized user. Access to computerized records is controlled by the use of security codes known only to the authorized user. Codes are user- and function-specific.

These safeguards were developed in accordance with chapter 45–13, Safeguarding Records Contained in Systems of Records, of the HHS General Administration Manual, corresponding chapter PHS hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–E–22. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Medical Record Department, Building 10, Room 1N116, 9000 Rockville Pike, Bethesda, Md. 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the above address. The requester must provide tangible proof of identity, such as a driver's license. If no identification papers are available, the requester must verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative. The representative may be a physician, or other health professional, or other responsible individual, who has indicated that he or she is willing to review the record and inform the subject individual of its contents at the representative's discretion. The subject individual will be granted direct access unless it is determined that such access is likely to have an adverse effect on him or her. In that case, the medical/dental record will be sent to the designated representative. The individual will be informed in writing if the record is sent to the representative.

A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate in writing a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sougnt.

CONTESTING RECORD PROCEDURES:

Contact the system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-12739 Filed 5-10-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-82-1127]

Availability of Documents Issued by Participation and Compliance Division to General Public

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is giving notice that certain documents issued by its Participation and Compliance Division will now be made available to members of the general public upon request.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Jon Will Pitts, Director, Participation and Compliance Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone number (202) 755-6776. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

The following documents issued by the Participation and Compliance Division will be available to any interested person upon submission of a written request addressed to Jon Will Pitts, Director, Participation and Compliance Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410:

1. Notices of proposed debarment issued pursuant to 24 CFR 24.7.
2. Notices of suspension issued pursuant to 24 CFR 24.16.
3. Notices of determination issued pursuant to 24 CFR 200.239.
4. Requests for reconsideration or for a hearing made pursuant to 24 CFR 200.241.
5. Requests for hearing made pursuant to 24 CFR 200.243.

These documents will be available for the three month period preceding the request. Charges will be assessed at 10 cents per page for copies of the documents; any assessment below $5.00 will be waived.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Dated: May 6, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-12704 Filed 5-10-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mescalero Apache Tribe; Plan for the Use and Distribution of Mescalero Apache Tribe Judgment Funds in Docket 22-G Before the United States Court of Claims

April 22, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 27, 1981, in satisfaction of the award granted to the Mescalero Apache Tribe in United States Court of Claims Docket 22-G. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 23, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on October 26, 1981, and by the Senate on October 27, 1981. The plan became effective on February 9, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated in satisfaction of an award granted to the Mescalero Apache Tribe of the Mescalero Reservation in the State of New Mexico in Docket 22-G before the United States Court of Claims, including all interest and investment income accruing thereto, less attorney fees and litigation expenses, shall be utilized as herein provided.

Funds totaling $1,000,000.00 will be utilized to make per capita payments to tribal members. These funds and their accumulated interest will be used to finance two per capita payments of $200.00 and $300.00 respectively to all enrolled members of the Mescalero Apache Tribe to meet economic and social needs of the members. A dividend payment of $200.00 was made to tribal members from other available funds in June 1981 with the understanding that the tribe would be reimbursed from accounts used to pay said dividend. A second payment of $300.00 to all enrolled members will be made immediately upon adoption of this plan.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5 (25 CFR Part 104 redesignated to 25 CFR Part 115, as published in **Federal Register** of March 30, 1982, page 13327). The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. The per capita shares of minors shall be handled pursuant to Pub. L. 95-433, 92 Stat. 1047.

The remaining fund and the accrued interest shall be utilized by the tribe for the purposes and in the amounts described below:

Land Purchase ($350,000.00)

These funds are to be used to acquire lands adjacent to the Mescalero Community Center which are in private ownership for the purpose of construction of the Mescalero School and other public buildings.

Re-Paint the Mescalero Community Center ($50,000.00)

These funds are to be used to re-apint and make minor decorative repairs to the Mescalero Community Center. The need is self-evident after 12 years of continuous heavy use.

Loan to the Inn of the Mountain Gods ($100,000.00)

These funds are to be loaned to the Inn of the Mountain Gods to make improvements in the outdoor recreation facilities. There is need at the Inn to provide protected recreation during the winter months.

Replace Tribal Aircraft ($500,000.00)

These funds will be used to acquire a new Tribal aircraft. The present aircraft which is three years old will be traded and these funds used to provide the cash necessary to the trade.

Unobligated Plan Balances

Any amount remaining in this plan in any of the budgeted items, after the costs of the proposed project or program has been met, shall be transferred to and become part of the tribe's general operating fund to be utilized in accordance with proper procedures by the tribal governing body.

None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the

payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 82-12710 Filed 5-10-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Preparation of Environmental Impact Statement for 1982 Amendments to the California Desert Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management, California Desert District, will prepare an environmental impact statement to assess the potential impacts of amendments proposed during the 1982 review of the California Desert Conservation Area Plan. The review is being conducted in accordance with the amendment procedures outlined in Chapter 7 of the Plan.

DATES: Amendments to the California Desert Plan are being accepted from the public until May 17, 1982 (see FR, Vol. 47, No. 38, p. 8250). Preparation of the Environmental Impact Statement will begin following final approval of amendments to be considered in the EIS, in June 1983. The Final EIS is scheduled to be filed with the Environmental Protection Agency in January 1982.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507. Telephone (714) 351-6386.

SUPPLEMENTARY INFORMATION: The California Desert Plan is the comprehensive land use management plan written pursuant to Section 601 of the Federal Land Policy and Management Act of 1976 (FLPMA, Pub. L. 94-579) for the California Desert Conservation Area (CDCA). The CDCA was designated a special management area by FLPMA due to the unique resource values to be found in this 25 million acre portion of southeastern California, a region in close proximity to the Los Angeles and San Diego Metropolitan areas.

Chapter 7 of the Plan provides a mechanism for amending the Plan. This process includes a provision stating that those amendments requiring preparation of an EIS (i.e., that could result in significant changes in the Plan or significant environmental impacts) will be considered annually. This 1982 review is the first of these annual processes which will require an EIS (an EA was prepared for the 1981 review). Amendments to be considered will include those submitted by the public and those proposed by BLM staff.

Opportunities for public input and comments will be announced through the media, the Desert Plan mailing list, and personal contact. The June meeting of the California Desert District Multiple Use Adivsory Council will serve as the public scoping meeting for this EIS. The meeting will be held from 8:30 to 5:00 on June 3 and 4 at the following location: Masonic Lodge Temple, 625 North Norma, Ridgecrest, California.

Dated: April 28, 1982.

Wesley Chambers,

Acting District Manager.

[FR Doc. 82-12758 Filed 5-10-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DES 82-16]

Draft Environmental Impact Statement: Eugene-Medford 500 kV Electrical Transmission Line; DEIS Availability; Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposal for Rights-of-Way to Construct a 500 kV Electrical Transmission Line Linking Medford and Eugene, Oregon.

SUMMARY: The proponent of this line, Pacific Power and Light Company (PP&L) has applied for basic rights-of-way across public lands administered by the Bureau of Land Management (approximately 15 percent of the 146.8 mile proposed project). BLM was designated as lead agency for the preparation of an environmental impact statement (EIS).

Under provision of Oregon law, PP&L has submitted a Site Certificate Application to the Oregon Energy Facility Siting Council which has State jurisdiction for projects of this nature. The Oregon Department of Energy is a cooperating agency for the EIS.

Bonneville Power Administration (BPA) would provide 500 kV service to the proposed line and became a cooperating agency for the EIS at the outset. If the preferred location is selected, BPA would build the initial 11.5 miles of the project beginning at their Lane Substation west of Eugene.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, a draft environmental impact statement (DEIS) on the proposal has been prepared and is now available for public review and comment. The DEIS analyzes impacts which would result from the proposed action, three alternatives, and 13 routing or construction options. Its purpose is to disclose probable effects on the natural, social and economic environment for consideration in the decisionmaking processes of the lead and cooperating agencies.

Public reading copies of the DEIS will be available for review in local libraries throughout the project area; PP&L offices: BLM State Office in Portland and District Offices in Medford, Roseburg and Eugene; and the BPA office in Eugene. A limited number of copies are available on request from the BLM State Office in Portland and District Offices in Eugene, Roseburg and Medford; the BPA office in Eugene; and PP&L offices in Medford, Roseburg, Myrtle Creek, Cottage Grove and Junction City.

Comments concerning the adequacy of analysis in this statement will be accepted until July 7, 1982. Written comments on the EIS may be addressed to: Bureau of Land Management, Planning and Environmental Coordination Staff (935), P.O. Box 2965, Portland, Oregon 97208.

In addition, public hearings for the purpose of receiving oral comments will be conducted at the following locations, places and times.

Medford City Hall, Council Chambers, 411 West 8th, Tuesday, June 15, 1982. 7:30 p.m.

Douglas County Courthouse, Room 216, 1036 SE Douglas, Wednesday, June 16, 1982. 7:30 p.m.

Eugene City Hall, Council Chambers, 777 Pearl St., Thursday, June 17, 1982. 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Roland D. Smith, Bureau of Land Management, Oregon State Office, P.IO. Box 2965 (825 N.E. Multnomah St.), Portland, Oregon 97208, Telephone: (503) 231-6951.

Dated: April 26, 1982.

Philip C. Hamilton,

Acting Chief, Division of Resources, Oregon State Office.

[FR Doc. 82-12705 Filed 5-10-82; 8:45 am]

BILLING CODE 4310-84-M

Salt Lake District (Utah) Grazing Advisory Board; Meeting

April 30, 1982.

AGENCY: Bureau of Land Management, Salt Lake District.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Salt Lake District Grazing Advisory Board will be held on June 8 and 9, 1982. The meeting will begin at 10:00 A.M. at the Bureau of Land Management Office at 2370 South 2300 West, Salt Lake City, Utah 84119.

The purpose of the meeting will be to:

1. Tour various allotments in Tooele County.

2. Give a status report and discuss the Board's involvement in Tooele Planning.

3. See example of allotments which have been placed in the M, I and C Management Categories.

Persons wishing to attend are requested to notify Frank Olsen by May 1, 1982.

Frank W. Snell,

District Manager.

[FR Doc. 82–12712 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–84–M

Susanville District, Calif.; Revised Use Fees at Selected Campgrounds

AGENCY: Bureau of Land Management, Interior.

ACTION: Revision of use fees at North Eagle Lake Campgrounds, Susanville District, California.

SUMMARY: Use fees for camping at North Eagle Lake Campground are revised to $3.00/day/campsite.

DATES: The revised Susanville District Campground Fee Schedule will be effective May 15, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Teeter, Susanville District Outdoor Recreation Planner, Susanville District Office, P.O. Box 1090, Susanville, CA 96130—Telephone (916) 257–5381.

SUPPLEMENTARY INFORMATION: The North Eagle Lake Campground is located 29 miles north of Susanville, California just off State Route 139.

For the purpose of this fee schedule, a "day" is defined as any 24 hour period or part thereof, beginning at 12:00 noon and ending on the following calendar day at 11:59 a.m. Fees for the area will be posted at the entrance.

Authority: Authority for this fee schedule revision is contained in CFR Title 36, Chapter 1, Part 66, Subpart 66.9

Dated: May 4, 1982.

C. Rex Cleary,

District Manager.

[FR Doc. 82–12711 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Sodium Leasing Land Classification Order California No. 2

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of classification of known leasing area (sodium) in California.

SUMMARY: Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C., 1451, note), 220 Departmental Manual 2, and Secretary's Orders Nos. 2948, and 3071, Federal lands within the State of California have been classified as subject to the competitive sodium leasing provisions of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 262), as amended.

The name of the area and the effective date are as follows: Searles Lake (California) Known Leasing Areas (Sodium); September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Michelson, Deputy Minerals Manager, Resource Evaluation, Minerals Management Service, Western Region, 345 Middlefield Rd., Mailstop 80A, Menlo Park, California 94025, Telephone (415) 323–8111, ext. 2053, FTS 467–2053.

SUPPLEMENTARY INFORMATION: A description and a diagram showing the boundaries of the area classified for competitive leasing have been filed with the appropriate land office of the Bureau of Land Management. The following described lands, insofar as title remains in the United States, are classified as follows:

Searles Lake Known Leasing Area (Sodium)

San Bernardino Meridian (California)

T. 25 S., R. 43 E.,
- Sec. 1, SW¼SW¼;
- Sec. 2, S½;
- Sec. 3, S½;
- Sec. 4, SE¼SE¼;
- Sec. 9, NE¼, SE¼NW¼, S½;
- Secs. 10 and 11;
- Sec. 12, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
- Secs. 13 to 16, inclusive;
- Sec. 17, lots 1, 4, and 5, SE¼SW¼; SE¼;
- Sec. 19, lots 8 and 15;
- Secs. 20 to 24, inclusive;
- Secs. 25 to 29, inclusive;
- Sec. 30, lots 1 and 8, E½SE¼;
- Sec. 31, E½E½;
- Secs. 32 to 36, inclusive.

T. 25 S., R. 44 E.,
- Sec. 18, lots 1 to 4, inclusive; E½SW¼;
- Sec. 19, W½NE¼, SE¼NE¼, W½, SE¼;
- Sec. 20, SW¼SW¼;
- Sec. 29, W½NW¼, SE¼NW¼, SW¼, SW¼SE¼;
- Secs. 30 to 32, inclusive;
- Sec. 33, W½SW¼.

T. 26 S., R. 43 E.,
- Secs. 1 to 4, inclusive;
- Sec. 5, lots 1 to 4, inclusive, S½NE¼, S½NW¼, N½SW¼, SE¼SW¼, SE¼;
- Sec. 6, lot 1, SE¼NE¼, NE¼SE¼;
- Sec. 8, N½NE¼, SE¼NE¼;
- Sec. 9, N½, N½SW¼, SE¼SW¼ SE¼;
- Sec. 10 to 12, inclusive;
- Sec. 13 and 14;
- Sec. 15, N½, E½SE¼, SE¼;
- Sec. 16, E½, NE¼;
- Sec. 23, N½NE¼;
- Sec. 24, N½.

T. 26 S., R. 44 E.,
- Sec. 4, lot 4, SW¼NW¼, W½SW¼;
- Secs. 5 to 8, inclusive;
- Sec. 9, W½W½;
- Sec. 16, W½NW¼;
- Sec. 17, N½, SW¼, N½SE¼, SW¼SE¼;
- Sec. 18, all;
- Sec. 19, lots 1 and 2, N½NE¼, E½NW¼;
- Sec. 20, N½NW¼.

The areas described aggregate: 31,840 acres, more or less.

Dated: April 22, 1982.

William P. Pendley,

Director, Minerals Management Service.

[FR Doc. 82–12713 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 30, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 26, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALABAMA

Colbert County

Sheffield vicinity, *Tuscumbia Landing Site,* W of Sheffield

Madison County

Huntsville vicinity, *McCrary House,* NE of Huntsville

Huntsville vicinity, *Steger House (Dr. Howard Place)* 3141 Maysville Rd.

ALASKA

Anchorage Division

Anchorage, *Fourth Avenue Theatre (AHRS Site No. ANC–284) 630 W 4th Ave.*

Juneau Division

Juneau, *Davis, J. M., House* (AHRS Site No. JUN–078) 207 6th St.

Ketchikan Division

Ketchikan, *Burkhart-Dibrell House (AHRS Site No. KET-111)* 500 Main St.

CONNECTICUT

Fairfield County

Newtown, *New York Belting and Packing Company*, 45—71 and 79—89 Glen Rd.

New London County

New London, *Woodworth, Nathan A., House*, 28 Channing St.

INDIANA

Allen County

Fort Wayne, *Bass, John H., Mansion (Brookside)* 2701 Spring St.

Marion County

Indianapolis, *Lombard Building*, 22—28 E. Washington St.
Indianapolis, *Thompson, William N., House*, 4343 N. Meridian St.

IOWA

Buchanan County

Quasqueton, *Walter, Lowell E., House*, NW of Quasqueton off SR W35

Cerro Gordo County

Clear Lake, *Elks-Rogers Hotel*, 221 Main Ave.

Hamilton County

Webster City, *Webster City Post Office*, 801 Willson Ave.

Henry County

Salem, *Lewelling, Henderson, House*, W. Main St.

Howard County

Riceville, *Fellows, James C., House*, Main St.

Polk County

Des Moines, *Case, Larnerd, House*, 3111 Easton Blvd.
Des Moines, *Cummins, Albert Baird, House*, 2404 Forest Dr.

Story County

Ames, *Marston Water Tower*, Iowa State University campus

Woodbury County

Sioux City, *Franz, Margaretta, House*, 215 Kansas St.
Sioux City, *Spencer, Knapp, Warehouse*, 3rd and Nebraska Sts.

KENTUCKY

Boone County

Constance, *Anderson Ferry*, Off KY 8 (also in Hamilton County, OH),

Daviess County

Owensboro vicinity, *Willow Hill (Jesse Jones House)* Jones Rd.

MASSACHUSETTS

Barnstable County

Bourne, *Wing's Neck Light (Lighthouses of Massachusetts TR)* Wing's Neck Rd.
Bourne, *Cleveland Ledge Light Station (Lighthouses of Massachusetts TR)*
Chatham, *Chatham Light Station (Lighthouses of Massachusetts TR)* Main St.
Eastham, *Nauset Beach Light (Lighthouses of Massachusetts TR)* Nauset Beach
Eastham, *Three Sisters of Nauset (The Beacon) (Lighthouses of Massachusetts TR)* Nauset Beach
Provincetown, *Long Point Light Station (Lighthouses of Massachusetts TR)* Herring Cove Beach
Provincetown, *Race Point Light Station (Lighthouses of Massachusetts TR)* Race Point Beach
Provincetown, *Wood End Light Lookout Station (Lighthouses of Massachusetts TR)*
Truro, *Highland Light Station (Cape Cod Light) (Lighthouses of Massachusetts TR)* Off SR 6
Woods Hole, *Nobska Point Light Station (Lighthouses of Massachusetts TR)* Nobska Rd.
Eastham, *Three Sisters of Nauset (Twin Lights) (Lighthouses of Massachusetts TR)*

Bristol County

Bristol, *Borden Flats Light Station (Lighthouses of Massachusetts TR)* Taunton River
New Bedford, *Butler Flats Light Station (Lighthouses of Massachusetts TR)* New Bedford Channel

Dukes County

Edgartown, *Cape Poge (Pogue) Light (Lighthouses of Massachusetts TR)* Chappaquiddick Island
Edgartown, *Edgartown Harbor Light (Lighthouses of Massachusetts TR)*
Gay Head, *Gay Head Light (Lighthouses of Massachusetts TR)* Lighthouse Rd.
Gosnold, *Tarpaulin Cove Light (Lighthouses of Massachusetts TR)* Naushon Island
Oaks Bluff, *East Chop Light (Lighthouses of Massachusetts TR)* Lighthouse Rd.
Tisbury, *West Chop Light Station (Lighthouses of Massachusetts TR)* W. Chop Rd.

Essex County

Andover, *Abbot Tavern (Town of Andover MRA)* 70 Elm St.
Andover, *Abbot, J.T., House (Town of Andover MRA)* 34 Essex St.
Andover, *Abbot-Baker House (Town of Andover MRA)* 5 Argilla Rd.
Andover, *Abbot-Battles House (Town of Andover MRA)* 31 Lowell St.
Andover, *Abbott, Asa and Sylvester, House (Town of Andover MRA)* 15–17 Porter Rd.
Andover, *Academy Hill Historic District (Town of Andover MRA)* MA 28
Andover, *Andover National Bank (Town of Andover MRA)* 23 Main St.
Andover, *Andover Town Hall (Town of Andover MRA)* 20 Main St.
Andover, *Andover Village Industrial District (Town of Andover MRA)* MA 28
Andover, *Arden (Town of Andover MRA)* 276 N. Main St.
Andover, *Bailey, Timothy P., House (Town of Andover MRA)* 210 Chandler Rd.
Andover, *Ballardvale District (Town of Andover MRA)* Off I–93
Andover, *Barnard Block (Town of Andover MRA)* 10–16 Main St.
Andover, *Central Street District (Town of Andover MRA)* Irregular pattern along Central St.
Andover, *Chandler-Bigsby-Abbot House (Town of Andover MRA)* 88 Lowell St.
Andover, *Chandler-Hidden House (Town of Andover MRA)* 17 Hidden Rd.
Andover, *Chickering House (Town of Andover MRA)* 28 Essex St.
Andover, *Cochran, Jehiel, House (Town of Andover MRA)* 63 Burnham Rd.
Andover, *Dascomb House (Town of Andover MRA)* 125 Dascomb Rd.
Andover, *Flint Farm (Town of Andover MRA)* 85 Osgood St.
Andover, *Follansbee House (Town of Andover MRA)* 459 Lowell St.
Andover, *Frye, Nathan, House (Town of Andover MRA)* 166 N. Main St.
Andover, *Gray, David, House (Town of Andover MRA)* 232 Salem St.
Andover, *Harding, Sarah H., House (Town of Andover MRA)* 6–8 Harding St.
Andover, *Harnden Farm (Town of Andover MRA)* 261 Salem St.
Andover, *Holt Farm (Town of Andover MRA)* 89 Prospect Rd.
Andover, *Holt-Cummings-Davis House (Town of Andover MRA)* 67 Salem St.
Andover, *Jenkins, Benjamin, House (Town of Andover MRA)* 362 Salem St.
Andover, *Lincolnshire, The (Town of Andover MRA)* 22 Hidden Rd. and 28 Hidden Way
Andover, *Main Street-Locke Street District (Town of Andover MRA)* MA 28
Andover, *Manning House (Town of Andover MRA)* 37 Porter Rd.
Andover, *Memorial Hall Library (Town of Andover MRA)* 2 N. Main St.
Andover, *Musgrove Block (Town of Andover MRA)* 2 Main St.
Andover, *Orlando (Town of Andover MRA)* 260 N. Main St.
Andover, *Osgood Farm (Town of Andover MRA)* 116 Osgood St.
Andover, *Pearson, Abiel, House (Town of Andover MRA)* 33 High St.
Andover, *Perrin, William, House (Town of Andover MRA)* 464 River Rd.
Andover, *Pillsbury-French House (Town of Andover MRA)* 103 Dascomb Rd.
Andover, *Punchard, Benjamin, House (Town of Andover MRA)* 8 High St.
Andover, *Rogers-Downing House of Andover MRA)* 269 Highland Rd.
Andover, *Russell House (Town of Andover MRA)* 28 Rocky Hill Rd.
Andover, *Third Railroad Station (Town of Andover MRA)* 100 School St.
Andover, *Ward, Richard, House (Town of Andover MRA)* 71 Lowell St.
Andover, *West Parish Center District (Town of Andover MRA)* MA 133
Andover, *Woodbridge House (Town of Andover MRA)* 293 Salem St.
Beverly, *Hospital Point Light Station (Front Range Light) (Lighthouses of Massachusetts TR)* Bayview Ave.
Gloucester, *Annisquam Harbor Light Station (Lighthouses of Massachusetts TR)* Wigwam Point.
Gloucester, *Eastern Point Light Station (Lighthouses of Massachusetts TR)* Eastern Point.

Marblehead, *Marblehead Light (Lighthouses of Massachusetts TR)* Marblehead Neck
Newburyport, *Newburyport Harbor Front Range Light (Lighthouses of Massachusetts TR)* Marrimac River Coast Guard Station
Newburyport *Newburyport Harbor Light (Lighthouses of Massachusetts TR)* Northern Blvd.
Rockport, *Straightsmouth Island Light (Lighthouses of Massachusetts TR)*
Salem, *Derby Wharf Light Station (Lighthouses of Massachusetts TR)* Derby Wharf

Hampshire County

Hatfield, *Old Mill Site Historic District*, 48 and 50 Prospect St.

Middlesex County

Weston, *Hobbs, Isaac, House*, 87 North Ave.

Nantucket County

Nantucket, *Brant Point Light Station (Lighthouses of Massachusetts TR)* Brant Point.
Nantucket, *Nantucket Light (Great Point Light or Sandy Point) (Lighthouses of Massachusetts TR)* Nantucket Island.
Siasconset, *Sankaty Head Light (Lighthouses of Massachusetts TR)* Sankaty Head

Norfolk County

Needham, *Tolman-Gay House*, 1196 Central Ave.

Plymouth County

Hull, *Graves Light Station (Lighthouses of Massachusetts TR)*
Marion, *Bird Island Light (Lighthouses of Massachusetts TR)* Sippican Harbor
Mattapoisett, Ned *Point Light (Lighthouses of Massachusetts TR)* Ned Point Rd.
Scitaute, *Minot's Ledge Light (Lighthouses of Massachusetts TR)*
Scituate, *Scituate Light (Lighthouses of Massachusetts TR)* Cedar Point

Suffolk County

Boston, *Long Island Head Light (Lighthouses of Massachusetts TR)* Long Island.
Boston, *Adams-Nervine Asylum*, 990–1020 Centre St.
Boston, *Boston Light Station (Lighthouses of Massachusetts TR)* Boston Harbor

Worcester County

Upton, *Knowlton Hat Factory*, 134 Main St.
Boylston, *Barlin Acres*, 284 School St.
Grafton, *Willard House and Clock Museum*, 11 Willard St.
Holden, *Rogers House*, 28 Boyden Rd.
Sturbridge, *Wright, Oliver, House*, Main St.

MISSISSIPPI

Clay County

West Point, *West Point Central City Historic District*, MS 50

Warren County

Vicksburg, *Davis-Mitchell House*, 901 Crawford St.

NEW JERSEY

Essex County

East Orange, *Ambrose-Ward Mansion*, 132 S. Harrison St.

Hudson County

Jersey City, *Jersey City High School*, 2 Palisade Ave.

Union County

Plainfield, *Hillside Avenue Historic District*, Hillside Ave. from Watchung Ave. to Martine Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Saint Joseph 1930 Hospital*, 715 Grand NE.
Albuquerque, *Weiller, H. B. House*, 1228 Central Ave., SW.
Los Ranchos vicinity, *Los Poblanos Historic District*, NM 194

NORTH CAROLINA

Alamance County

Altamahaw, *Altamahaw Mill Office*, SR 1002 and SR 1567
Haw River, *Holt, Charles T., House*, 228 Holt St.

Buncombe County

Asheville, *Demens-Rumbough-Crawley House*, 31 Park Ave.

NORTH CAROLINA

Chatham County

Farrington vicinity, *Stone, Joseph B., House*, SR 1008

Cleveland County

Boiling Springs, *Hamrick, E.B., Hall*, Gardner-Webb College campus

Davidson County

High Point vicinity, *Spurgeon House*, W of High Point

Durham County

Durham, *Greystone*, 618 Morehead Ave.

Guilford County

Colfax vicinity, *Shaw-Cude House*, Off SR 2010

Hertford County

Winton, *Gray Gables*, Main St.

Mecklenburg County

Matthews, *Providence Presbyterian Church and Cemetery*, 10140 Providence Rd.

Moore County

Aberdeen vicinity, *Blue, Malcolm, Farm*, Bethesda Rd. and Ernest L. Ives Dr.

Nash County

Battleboro vicinity, *Bellamy-Phillips House*, SR 1522

Person County

Bethel Hill vicinity, *Holloway-Walker Dollarhite House*, SR 1514
Roxboro, *Roxboro Male Academy and Methodist Parsonage*, 315 N. Main St.

Rockingham County

Eden, *Bullard-Ray*, 650 Washington St.

Yadkin County

Huntsville, *White House*, Shallowford Rd.

OHIO

Allen County

Lima vicinity, *Allentown M.E. Church (Rural Chapels Along the War of 1812 Auglaize Trail TR)* 4900 Poling Rd.
Lima vicinity, *Antioch Christian Union Church (Rural Chapels Along the War of 1812 Auglaize Trail TR)* 7301 Ft. Amanda Rd.
Lima vicinity, *Helsel Chapel (Rural Chapels Along the War of 1812 Auglaize Trail TR)* 4271 Spencerville Rd.
Lima vicinity, *Ridge U.B. Church/Marion Ridge (Rural Chapels Along the War of 1812 Auglaize Trail TR)* 6875 Ridge Rd.
Lima vicinity, *Zion Church (Rural Chapels Along the War of 1812 Auglaize Trail TR)* 9290 Zion Church Rd.
Converse, *Bethel Christian Union Church (Rural Chapels Along the War of 1812 Auglaize Trail TR) 6770* Allentown Rd.

Belmont County

Barnesville vicinity, *Tower Site (33–B1–15)*

Clermont County

New Richmond, *Ross-Gowdy House*, 125 George St.

Cuyahoga County

Gates Mills, *Keyt, Gideon, House*, Chagrin River and Deerfield Rds.

Darke County

Versailles vicinity, *English, William, House*, 11291 OH 47

Hamilton County

Cincinnati, *Anderson Ferry*, Off U.S. 50 (also in Boone County, KY),
Cincinnati, *Broadwell, Charles, House*, 1424 Pleasant St.
Cincinnati, *Burdsal, Samuel, House*, 1342 Broadway St.
Cincinnati, *Endebrook, John H., House*, 1428 Pleasant St.
Cincinnati, *Goldsmith, Moses, Building*, 356 Bryant
Cincinnati, *Groesbeck, William, House*, 1407 Race St.
Cincinnati, *Meyer-Phillipp House*, 1410 Elm St.
Cincinnati, *Ratterman, Bernard, House*, 1349 Broadway
Cincinnati, *Sycamore—13th Street Grouping*, 12th, 13th, and Sycamore Sts.

Highland County

Hillsboro, *East Main Street Historic District*, E. Main and E. Walnut Sts.
Hillsboro, *Mother Thompson House*, 133 Willow St.

Jefferson County

Steubenville, *Steubenville YMCA Building*, 214 N. 4th St.

Lorain County

Elyria, *New York Central Freight House*, 412 E. River St.

Lucas County

Toledo, *Bush Street Historic District*, Bush and Erie Sts.

Waterville vicinity, *Isham, John, House,* 8460 S. River Rd.

Mahoning County

Campbell, *Youngstown Sheet and Tube Company Housing,* Jackson and Chambers St.

Medina County

Medina, *St. Paul's Episcopal Church,* 317 E. Liberty St.

Muskingum County

Zanesville, *Brighton-Dryden Historic District,* Dryden Rd., Brighton Blvd., Lexington and Stanberry Aves.
Zanesville, *Lind Arcade,* 48 N. 5th St.
Zanesville, *Smith, William R., House,* 920 Marietta St.

Pickaway County

Circleville vicinity, *Black, Joseph, Farmhouse,* 9862 Heffner Rd.

Putnam County

Ottoville vicinity, *Ottawa River Christian Church (Rural Chapels/War of 1812 Auglaize Trail TR)*

Richland County

Shelby vicinity, *Sacred Heart of Jesus Churches,* OH 61

Stark County

Canal Fulton, *Canal Fulton Historic District,* Ohio-Erie Canal, Market, Canal, Cherry and High Sts.
Canton, *Old McKinley High School,* 800 No. Market St.
Canton, *Ridgewood Historic District,* Roughly bounded by Market and Gibbs Ave., and 21st and 24th Sts.

Summit County

Akron, *Eagles Temple,* 131—137 E. Market St.

Van Wert County

Converse, *Converse Methodist Church (Rural Chapels Along the War of 1812 Auglaize Trail TR)* OH 81 and Elgin-Converse Rd.

Wayne County

Rittman vicinity, *Gish Farmhouses,* Gish Rd.

OREGON

Umatilla County

Pendleton, *Empire Block,* 21–37 SW. Emigrant Ave.
Pendleton, *Hamley and Company Leather Goods Store,* 30 SE. Court St.
Pendleton, *Hendricks Building (K. O. T. M. Temple)* 369 S. Main St.
Pendleton, *Masonic Temple,* 18 SW. Emigrant Ave.
Pendleton, *Matlock-Brownfield Building,* 413–425 S. Main St.

RHODE ISLAND

Newport County

Newport, *Bird's Nest, The,* 526 Broadway at One Mile Corner

Washington County

New Shoreham, *Champlin, Peleg, House,* Rodman Pond Lane

SOUTH CAROLINA

Beaufort County

Hilton Head vicinity, *Daufuskie Island Historic District,* SW. of Hilton Head

TEXAS

Cooke County

Gainesville, *Cloud-Stark House,* 327 S. Dixon St.

Galveston County

Galveston, *Hagemann, John, House,* 3301 Ave. L

Palo Pinto County

Mineral Wells, *Baker Hotel,* 200 E. Hubbard St.

Smith County

Tyler, *Whitaker-McClendon House,* 806 W. Houston St.

UTAH

Cache County

Smithfield, *Douglas General Mercantile,* 100 Main St.

Davis-County

Bountiful, *Townsend-Palmer House,* 515 S. 200 West St.

Sanpete County

Manti, *Cox-Shoemaker-Parry House,* 50 N. 100 West St.

Utah County

Provo, *Cluff, Harvey H., House,* 174 N. 100 East St.
Provo, *Davies, Charles E. House,* 388 W. 300 North St.
Provo, *Silver Row,* 621–645 W. 100 North St.

Washington County

Washington vicinity, *Southern Paiute Archeological District*

Weber County

Plain City, *Skeen, William D., House,*

WISCONSIN

Grant County

Platteville, *Evans, Jonathan H., House,* 440 W. Adams St.

Pepin County

Durand vicinity, *Dorwin's Mill,* E of Durand

Washington County

Hartford vicinity, *Ritger Wagonmaking and Blacksmith Shop,* 4928 WI 175

Winnebago County

Oshkosh, *Amos House,* 1157 High Ave.

SOUTH DAKOTA

Fall River County

Site No. 39 FA 94 (Rock Art in the Southern Black Hills Thematic Resources) (incorrectly published April 27, 1982 as Site No. 39 FA 44)

[FR Doc. 82-12729 Filed 5-10-82; 8:45 am]
BILLING CODE 4310-70-M

Camp Round Meadow, Catoctin Mountain Park; Availability of Record of Decision and Finding of No Significant Impact for the Development Concept Plan

The National Park Service has prepared the Record of Decision and FONSI for the Camp Round Meadow Development Concept Plan. This record documents the selected course of action for the management and use of the Camp Round Meadow area of Catoctin Mountain Park.

Written comments will be accepted for a period of 30 days following the publication of this notice and should be addressed to the Superintendent, Catoctin Mountain Park, Thurmont, Maryland 21788.

Copies are available from:

Catoctin Mountain Park, Thurmont, Maryland 21788
National Capital Region, 1100 Ohio Drive, S.W., Washington, D.C. 20242

Dated: April 29, 1982.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 82-12727 Filed 5-10-82; 8:45 am]
BILLING CODE 4310-70-M

Santa Monica Mountains National Recreational Area, California, General Management Plan; Availability of the Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a final environmental impact statement for the proposed General Management Plan for Santa Monica Mountains National Recreation Area, California.

The proposed action presents goals and objectives for management, a land classification system that indicates management emphasis for all lands within the boundary; concepts for management of resources and cooperation with agencies and landowners; programs for managing natural, scenic, and cultural resources; a related series of possible actions for activity sites, trails and camps, visitor programs and services, transportation, scenic roads, and management facilities; and strategies for future planning. The proposed action will result in the provision of a variety of educational and recreational opportunities for enjoyment by urban, suburban, and national visitors; the protection and enhancement of resource values; and the retention of existing land uses in conjunction with new uses of parklands.

An alternative was considered that would continue land acquisition, cooperative planning, and visitor use and resource management programs, but would not significantly increase recreational opportunities. A no action alternative was also considered, which would preclude any additional National Park Service involvement in the area.

A limited number of copies of the document are available on request from the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364 (213–888–3440) and Ron Replogle, 450 Golden Gate Avenue, San Francisco, California 94102 (415–556–5750). Public reading copies are available at the following locations: 450 Golden Gate Avenue, San Francisco; Interior Building, 18th and C Streets, N.W., Washington, D.C. and Park Headquarters, Woodland Hills, California.

Dated: April 29, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 82–12728 Filed 5–10–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

May 6, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Northwest Agricultural Cooperative Association, Inc. (NACA, INC.), P.O. Box 1, Ontario, OR 97914, 920 Southeast Ninth Ave., Ontario, OR 97914

Ted Hoots, P.O. Box 1, Ontario, OR 97914

Pacific Mountain Express, Inc., 1841 Piner Rd., No. B, Box 11503, Santa Rosa, CA 95406, 1841 Piner Rd., No. B, Santa Rosa, CA 95406

David Robinson, 2228 W. Northern Ave., B201, Phoenix, AZ 85021

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12690 Filed 5–10–82; 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 state in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79705. By decision of April 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRIANGLE TRUCKING CO., of Permit and Certificate Nos. MC–60014 and sub number proceedings (except Sub Numbers 192 and 210) issued to AERO TRUCKING, INC., authorizing the transportation (a) as a common carrier of numerous commodities, primarily machinery, metal articles, lumber and wood products, building materials, construction materials, contractors equipment and supplies, clay and refractory products, rubber and plastic products and commodities, the transportation of which because of size or weight requires the use of special equipment from and to points throughout Continental United States and (b) as a contract carrier of metal articles from and to numerous points in the Midwest under continuing contracts with named shippers subject to the following conditions: if any. Applicants' representative is: A. Charles Tell, Esq., 100 East Broad Street, Columbus, OH 43215.

MC–FC–79757. By decision of April 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to William P. Dalton, d.b.a. Dalton Trucking, of Centerton, IN, of Certificate No. MC–147656 (Sub-No. 2)X issued November 17, 1981, to C. and V. Corporation of Indianapolis, IN, authorizing the transportation of food and related products between points in Marion County, IN, on the one hand, and, on the other, points in Ohio. Applicants' representative is: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240.

MC–FC–79603. Supplemental notice to correct the authority description in the notice published April 2, 1981, pp. 14231 and 14232. Review Board Number 3 approved the transfer to EXHIBITORS FILM SERVICE, INC. of Indianapolis, IN, of that portion of Certificate No. MC–71452 (Sub-No. 22)X issued to INDIANA TRANSIT SERVICE, INC., of Indianapolis, IN, authorizing the transportation over irregular routes generally, of *film, theatre equipment and supplies and printed matter* (a) between

points in IN, and (b) radially between points in OH, KY, IL and IN. Applicants' representative is: Mel P. Booker, P.O. Box 1281, Old Town Station, Alexandria, VA 22313. A TA lease is sought; transferee is not a carrier.

MC-FC-79764. By decision of April 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to John Hensal Trucking, Inc. of Certificate No. MC-14454 and MC-14454 (Sub-No. 4) issued to Kimbel Trucking Company authorizing the transportation of (1) *Machinery, equipment, materials and supplies* used in or in connection with, the discovery, developing, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking-up thereof, between points in OK, KS and TX; and (2) *oilfield equipment, materials and supplies*, from points in KS, OK and TX to points in AR, CO, LA and WY. Applicants' representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036.

Note.—(1) Transferee is a carrier, (2) application for temporary authority has been filed.

MC-FC-79768. By decision of April 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Reed H. Wilson and Curtis C. Morken, of Certificate No. MC-147607 (Sub-Nos. 2 and 3) issued to Offutt Trucking Co. authorizing the transportation of (1) *carpet*, from points in GA, to points in MN, ND, SD, and WI, and (2) *carpeting*, from points in GA, to points in IL, IA, NE. Applicants' representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108.

Note.—Transferee is a non-carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-12692 Filed 5-10-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-90

Decided: April 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-593, filed April 13, 1982. Applicant: FOODSOURCE, INC., 900 Larkspur Landing Circle, Larkspur, CA 94939. Representative: David F. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, 213-627-8471. *As a freight forwarder*, in connection with the transportation of *general commodities*, between points in the U.S. (except AK and HI). Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 151173 (Sub-12), filed April 13, 1982. Applicant: HAR-BET, INC., 7209 Tara Blvd., Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr. (same address as applicant), 404-478-4115. Transporting *foodstuffs*, between points in GA, on the one hand, and, on the other, points in ID, MI, OR, and WI.

MC 161322, filed April 1, 1982. Applicant: EUROPEAN TOURS, 2835 Colony Road, Charlotte, NC 28211. Representative: Dean Scoggin, (same as applicant) (704) 523-3478. As a *broker* at Charlotte, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in NC, and extending to points in the U.S.

MC 161462, filed April 12, 1982. Applicant: MIDLAND EXPRESS, INC., 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Representative: Anthony E. Young (same address as applicant) 312-782-8880.Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4-159

Decided: May 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 48176 (Sub-3), filed April 28, 1982. Applicant: RICH-HIL TRANSPORTATION, INC., RD #5, Box 64, Flemington, NJ 08822. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048; (212) 466-0220.

Transporting *ores and minerals,* and *clay, concrete, glass or stone products,* between points in Chester and Montgomery Counties, PA, on the one hand, and, on the other, points in NJ.

MC 78786 (Sub-282), filed April 27, 1982. Applicant: PACIFIC MOTOR TRUCKING COMPANY, 1766 E. Camino Real, P.O Box 990, Burlingame, CA 94010. Representative: Lloyd M. Roach, 7600 South Central Expressway, P.O Box 226187, Dallas, TX 75266; (214) 376–4423. Transporting *hazardous materials,* between points in the U.S. (except AK and HI). Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 129226 (Sub-12), filed April 28, 1982. Applicant: TO–JON TRUCKING, INC., 480 Brown Ct., Oceanside, NY 11572. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048–0640. Transporting *such commodities* as are dealt in or used by department stores and catalog showrooms, between points in the U.S. (excpet AK and HI), under continuing contract(s) with Ardan, Inc., of Des Moines, IA.

MC 145966 (Sub-13), filed April 27, 1982. Applicant: NELSEN BROS., INC., P.O Box 613, Nebraska City, NE 68501. Representative: Bradford E. Kistler, P.O Box 82028, Lincoln, NE 68501; (402) 475–6761 Transporting *food and related products,* between points in Benton County, AR, on the one hand, and, on the other, points in the U.S. (excpet AK and HI).

MC 149256 (Sub-3), filed April 27, 1982. Applicant: KEN-WAY TRUCKING, INC., 110 Brannan St., San Francisco, CA 94107. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211; (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 159296, filed April 27, 1982. Applicant: BLUE AND WHITE EXPRESS OF MICHIGAN, INC., P.O. Box 1753, 27906 Mound Rd., Warren, MI 48090. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684; (616) 941–5313. Transporting *such commodities* as are dealt in or used by drug and department stores, and grocery and food business houses, between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, OH, PA, SD, TN, VA, and WI.

MC 161706, filed April 28, 1982. Applicant: MONTY PETERSON d.b.a. PETERSEN TRUCKING, 3909 South 7th West, Missoula, MT 59801. Representative: William E. O'Leary, 4 G Arcade Bldg., Helena, MT 59601; (406) 443–4010. Transporting *heavy machinery,* between points in MT, WA, OR, ID, WY, ND, SD, UT, CO, AZ, NV, IL, WI, CA, and MN.

MC 161716, filed April 28, 1982. Applicant: JAYS HEAVY HAULING TRUCKING COMPANY, 117 North Blackwell St., Pasadena, TX 77506. Representative: Joe G. Fender, 9801 Katy Freeway, Suite 320, Houston, TX 77024; (713) 827–1407. Transporting *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in AL, AR, GA, KS, LA, MS, NM, and OK.

Volume No. OP4–160

Decided: May 5, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 61396 (Sub-402), filed April 30, 1982. Applicant: HERMAN BROS, INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. Transporting *cement,* between points in St. Louis County, MN, on the one hand, and, on the other, points in WI, SD, ND, MI, and IA.

MC 134006 (Sub-5), filed April 30, 1982. Applicant: PARKER & SON TRUCKING, INC., 4520 Maywood Ave., Vernon, CA 90058. Representative: Richard Parker (same address as applicant) (213) 583–9993. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Maricopa and Pima Counties, AZ, on the one hand, and, on the other, points in CA.

MC 139666 (Sub-5), filed April 20, 1982. Applicant: AIRCRAG CORPORATION, 12312 SE Whitaker Way, Portland, OR 97230. Representative: Philip G. Skofstad, 529 SE Grand Ave., Portland, OR 97214, (503) 239–4157. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (a) between points in Multnomah, Clackamas and Washington Counties, OR, on the one hand, and, on the other, points in Clark, Cowlitz, Lewis, Thurston, Pierce, King and Snohomish Counties, WA, (b) between points in King County, WA, on the one hand, and, on the other, points in Pierce, Cowlitz, and Clark Counties, WA, and (c) between points in Multnomah and Columbia County, OR.

MC 150656 (Sub-6), filed April 29, 1982. Applicant: FARM SERVICES & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507, (813) 758–4153. 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 MLB Marketing Services, Inc., of Crystal Lake, IL.

MC 156327 (Sub-20), filed April 26, 1982. Applicant: TRUCK ONE, INC., P.O. Box 433, Reynoldsburg, OH 43068. Representative: A. Charles Tell, 100 E Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Ashtabula County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160596 (Sub-1), filed April 29, 1982. Applicant: NANCY BAER TRUCKING INC., 880 Conrad Ave., P.O. Box 958, Jasper, IN 47546. Representative: Barbara J. Gears, 2225 Highway 41, North, Evansville, IN 47711, (812) 423–0389. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, AL, AZ, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, TN, TX, UT, VA, WA, WV, WI, and DC, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Nationwide Industrial Shippers Cooperative Association, Inc., of Libertyville, IL.

MC 161726, filed April 26, 1982. Applicant: WSSA TRANSPORTATION CO., INC., 7640 SW Lantana Court, Beaverton, OR 97005. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. 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 Western States Shippers Association, Inc., of Portland, OR.

MC 161766, filed April 30, 1982. Applicant: GEORGE COGER & SONS, INC., 383 Market St., Saddle Brook, NJ 07662. Representative: Edward F. Bowes, Seven Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068. 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 Multi-Carrier Service, Inc., of Hackensack, NJ.

MC 161377 (Sub-1), filed April 29, 1982. Applicant: JAG TRUCKING, INC., 6250 NW 74th Ave., Miami, FL 33166. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326; (404) 262–7855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in Cook County, IL, and Edison, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–162

Decided: May 5, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 98267 (Sub-5), filed April 27, 1982. Applicant: COLUMBIA MOTOR EXPRESS, INC., Rte. 8, Nashville Hwy., Columbia, TN 38401. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004; (202) 347–8862. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between Nashville and Columbia, TN, over U.S. Hwy 31.

Note.—The authority herein may be tacked with applicant's existing authority.

MC 108587 (Sub-35), filed April 28, 1982. Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Ave. Colchester, CT. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, DC 20005; (202) 783–3525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Boston and Springfield, MA, on the one hand, and, on the other, points in Cumberland Androscoggin, Oxford, Kennebec, Sagadahoc, Lincoln, Knox, Franklin, Waldo, and York Counties, ME, and points in VT.

MC 121667 (Sub-12), filed April 27, 1982. Applicant: SMALLEY TRANSPORTATION COMPANY, P.O. Box 5175, Tampa, FL 33675. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601; (813) 223–2411. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in AL, GA, NC, SC, and TN, and (2) between points in FL, on the one hand, and, on the other, points in AL, GA, NC, SC, and TN. NOTE: Applicant intends to tack this authority with its existing authority in MC–121667 (Subs 9 and 10).

MC 147807 (Sub-15), filed April 27, 1982. Applicant: TERESI TRUCKING, INC., 900½ Victor Rd., P.O. Box 819, Lodi, CA 95240. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108; (415) 986–8696. Transporting *food and related products*, between points in AZ, CA, ID, NV, NM, OR, UT, and WA.

MC 150867 (Sub-2), filed April 27, 1982. Applicant: WILLIAM N. NICHOLSON d.b.a. PRESS EXPRESS, 2205 Lincoln Hwy, Chicago Heights, IL 60411. Representative: William H. Shawn, 1730 M St., N.W., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *those commodities* which, because of their size or weight, require the use of special handling or equipment, between points in the U.S., including AK but excluding HI.

MC 152897 (Sub-1), filed April 27, 1982. Applicant: J. E. WILLIAMS TRUCKING, INC., P.O. Box 30371, Billings, MT 59107. Representative: J. E. Williams (same address as applicant), (406) 248–7397. Transporting (1) *Food and related products*, between points in Fresno, Los Angeles, Orange, Riverside, San Bernardino, and Santa Clara Counties, CA, on the one hand, and, on the other, points in Peoria and Tazewell Counties, IL, and (2) *floor coverings and related products*, between points in Delaware County, PA, Mercer County, NJ, and Stark County, OH, on the one hand, and, on the other, points in MT.

MC 161627, filed April 22, 1982. Applicant: NATE'S TRUCKING, INC., 72 Pomona Ave., Newark, NJ 07112. Representative: Nathaniel Lawson (same address as applicant), (201) 923–3762. Transporting *copy and printing paper*, between points in the U.S., under continuing contract(s) with Heritage Paper Company, Inc., of Fairfield, NJ.

MC 161697, filed April 27, 1982. Applicant: MARGARET O. JONES d.b.a. A–1 TRAVEL CENTER, 3524 Inwood Rd., Suite 112, Dallas, TX 75209. Representative: Margaret O. Jones (same address as applicant), (214) 559–3640. To operate as *broker*, at Dallas, TX, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

Volume No. OP–98

Decided: April 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35519 (Sub-2), filed April 22, 1982. Applicant: J. W. ATHEY, SR. & J. W. ATHEY, JR. d.b.a. ATHEY TRUCKING, Route 1, Box 364, Stephens City, VA 22655. Representative: Frank B. Hand, Jr., 523 South Cameron St., Winchester, VA 22601, (703) 662–0927. Transporting (a) *ores and minerals*, (b) *food and related products*, (c) *metal products*, (d) *chemicals and related products*, and (e) *transportation equipment*, between points in VA, MD, WV, NC, KY, MI, PA, NY, DE, NJ, IN, IL, TN, OH, FL, SC, GA, and DC.

MC 41098 (Sub-77), filed April 21, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006; (202) 833–8884. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Minnesota Mining and Manufacturing Company of St. Paul, MN.

MC 119808 (Sub-11), filed April 22, 1982. Applicant: DUBOIS TRUCKING, INC., P.O. Box 360, S. Barre, VT 05670. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641; 802–476–6673. Transporting (1) *building materials*, and (2) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in CT, MA, ME, NH, NJ, NY, PA, RI, VA, VT and WV.

MC 133189 (Sub-47), filed April 20, 1982. Applicant: VANT TRANSFER, INC., 1257 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101; (612) 291–1215. Transportation *such commodities* as are dealth in or used by manufacturers and distributors of forest products, between points in the U.S. (except AK and HI), under continuing contract(s) with the Weyerhaeuser Company, of Tacoma, WA.

MC 133589 (Sub-4), filed April 21, 1982. Applicant: BCT, INC., P.O. Box 7219, Boise, ID 83707. Representative: James R. Daly (same address as applicant.) (208) 384–7230. Transporting (1) *gypsum and gypsum products* and (2) *building materials* (except those in (1) above), between points in Fergus County, MT, and Sevier County, UT, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM, under continuing contract(s) with United States Gypsum Company of Chicago, IL.

MC 140149 (Sub-4), filed April 22, 1982. Applicant: M. C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2nd, Ste. 411, Little Rock, AR 72201; 501–375–3022. Transporting *steel tubing and automotive parts*, between points in Cook County, IL, on the one hand, and, on the other, points in AR, MS, LA, OK, KY, TN, and GA.

MC 140859 (Sub-17), filed April 21, 1982. Applicant: WESTERN KENTUCKY TRUCKING, INC., P.O. Box 1072, 1245 Center St., Henderson, KY 42420. Representative: George M. Catlett, Suite 700–702 McClure Bldg., Frankfort, KY 40601; (502) 227–7384. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Newman, KY and Owensboro, KY over U.S. Hwy 60, serving all intermediate points, and serving all other points in Daviess County, KY as off-route points.

MC 146319 (Sub-6), filed April 21, 1982 Applicant: ELLIOT LAKE FREIGHT LINE, LIMITED, Highway 17, P.O. Box 70, Spragge, Ontario, Canada POR 1KO. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202; 716–853–0200. Transporting *ores and minerals in foreign commerce,* between ports of entry on the international boundary line between the United States and Canada located in MI and NY, on the one hand, and, on the other, points in OK.

MC 151118 (Sub-21), filed April 22, 1982 Applicant: M.D.R. CARTAGE, INC., 516 West Johnson St., Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701; (601) 335–3576. Transporting *such commodities* as are dealt in or used by retail and wholesale grocery food and variety stores, between Indianapolis, IN, and points in Craighead, Greene, Jackson, Mississippi and Sharp Counties, AR, Butler and Dunklin Counties, MO, Shelby County, TN, and St. Martin Parish, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151428 (Sub-5), filed April 16, 1982 Applicant: J & H TRUCKING, INC., 12425 Telephone, Chino, CA 91710. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Ste. 315, Beverly Hills, CA 90212; 213–277–2323. Transporting *such commodities* as are dealt in by home improvement and department stores, between points in AZ, CA, CO, GA, MO, NJ, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI.

MC 152098 (Sub-2), filed April 20, 1982 Applicant: OAKHURST TRANSPORATION, INC., 175 Oakhurst St., Lockport, NY 14094. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043; 716–681–7190. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in NY, and points in Erie, Crawford, Warren, McKean, Potter, Tioga, Bradford, Susquehanna, Mercer, Venago, Elk, Cameron and Forest Counties, PA.

MC 157488 (Sub-1), filed April 16, 1982 Applicant: ROY WESSELS, d.b.a. D & K TRANSPORTATION, P.O. Box 818, Lewiston, ID 83501. Representative: Roy Wessels (same address as applicant) (509) 758–9838. Transporting *lumber and wood products, and forest products,* between points in Broadwater County, MT, Spokane County, WA, and points in ID, on the one hand, and, on the other, points in WA, ID, OR, CA, AZ, ND, SD, UT, CO, WY, NE, NV, MN, IA, KS, and MT.

MC 158129 (Sub-3), filed April 19, 1982 Applicant: REGAL TRANSPORTATION, INC., P.O. Box 310, Niles, OH 44446. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215; (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Winnebago County, IL and Summit County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12693 Filed 5–10–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 254]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 4, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 103926 (Sub-110)X, filed April 22, 1982. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: Wm. H. Driskell (same as above). Sub 106F certificate: broaden from (A) part (1), machinery and equipment, machinery and equipment parts, implements, attachments and accessories and materials, supplies and equipment used in the manufacture, distribution or sale of such commodities to "machinery and equipment, machinery and equipment parts, implements, attachments and accessories and materials, supplies and equipment used in the manufacture, distribution or sale of such commodities; metal products and commodities, which because of size or weight require the use of special equipment or handling"; (B) part (3) tanks and materials, equipment and supplies, used in the manufacture, distribution or sale thereof, to "metal products; clay, concrete, glass or stone products and rubber and plastic products"; (C) part (4) poles and materials, accessories and supplies incidental thereto, to "metal products; clay, concrete, glass or stone products and lumber and wood products"; (D) part (6) pipe, pipe fittings, valves, hydrants, and castings and accessories and parts for same, to "metal products; clay, concrete, glass or stone products and rubber and plastic products"; (E) part (7) cooling towers and parts, accessories and supplies incidental thereto, to "clay, concrete, glass or stone products; metal products and machinery,

equipment and supplies"; (F) part (10) self-propelled articles (except automobiles) and parts, attachments and accessories for same, to "self-propelled articles and commodities, which because of size and weight require the use of special equipment or handling"; and (G) part (12), aircraft refueler units, to "transportation equipment."

MC 106194 (Sub-46)X, filed November 20, 1981, previously noticed in the Federal Register of January 8, 1982, republished as follows: Applicant: HORN TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81001. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Sub-Nos. 4, 14, 20, 27, 28, 32, 33, 35F, and 38 certificates and Sub-Nos. E1 through E11 E-letter notices: (1) broaden commodity descriptions, as follows: (a) "petroleum, natural gas or their products; wood and lumber products; metal products; machinery; building materials, Mercer commodities; clay, concrete and glass; rubber and plastic products; waste and scrap materials," from pipe, pipe couplings and fittings therefor, iron and steel articles, machinery and agricultural implements and parts therefor, materials, equipment and supplies incidental or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, contractors' equipment, materials and supplies, and petroleum products, in Sub-Nos. 4 and 35F, (b) "farm products" from livestock, in Sub-No. 40; (c) "building materials, machinery, metal products, coal and coal products, lumber and wood products, and farm products," from building materials, farm machinery and parts, wire, coal, lumber and livestock, in Sub-No. 37(1); (d) "metal products, machinery, Mercer commodities, petroleum, natural gas or their products, contractors' equipment, materials and supplies," from iron and steel articles, agricultural machinery and parts therefor; the materials incidental to or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum, contractor's equipment, materials and supplies and petroleum products, in Sub-No. 37(5); (e) "Mercer commodities, chemicals and related products, and coal products," from drilling mud, mud additives, cottonseed hulls, bentonite, lignite, coal, demulsifiers, inhibitors, corrosives, surfactants, oxygens, scavengers and anti-follants, in Sub-No. 38; (2) broaden Pittsburg, KS, to Crawford County, KS.

MC 140219 (Sub-1)X, filed March 5, 1982, previously noticed in the Federal Register of April 16, 1982, and republished as corrected this issue. Applicant: MERRILL TRANSPORT OF VERMONT, INC., 356 Dorset Street, P.O. Box 2146, So. Burlington, VT 05403. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043 Lead. Correct and supplement county-wide (irregular routes) broadening as follows: Dracut to Middlesex County, MA; West Boyleston to Worcester County, MA; Fall River to Bristol County, MA and Manchester to Hillsborough County, NH. The purpose of this republication is to correct April 16, 1982 publication.

MC 146285 (Sub-6)X, filed April 27, 1982. Applicant: JIM CONNER d.b.a. JIM CONNER ENTERPRISES, INC., Rt. 37 South, Benton, IL 62812. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Sub 2 permit, broaden: (1) mobile work platforms, steel sheets and coils, scrap metals, lumber, and platform scissor lifts to "iron and steel articles, machinery, and lumber and wood products"; (2) to between points in the U.S. (except AK and HI) under continuing contract(s) with named shippers.

MC 147334 (Sub-3)X, filed April 29, 1982. Applicant: ROBERT J. SALZ, 3446 Longview Road, Erie, CO 80516. Representative: Steven K. Kuhlmann, 717 Seventeenth St., Suite 2600, Denver, CO 80202. Sub 2 certificate, broaden (1) to "food and related products," from malt beverages in containers; and (2) to radial authority .

MC 147325 (Sub-1)X, filed April 27, 1982. Applicant: ALBERT L. LYNCH d.b.a., LYNCH TRUCK SERVICE, 2624 Arrowhead Drive, Springfield, IL 62702. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. Lead certificate (A) broaden general commodity authority by eliminating restrictions other than for classes A and B explosives, household goods and commodities in bulk, (B) broaden cities to county (1) from Oakbrook, IL to Cook County, IL, (2) Joliet, IL to Will County, IL, (3) Springfield, IL to Sangamon County, IL, and (4) St. Louis, MO to Monroe, Madison and St. Clair Counties, IL, St. Louis, St. Charles, and Jefferson Counties, MO, and St. Louis, MO.

MC 148127 (Sub-34)X, filed April 16, 1982. Applicant: LINEHAUL EXPRESS CORP., P.O. Box 5078, Manchester, NH 03108. Representative: Neal R. Michaud, Wilson Crossing Road, Auburn, NH 03032. Subs 2F, 3F, 4F, 18, and 23F certificates, (1) eliminate facility restrictions and broaden named points to countywide authority, as follows: Sub 2, Allegheny County, PA (facilities near Pittsburgh); Sub 3, Johnson and Muscatine Counties, IA (facilities near Muscatine and Iowa City), and St. Louis City, St. Charles, St. Louis and Jefferson Counties, MO, Monroe, Madison and St. Clair Counties, IL (St. Louis, MO); Sub 4, Ottawa and Allegan Counties, MI (facilities near Holland); Sub 18, Hamilton, Butler and Clermont Counties, OH, Boone, Kenton and Campbell Counties, KY (Cincinnati, OH); (2) change one-way authority to radial; (3) remove "originating at and destined to" restrictions in all certificates; and (4) remove shippers association facilities limitation at points in NY, NH, and VT (Sub 23).

[FR Doc 82-12691 Filed 5-10-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-127)]

Rail Carriers; Consolidated Rail Corp. Exemption for Contract Tariff ICC-CR-C-0084

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7656.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (Conrail) filed a petition on April 23, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioner requests that we permit an amendment to contract tariff ICC-CR-C-0084 to become effective on one day's notice. The tariff was filed to become effective May 20, 1982. It provides for the transportation of coke from Youngstown, OH, to Indiana Harbor, IN.

Under 49 U.S.C. 10713(e), contracts and amendments must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Petitioner states that advancing the effective date is necessary because of a shutdown of the shipper's coke facility at Indiana Harbor. Moreover, it is emphasized that the contract provides the shipper with reduced rates. It is further argued that higher tariff rates would impose a severe financial penalty upon the shipper.

We find this to be the type of circumstances which warrants a provisional exemption. Advancement of the effective date will substantially benefit the shipper by enabling it to obtain its needed coke supply without interruption and at the reduced contract rate.

Petitioner's amended contract tariff ICC–CR–C–0084 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the amended contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human enviroment or conservation of energy resources.

Dated: May 4, 1982.

(49 U.S.C. 10505)

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12688 Filed 5–10–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-85)]

Rail Carriers; Illinois Central Gulf Railroad Co.; Abandonment Between Cisco and Green's Switch, IL; Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon a 13.41-mile line of railroad betwen milepost 14.22 at Cisco, IL, and milepost 27.63 at Green's Switch, IL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12689 Filed 5–10–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: May 4, 1982.

S.R.T. Motor Freight, Inc. (Certificate No. MC–84450) and American Trans-Freight, Inc. (Certificate No. MC–140768) petition for waiver of Subpart B (§§ 1057.11 and 1057.12) and Paragraphs (a) and (d) of § 1057.31 of Subpart D of the *Lease and Interchange of Vehicles Regulations* (49 CFR Part 1057).

Findings

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the requirements of Subpart B were waived in part.

4. Common carriers of property are not precluded from entering into master interchange agreements. (See *Administrative Ruling No. 126, Revised,* March 1, 1977 at page 21.)

5. Petitioners have presented no evidence warranting waiver of paragraphs (a) and (d) of § 1057.31.

It is Ordered

1. The petition of S.R.T. Motor Freight, Inc. (No. MC–84450) and American Trans-Freight, Inc. (No. MC–140768) for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for Paragraphs (b) and (c) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until the equipment is returned to the lessor and the receipt required under paragraph (b) of § 1057.11 is received by the lessee or the equipment is returned to the lessor or transferred to another authorized carrier in an interchange of equipment.

2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

3. The petition for waiver of paragraphs (a) and (d) of § 1057.31 is denied.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–12687 Filed 5–10–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 388]

State Intrastate Rail Rate Authority—Pub. L. 96–448

AGENCY: Interstate Commerce Commission.

ACTION: Assumption of Commission jurisdiction over intrastate rail transportation.

SUMMARY: By notice published in the **Federal Register** on February 8, 1982 (47 FR 5786), the Commission indicated that 14 States and the District of Columbia had not sought certification pursuant to 49 U.S.C. 11501(b) and that, as a consequence, they had lost all jurisdiction to regulate intrastate rail rates. We stated that these States should inform the Commission by March 10, 1982, if they wanted us to assume intrastate regulation. In the absence of such indication, we stated we would not assert jurisdiction.

Six States have asked us to assume jurisdiction: California, Connecticut, Delaware, Mississippi,[1] Nevada, and North Carolina. Consequently, the Commission shall assume jurisdiction over intrastate rail transportation in those States upon publication of this notice in the **Federal Register.** Rail carriers in these States shall comply

[1] Mississippi did not file until March 16, 1982, but their request shall be accepted.

with Commission regulations such as the filing of intrastate tariffs with us.

South Dakota specifically requested that we not assert jurisdiction over intrastate rail transportation. No response was received from the remaining States: Alaska, Arizona, the District of Columbia, Hawaii, Maine, Massachusetts, Rhode Island, and Vermont. Thus, we shall not assume intrastate rail rate regulation in these States.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Shaw (202) 275–7656.

This decision does not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 11501)

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, and Andre.

Dated: May 4, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-12686 Filed 5-10-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 3–82]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify a system of records (Bankruptcy Case Files and Associated Records, JUSTICE/UST–001) maintained by the United States Trustees.

The United States Trustees' Bankruptcy Case Files and Associated Records system is a system of records for which public notice was published in Volume 46, Number 236 of the **Federal Register** on December 9, 1981, consistent with provisions of 5 U.S.C. 552a(e)(4). However, the system will be amended to include an automated case tracking system using data from existing case files. Summary data will be extracted from case files and stored on computer disks for the purpose of automatically tracking cases and reviewing their status. The following sections of the notice have been revised to reflect and incorporate this change: "Storage," "Retrievability," and "Safeguards." In addition, a minor revision has been made to the section of the notice entitled "System manager(s) and address." Changes have been italicized for the convenience of the public.

The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the proposal the partially automate this system. Therefore, OMB, the Congress, and the public are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress within 60 days from the date of publication of this notice, the proposed modification will be implemented without further notice in the **Federal Register.** No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, the President of the Senate, and the Speaker of the House of Representatives.

Dated: April 15, 1982.

William D. Van Stauoren,

Acting Assistant Attorney General for Administration.

Justice/UST–001

SYSTEM NAME:

Bankruptcy Case Files and Associated Records.

SYSTEM LOCATION:

Ten offices of the United States Trustees, and three offices of Assistant United States Trustees. In addition, the Executive Office for United States Trustees maintains duplicate copies of certain pleadings and materials relating to specific cases or entities. (See appendix identified as JUSTICE/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in bankruptcy proceedings (under Chapters 7, 11 and 13 of 11 U.S.C.) subsequent to September 30, 1979, including but not limited to debtors, creditors, bankruptcy trustees, agents representing debtors, creditors, and trustees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Petitions/orders for relief, (b) schedules of assets and liabilities of bankrupts, (c) lists of creditors, (d) statements of debtors' financial affairs, (e) docket cards (UST–001, 002, 003, and any alterations thereof), (f) alphabetical cross-reference index cards, (g) general correspondence regarding cases, (h) miscellaneous investigative records, (i) copies of certain petitions, pleadings or other papers filed with the court, including UST recommendations to court for appointment of trustee or examiner in Chapter 11, recommendations for dismissal or conversion, recommendations as to dischargeability, (j) appraisal reports, (k) names of approved depositories and amounts of funds deposited therein, (l) names of sureties and amounts of trustees' bonds, (m) tape or other recordings of creditors' meetings called pursuant to Section 341 of Title 11, U.S.C., for the purpose of examination of debtors by creditors, trustee and others, (n) plans filed under Chapters 11 or 13, (o) lists of persons serving as counsel, trustee, or other functionaries in bankruptcy cases, including compensation earned or sought by each, (p) lists of attorneys representing creditors in bankruptcy cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 28 U.S.C. 586 and 11 U.S.C., especially Chapter 15 thereof.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by personnel of the Executive office or the U.S. Trustee office where maintained, to determine the existence in the office of a case, to ascertain the status of actions with respect to that case, and to ensure that timely action is taken as appropriate, and to ascertain the involvement by agents or other representatives of parties in such cases.

As provided by 11 U.S.C. 107, a paper filed in a case and the dockets of the bankruptcy court are public records and open to examination except when the court moves to protect an entity with respect to a trade secret, confidental research, development, or commercial information, or to protect a person with respect to a scandalous or defamatory matter contained in a paper filed in a case. In this case, that portion of the record is only available upon the consent of the debtor. In addition, except when the Court has moved to protect an entity, the records will be released as follows.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 et seq., may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. Secs. 2904 and 2906.

Release of information to law enforcement or regulatory agencies: Information obtained by the U.S. Trustees will be tranmitted to appropriate state, local, Federal or other law enforcement or regulatory agencies whenever a U.S. Trustee or the Director, Executive Office for U.S. Trustees or his designee believes that such transmittal in public interest, except to the extent that such transmittal would conflict with any immunity granted by a court of competent jurisdiction in accordance with the provisions of Title 11, U.S.C.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified below in this paragraph is recorded on basic paper/cardboard material and maintained within metal file boxes, file cabinets, electric file/card retrievers or safes. Certain information from the documents, forms, lists and reports described under "Categories of records in the system" will be entered into an automated information system and stored on magnetic disks for reproduction in report form at various times. This includes the case number, debtor's name, case status, type of case, assets of estate, dates of reports filed, trustee bonds, debtor's attorney's name and fees, calendar of meetings and hearings, creditor's committee status, plan and schedule due dates, and trustee/examiner names and dates appointed.

RETRIEVABILITY:

Printed information in field office case files is retrieved by bankruptcy court docket number, and is cross-referenced alphabetically by names of debtors. Information with respect to agents representing debtors, creditors and trustees, and with respect to depository banks, is maintained alphabetically. (Case files maintained in the Executive Office are assigned sequential file numbers and are cross referenced alphabetically by name of the debtor.) Automated information is retrieved by case number or report number.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of office records and computerized information. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system except those documents which are duplicates of records for which the bankruptcy courts maintain the official record copies.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the U.S. Trustee and in the Executive Office, the Chief, Management and Budget Section. (See appendix of addresses indentified as JUSTICE/UST-999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case is pending, or was administered. (See appendix of addresses identified as JUSTICE/UST-999.)

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall ordinarily be made in person at the U.S. Trustee office in which the case is filed.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see appendix of addresses identified as JUSTICE/UST-999), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this record are generally limited to debtors, creditors, trustees, examiners, attorneys, and other agents participating in the administration of a case, judges of the bankruptcy courts and employees of the U.S. Trustee offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc 82-12737 Filed 5-10-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

DEPARTMENT OF THE TREASURY

Justice-Treasury State and Local Law Enforcement Training Program; Meeting

The Justice-Treasury State and Local Law Enforcement Training Program is duly chartered as required by the Federal Advisory Committee Act (Pub. L. 96-463, 86 Stat. 770-776, 5, U.S.C. App. I Supp. II) in timely relation to the Notice of Establishment which appeared in the **Federal Register**, Vol. 47, No. 57 on Wednesday, March 24, 1982. The Advisory Committee will meet from 10:00 a.m. until 4:30 p.m. on May 18, 1982 at the Cash Room, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C.

This will be the Advisory Committee's first meeting. The one day meeting will be devoted to introductory and organizational matters, and presentations by the Justice-Treasury Interagency Working Group. These presentations will explain the evolution of the program, the Justice-Treasury Agreement on State and Local Law Enforcement Training, the program work plan, the Federal Law Enforcement Training Center, and the role of the Advisory Committee.

At this first meeting and the three subsequent meetings, the Advisory Committee will focus on the identification of specific areas of advanced specialized training, recommendation for curriculum content, identification of available training material and instructors, and recommendations for marketing the training programs to state and local law enforcement agencies.

The meeting will be open to the public. Approximately 200 seats will be available for the public and media representatives on a first-come first-serve basis. We regret the exigencies of arranging this meeting precluded the normal 15-day notice period.

Persons interested in submitting written comments on the Advisory Committee's areas of focus may send their comments to the Committee Management Liaison Officer, Justice-Treasury State and Local Law Enforcement Training Office of the Associate Attorney General, U.S. Department of Justice, Room 4119, Washington, D.C. 20530. (Committee

Management Liaison Officer's telephone number 202/376–0805.)

George H. Bohlinger, III,

Executive Director, Justice-Treasury Advisory Committee.

[FR Doc 82–12685 Filed 5–10–82; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 21, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 30th day of April 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Rehers Zwirne, Ltd. (workers)	Shelby, N.C.	4/20/82	4/15/82	TA–W–13,424	Chenille yarn and novelty yarn.
Avon Service, Inc. (workers)	Mineral Point, MO	4/6/82	3/22/82	TA–W–13,425	Mine and separates raw barite.
Boston Digital Corp. (workers)	Hopkinton, MA	4/23/82	4/16/82	TA–W–13,426	Tools, machine—computers.
Brown Shoe Co. (UFCW)	Brookfield, MO	4/19/82	4/13/82	TA–W–13,427	Shoes—men's.
Cyclops Corp., Sawhill Tubular Div. (USWA)	Sharon, PA	4/23/82	4/19/82	TA–W–13,428	Nipple, pluming, fabricating.
Franklin Apparel Co. (ILGWU)	Franklin, NH	4/15/82	4/12/82	TA–W–13,429	Dresses—ladies.
Imco Services (workers)	Mineral Point, MO	4/6/82	3/22/82	TA–W–13,430	Office—administrative.
Mount Vernon Mills, Inc., Tallassee Div., Industrial Mill (company).	Tallassee, AL	4/19/82	4/14/82	TA–W–13,431	Fabrics—industrial.
Parker Majestic, Inc. (UAW)	Detroit, MI	4/19/82	4/14/82	TA–W–13,432	Machines (precision spindles), cutting—metal.
Phoenix Clothes (company)	Vineland, NJ	4/22/82	4/16/82	TA–W–13,433	Suits, sportcoats, blazers—men's and women.
Stackpole Machinery Co. (company)	Johnsonburg, PA	4/19/82	4/14/82	TA–W–13,434	Machines, labeling parts—replacement.
Tecumseh Products Co., Marion Div. (UAW)	Marion, OH	4/19/82	4/13/82	TA–W–13,435	Compressors—refrigeration.
Wells-Index Corp. (workers)	Three Rivers, MI	4/19/82	4/7/82	TA–W–13,436	Machines—milling.

[FR Doc. 82–12740 Filed 5–10–82; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 26, 1982–April 30, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,286; Imerman Industries, Inc., Detroit, MI

TA–W–12,546; H.W. Gossard Co., Batavia, IL

TA–W–12,574; H.W. Gossard Co., Poplar Bluff, MO

TA–W–12,692; H.W. Gossard Co., Piggott, AR

TA–W–12,639; I & S Shoe Co., Inc., Somersworth, NH

TA–W–12,190; FMC Corp., ASED Div., Culver City, CA

TA–W–12,505; Ex-Cello-O Corp., Workcenter Div., Howell, MI

TA–W–12,693; Prestolite Battery Div., Eltra Corp., Vencennes, IN

TA–W–11,773; Modine Manufacturing Co., LaPorte, IN

TA–W–12,218; Shelburne Shirt Co., Inc., Fall River, MA

TA–W–12,681; Boonton Molding Co., Boonton, NJ

TA–W–12,369; J.P. Stevens & Co., Inc., Taylors Plant #2, Taylor, SC

TA–W–12,255; U.S.M. Corp., Bailey Div., Seabrook, NH

TA–W–12,104; Continental Rubber Works, Erie, PA

TA–W–12,089; Opelika Manufacturing Corp., Miami, FL

TA–W–12,404; Clayburne Manufacturing Corp., Clayton, GA

TA–W–12,405; Clayburne Highlands Corp., Highland, NC

TA–W–12,406; Cashiers Manufacturing Corp., Cashiers, NC

TA–W–12,161; Standard Products Co., Inc., Reid Products Div., Cleveland, OH

TA–W–12,327; Page Plastics, Inc., Cincinnati, OH

TA–W–12,541; Lacks Industries, Inc., Grand Rapids, MI

TA–W–11,999; Raycord Company, Inc., Spartanburg, SC
TA–W–12,000; Raycord Co., Inc., Chesnee, NC
TA–W–11,689; N.E.B. Jean & Sportswear Co., Inc., Cambridge, MD
TA–W–11,869; National Standard Co., Strandflex Div., Oriskany, NY
TA–W–11,600; Fly Manufacturing Co., Inc., Athens, AL
TA–W–12,432; Park Fashions, Inc., Hoboken, NJ
TA–W–12,238; Conca D'oro, Inc., Paterson, NJ
TA–W–11,685; Lawrence Manufacturing Co., Inc., Walnut Ridge, AR

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,595; Ford Aerospace & Communications Corp., Pretsa—U.S.A. Office, Lansdale, PA
TA–W–12,593; Colorguard Corp., Raritan, NJ
TA–W–12,246; A-One Knitting Mills, Inc., Brooklyn, NY

In the following cases the investigation revealed that criterion (3) has not been met, the reasons specified.

TA–W–12,645; United Merchants & Manufacturers, Inc., Old Fort Finishing Plant, Old Fort, NC

Imports did not increase as required for certification.

TA–W–11,965; R. Fox Ltd., Belleville, IL

Imports did not increase as required for certification.

Affirmative Determinations

TA–W–12,077; Petite Dreamwear, Inc., Brooklyn, NY

A certification was issued in response to a petition received on January 12, 1981 covering all workers separated on or after January 8, 1980 and before August 22, 1980.

TA–W–11,973; Metro Pants Div. Melville Corp., Harrisonburg, VA

A certification was issued in response to a petition received on December 17, 1980 covering all workers separated on or after November 1, 1980.

TA–W–11,972; Metro Pants Div., Melville Corp., Manufacturing Plant, Bridgewater, VA

A certification was issued in response to a petition received on December 17, 1980 covering all workers separated on or after November 1, 1980.

TA–W–12,032; Fedders Automotive Components Co., Buffalo, NY

A certification was issued in response to a petition received on November 24, 1980 covering all workers separated on or after April 1, 1980.

TA–W–11,971; Metro Pants Div., Melville Corp., Distribution Center, Bridgewater, VA

A certification was issued in response to a petition received on December 17, 1980 covering all workers separated on or after November 1, 1980.

TA–W–11,962; Metro Pants Div., Melville Corp., New York, NY

A certification was issued in response to a petition received on December 17, 1980 covering all workers separated on or after November 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period April 26, 1982—April 30, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 4, 1982.

Marvin. M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-12741 Filed 5-10-82; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application Nos. D–3137, 3138 and 3139]

Proposed Exemption for Certain Transactions Involving the Bell System Trust Located in New York, N.Y.

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

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, effective February 11, 1982, (1) transactions relating to the acquisition by Heitman Advisory Corporation (Heitman), as fiduciary for the Bell System Trust (the Trust), of a 50% interest in a limited partnership (the Partnership) which will hold certain improved parcels of real property (the Property); (2) the continued leasing of space in the Property by the Partnership to certain parties in interest with respect to the Trust; (3) the future leasing of space in the Property by the Partnership to certain parties in interest with respect to the Trust; and (4) other prohibited transactions as described herein affected or to be effected with regard to the Trust's investment in the Partnership. The proposed exemption, if granted, would effect Heitman, the Trust, the Partnership and any other persons participating in the transactions.

EFFECTIVE DATE: If granted, this exemption will be effective February 11, 1982.

DATE: Written comments and requests for a public hearing must be received by the Department on or before June 29, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–3137, 3138 and 3139. The application for exemption and the comments received will be available for Public inspection in the public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Heitman, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Trust is a tax-exempt trust established pursuant to the Bell System Trust Ageeement dated October 1, 1980 (the Trust Agreement). The Trust was established by American Telephone and Telegraph Company (AT&T) as a group trust to hold, manage and invest assets held by the trusts created under the Bell System Pension Plan and the Bell System Management Pension Plan (the Plans). As of December 31, 1980, the Plans covered approximately 1,100,000 participants.

2. Pursuant to section 4(a) of the Trust Agreement, AT&T has reserved power to hire invesment managers to invest all or some of the funds held in the Trust. Heitman, an Illinois corporation with its principal office in Chicago, Illinois, is an investment advisor registered with the Securities and Exchange Commission and with the Securities Division of the Secretary of State of the State of Illinois. Heitman has entered into a management agreement with AT&T whereby Heitman has agreed to act as an investment manager for a portion of the Trust assets. Specifically, Heitman's duties are to invest allocated Trust funds, directly or indirectly, in parcels of real estate or real estate related investments. As an investment manager, Heitman has sole responsibility and discretion for the acquisition, management and disposition of each real estate related investment acquired by Heitman on behalf of the Trust. All amounts allocated to Heitman from the Trust are allocated through Harris Trust and Savings Bank (Harris Bank), one of the Trust's trustees. All such investments are purchased in the name of Harris Bank as trustee for the Trust, or such investments may be held by another nominee of the Trust, as may be designated to Heitman.

3. All investment decisions made by Heitman for the Trust are made by Heitman's investment committee. This committee consists of Messrs. Norman Perlmutter, Miles Berger, William Jenson, Herbert Kuehnle, Eric Mayer, and Stuart Isen. None of these individuals is an officer, director or employee of AT&T or any affiliate. None of the stock of Heitman or any affiliate is held by AT&T or any affiliate, nor does any officer, director, or employee of AT&T or any affiliate own any stock in Heitman or any affiliate. Heitman is one of over 100 investment advisors and managers of the Trust.

4. Heitman entered into a commitment (the Commitment) with Oxford Development Minnesota, Inc. (Oxford) on January 11, 1982, whereby Heitman, in its capacity as investment manager for Harris Bank, as trustee of the Trust, will contribute $100,000,000 in cash to the Partnership in exchange for a 50% limited partnership interest therein. Pursuant to the Commitment, Oxford will be the sole general partner in the Partnership and the Trust will be the sole limited partner. The primary asset of the Partnership is the Property and related leases and related personal property. The transaction was closed on February 11, 1982, and the Partnership agreement (the Partnership Agreement) reflecting the terms and conditions of the Commitment, was executed. The aggregate investment by the Trust of $100,000,000 represents less than three-tenths of one percent (.3%) of the Trust's total assets.

5. As its capital contribution to the Partnership, Oxford contributed the Property. The Property consists of 109,229 square feet of land located in Minneapolis, Minnesota. The Property contains a 55 story office building and an 8 story annex, the Marquette Hotel, an enclosed retail shopping mall and a parking garage and related facilities. The Property comprises one square city block and is known as the IDS Block. Oxford acquired the Property pursuant to a purchase agreement dated September 11, 1981, from Investors Diversified Services, Inc. (IDS). Under the Partnership Agreement, Oxford will have an initial capital account of $100,000,000 and a 50% interest in profits and losses, and the Trust will have an initial capital account of $100,000,000 and a 50% interest in profits and losses of the Partnership. Oxford is totally unrelated to Heitman or AT&T. IDS provides investment management and advisory services to the Trust which are unrelated to the Trust's investment in the Partnership.

6. Oxford contributed the Property to the Partnership subject to a first and second mortgage. The first mortgage, dated July 1, 1970, was originally executed by IDS Properties, Inc., a subsidiary of IDS, as mortgagor, and Northwestern National Bank of Minneapolis, as mortgagee. The first mortgage secures two notes (Note A and Note B) in the aggregate original principal amount of $75,000,000 which bear interest at the rate of 8.125% per annum. Note A is in the principal amount of $45,000,000 and was assigned to Metropolitan Life Insurance Company, an unrelated party with respect to the Trust, on June 27, 1973. Note B was assigned to Equitable Life Assurance Society of the United States (Equitable) on June 27, 1973. Equitable is a tenant in the Property and an investment manager of Trust assets not involved in this transaction.

The second mortgage is dated September 11, 1981, and was assigned by the mortgagee, IDS, to the Toronto Dominion Bank, Atlanta Agency (Toronto Bank), on January 4, 1982. Toronto Bank is an unrelated party with respect to the Trust. Pursuant to the Commitment, the Trust's initial contribution to the Partnership ($100,000,000) will pay in full the unpaid principal balance and accrued and unpaid interest of the second mortgage.

7. As of January, 1982, 98% of the Property's space was rented. Among the existing tenants in the Property are certain parties who are parties in interest with respect to the Trust. With one exception noted below, all of these parties maintain no relationship with Heitman and have not influenced in any manner the investment of Trust assets in the Partnership. Among these lessees are the Northwestern National Bank of Minneapolis, a trustee of the Trust; Wells Fargo Realty Advisers, a wholly-owned subsidiary of a trustee of the Trust; Northwestern Bell Telephone company (Northwestern Bell), a wholly-owned subsidiary of AT&T;[1] Equitable; Travelers Life Insurance Company, an investment adviser to the Trust; Stein, Row & Farnham, an investment adviser to the Trust; and IDS. With the exception of IDS's leases in the Property, the above parties in interest lease interest in the Property represent a small percentage of the leased space. IDS's leases represent approximately 20% of the total usable area in the Property.

One lessee in the Property, Heitman Financial Services, Ltd. (Heitman, Ltd.), is related to Heitman. Heitman, Ltd. owns 100% of the outstanding voting stock of Heitman.

8. Pursuant to the Partnership Agreement, the Trust will be provided with a guaranteed preferred return, payable quarterly, from the Partnership. Oxford will unconditionally guarantee to the Trust such preferred return to be secured by Oxford's interest in the Partnership. Oxford's failure to pay when due any payment of preferred return to the Trust pursuant to its guarantee will constitute an event of default under the Partnership Agreement, and Oxford's interest in the Partnership will automatically be assigned to the Trust or its nominee. The Partnership Agreement further provides that either partner in the Partnership, upon the occurence of certain specified

[1] Northwestern Bell leases 345 square feet of space on a month-to-month basis (.03% of the total usable area). The applicant is unable to conclude that the lease meets the requirements of section 408(e) of the Act.

events, may offer to purchase the other partner's interest in the Partnership at a negotiated price payable in cash. The Partnership Agreement provides that either partner has right of first refusal if the other partner attempts to sell or assign its interest to a bona fide third party.

Pursuant to the Partnership Agreement, Oxford will serve as the manager of the Property for a term of 20 years and will receive a management fee of 3.3% of certain annual gross rentals received. The Partnership Agreement provides that, upon the occurrence of certain events, the management agreement with Oxford will be terminated and an affilate of Heitman will serve as the manager of the Property for a fixed term of six years.

9. Heitman seeks an exemption, effective the date of closing of the transaction, February 11, 1982, for the investment by the Trust in the Partnership. Heitman represents that the Trust's investment in the Partnership may constitute various prohibited transactions as described in the Act. Such transactions involve (1) the Partnership's obligations to Equitable pursuant to the first mortgage on the Property; (2) the present lease of office space in the Property to certain parties in interest with respect to the Trust; (3) the guarantees by Oxford to the Trust under the Partnership Agreement and the provisions in the Partnership Agreement providing for the purchase of either partner's interest from the other upon the occurence of certain specified events; and (4) the provision in the Partnership Agreement for an affiliate of Heitman to serve as property manager upon the termination of Oxford's services as property manager.

10. As described herein Oxford will serve as the property manager with respect to the Property and receive a fee for its services. IDS and Oxford have entered into an agreement whereby IDS would manage the Marquette Hotel and all restaurants in the hotel. As well, IDS is a partner in a general partnership which sells chilled water and steam to major downtown Minneapolis property owners, including the IDS Block. The Department recognizes these service contracts and is not proposing an exemption for the provision of services beyond that which is provided by section 408(b)(2) of the Act.

11. Heitman represents that none of the parties to which this proposed exemption applies has in any way influenced Heitman's discretion as an investment manager to the Trust with respect to the investment by the Trust in the Partnership. Heitman represents that, with the exception of its relationship to Heitman, Ltd., neither Heitman nor its officers, directors, stockholders, or employees own 5% or more of the voting shares of AT&T, Oxford, or any of the party in interest tenants of the Property. Heitman represents that the investment in the Partnership is a high quality investment opportunity and allows for a diversification of real estate investments for the Trust.

12. Heitman represents that it was not aware of the opportunity to invest in the Partnership until October, 1981, and that all of the party in interest leases and service contracts described herein, including the lease to Heitman, Ltd., were negotiated prior to Heitman's learning of this investment opportunity. These leases were negotiated between the lessees and Oxford, or Oxford's predecessor in title, on an arm's-length basis. Heitman represents that the terms of the investment were negotiated on an arm's-length basis with Oxford without regard to any particular party in interest lease or service contract and, in Heitman's opinion, the leases and contracts did not impose any detriment to the economic evaluation of the investment. Heitman represents that the party in interest lessees are corporations with credit standings to whom any prudent manager of commercial real property would prefer to lease. With regard to the first mortgage interest presently held by Equitable, Heitman represents that neither it nor Oxford are affiliated or otherwise related to Equitable, and that Equitable has not in any manner influenced the exercise of Heitman's judgement in its fiduciary capacity with respect to the Trust.

13. With respect to the lease to Heitman, Ltd., Heitman represents that this lease, which represents only .16% of the total usable area in the Property, will not be renewed at the end of its scheduled lease term, November 30, 1982. Heitman, Ltd. paid in advance its February, 1982, rent and has deposited serially numbered checks with the bank handling deposits of rent from lessees to cover its remaining rent obligations under its lease. In addition, Heitman will enter into an agreement with Oxford whereby Oxford will notify AT&T within five (5) business days after learning of an event of default by Heitman, Ltd. under its present lease and will take such action as general partner in the Partnership as AT&T may direct to enforce the terms and conditions of such lease. Oxford may also at AT&T's direction assign to AT&T the Partnership's cause of action against Heitman, Ltd. resulting from a breach under the lease.

14. With respect to the provision in the Partnership Agreement providing for the appointment of an affiliate of Heitman to serve as property manager upon the removal of Oxford, Heitman represents that AT&T would have to approve any management fee paid to Heitman or its affiliate prior to such property management agreement taking effect. This action would be taken in accordance with the terms of Heitman's investment agreement with AT&T.

15. Heitman believes that other parties in interest with respect to the Trust may become lessees in the Property and thereby seeks an exemption for such future leases. Any future leases will be arranged on an arm's-length basis and approved by Oxford or a Trust fiduciary not related to or affiliated with the potential lessee. As long as Heitman remains as an investment manager for the Trust, Heitman will monitor all leasing arrangements in the Property.

16. Heitman has analyzed the fair market value of the Property based on its expertise in transactions involving commercial real estate. In analyzing this investment, including the determination of the fair market value of the Partnership interest acquired by the Trust, Heitman took into consideration the value of the Property, including the rentals to be received from the IDS Block (including the party in interest leases) and the projected expenses of the Partnership. Heitman repreeants that the transaction was closed prior to the granting of a final exemption by the Department because, pursuant to the Commitment, the second mortgage, as described herein, was to be paid off as soon as possible after the execution of the Commitment. Heitman represents that if the Trust had postponed its initial contribution to the Partnership to a date after the granting of a final exemption, Oxford would have sought another partner or investor thereby precluding the Trust from an attractive investment opportunity.

17. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the terms of the transaction were negotiated on an arm's-length basis on behalf of the Trust by an independent Trust fiduciary, Heitman; (b) Heitman represents that none of the parties to which the exemption applies, i.e., pre-existing lessees and the pre-existing mortgagee (Equitable), nor Oxford, has in any way influenced Heitman's discretion with respect to the investment; (c) Heitman represents that the investment is a high quality investment opportunity and

allows for diversification of real estate investments for the Trust; (d) the Trust's investment will represent less than .3% of the Trust's total assets; (e) all of the existing party in interest leases were negotiated by Oxford or its predecessor in title on an arm's-length basis prior to Heitman's awareness of the investment opportunity; and (f) all renewals of existing leases and future leases to parties in interest with respect to the Trust will be arranged on an arm's-length basis, approved by Oxford or a Trust fiduciary not related to or affiliated with the lessee, and will be monitored by Heitman or another independent Trust fiduciary.

Notice to Interested Persons

By May 25, 1982, notice of the proposed exemption will be posted on all appropriate bulletin boards of all employers whose employees are covered by the Plans. As well, notice will be provided within ten (10) business days to the three national unions representing participants in the Plans; the Communication Workers of America, the International Brotherhood of Electrical Workers and the Telecommunications International Union. Such notices will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a statement advising interested persons of their rights to comment and request a hearing on the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective February 11, 1982, to (1) the investment of $100,000,000 by the Trust in the Partnership, (2) the guarantees by Oxford to the Trust with regard to Oxford's obligations under the Partnership Agreement, and the purchase of the interest of either partner in the Partnership from the other pursuant to the specified conditions and events as stated in the Partnership Agreement; (3) the continued leasing to and renewal of existing leases to parties in interest with respect to the Trust, including expension of any leased space occupied by a party in interest tenant, and the future leasing of space to parties in interest; provided that (a) the terms of the leases remain as favorable to the Trust as leases offered to unrelated parties occupying similar space, and (b) such lease renewals or expansions, and future leases are approved and monitored on behalf of the Trust by Heitman or a Trust investment manager which is not affiliated or otherwise related to the lessee in any manner which would affect the exercise of such investment manager's judgement as a Trust fiduciary; and (4) the extension of credit between Equitable and the Trust pursuant to the first mortgage, provided that the Trust's rights and obligations under the mortgage are exercised by a Trust fiduciary who is not related to or affiliated with Equitable.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representatives contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 4th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc 82–12696 Filed 5–10–82; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on May 28, 1982, Room 1046 at 1717 H Street, NW., Washington, DC. The Subcommittee will discuss the Nuclear Regulatory Commission's Nuclear Plant Severe Accident Research Plan and related items. Notice of this meeting was published April 13.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that

appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, May 28, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will than hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Mr. Stuart Beal (Telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., DST.

Dated: May 5, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–12791 Filed 5–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–364]

Alabama Power Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment contains changes necessary to assure idenitical requirements and editorial improvements as were recently reviewed and approved for Unit 1 in Amendment No. 26 dated March 1, 1982. The plant design and operation are the same for Unit 1 and Unit 2. This amendment minimizes the potential for confusion and Technical Specifications violations and allows a consistent set for operating, maintenance and surveillance procedures for the essentially identical units.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuane of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendments dated October 28 and November 16, 1981 and March 18, 1982, (2) Amendment No. 13 to License No. NPF–8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of May 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch, No. 1, Division of Licensing.

[FR Doc. 82–12782 Filed 5–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co., et al. (Beaver Valley Power Station, Unit No. 1); Exemption

I

The Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), are holders of Facility Operating License No. DPR–66 which authorizes operation of the Beaver Valley Power Station, Unit No. 1. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises a pressurized water reactor at the licensee's site located in Beaver County, Pennsylvania.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) establishing the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subscriptions, lettered A through O), each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections III.G., is the subject of this exemption request. III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements of separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3.).

Section 50.48(c) required completion of all modification to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3.) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 18, 1981, as amended December 1, 1981, and January 20, 1982, Duquesne Light Company requested exemptions from 10 CFR 50.48(c) with respect to the requirements of section III.G of Appendix R as follows:

(1) That the date in paragraph (c)(5) for submitting plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3) and (c)(4) with respect to certain requirements of section III.G of Appendix R to Part 50 be extended to July 1, 1982.

(2) That the date in paragraph (c)(5) for submitting design descriptions of modifications needed to satisfy section III.G.3. of Appendix R be extended to July 1, 1982.

(3) That the implementation date in paragraph (c)(2) for installation of

modifications required by section III.G.2 of Appendix R, that do not require prior NRC approval or plant shutdown, be extended to nine months after July 1, 1982.

(4) That the implementation date in paragraph (c)(3) for the installation of modifications required by section III.G.2 of Appendix R, that do not require prior NRC approval, but require plant shutdown, be extended to the third scheduled refueling outage.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of section III.G. of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternate safe shutdown capability had to be designed as required by section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12 dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Beaver Valley Power Station, Unit No. 1 had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1) The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan usedfor the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued with Amendment 18 to Facility Operating License No. DPR–66. A few items remain unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of one of these items as documented in our letter dated December 23, 1980. By letter dated November 24, 1980, the staff position was documented relative to the specific requirements that must be satisfied in order to resolve the remaining open items and meet the requirements of Appendix R. The plant modifications specified in the FPSER have been completed. Therefore, Beaver Valley Power Station, Unit No. 1 has been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of section III.G. to Appendix R of 10 CFR 50.

The licensee also stated in the request for exemption that all other requirements of the Fire Protection Rule would be met on the schedules required by 10 CFR 50.48. As mentioned earlier there are 14 other subsections which contain criteria for other aspects of fire protection features. One of these, Section III.L., provides the criteria for Alternate Safe Shutdown capability and thus affects the final reassessment and redesign, if necessary, of this feature at Beaver Valley Power Station, Unit No 1. Nevertheless, this means that compliance with the remaining requirements of the Fire Protection Rule have been or will be completed on or before the implementation dates required by the Rule.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Beaver Valley Power Station, Unit No. 1, in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with section III.G. We find that because of the already-completed upgrading of these facilities, there is not undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on July 1, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licenses have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission Has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of section III.G. of Appendix R to 10 CFR 50:

(1) That the date in paragraph (c)(5) for submitting plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3) and (c)(4) with respect to certain requirements of section III.G of Appendix R to Part 50 be extended to July 1, 1982.

(2) That the date in paragraph (c)(5) for submitting design descriptions of modifications needed to satisfy section III.G.3 of Appendix R be extended to July 1, 1982.

(3) That the implementation date in paragraph (c)(2) for installation of modifications required by section III.G.2 of Appendix R, that do not require prior NRC approval of plant shutdown, be extended to nine months after July 1, 1982.

(4) That the implementation date in paragraph (c)(3) for the installation of modifications required by section III.G.2 of Appendix R, that do not require prior NRC approval, but require plant shutdown, be extended to the third refueling outage that is presently scheduled for April 1983.

Provided the following condition is met:

The design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3., as required by § 50.48(c)(5)

shall include a point-by-point response to each item in Section 8 of Enclosure 1 to Generic Letter 81–12 dated February 20, 1981 and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above condition, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the work-load associated with reviewing all of the submittals falling due near the same time, will relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Md., this 4th day of May 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–12783 Filed 5–10–82; 8:45 am]

BILLING CODE 7590–01–M

[DD–82–2; Docket Nos. 50–250, 50–251]

Florida Power & Light Co. (Turkey Point Power Plant, Unit Nos. 3 and 4); Director's Decision Under 10 CFR 2.206

By petition dated April 6, 1982, Mr. Joel Jaffer requested pursuant to 10 CFR 2.206 that the Nuclear Regulatory Commission suspend the license amendments previously granted to Florida Power & Light Co. for steam generator repair of Turkey Point Nuclear Units 3 & 4 until the Commission completes action on a rulemaking petition submitted by him. Mr. Jaffer asserts that the rule change he proposes "will determine a jurisdictional defect in the license amendments, as to the public hearing required under * * * section 189a of the Atomic Energy Act."

For the reasons set forth below, Mr. Jaffer's request for suspension of license amendments authorizing repair of the Turkey Point Units 3 & 4 steam generators is denied.

I

Background

The license amendments authorizing Florida Power & Light Company to repair the steam generators in its Turkey Point Nuclear Units 3 & 4 were issued by the Office of Nuclear Reactor Regulation (NRR) on June 24, 1981, following a decision by the Atomic Safety and Licensing Board (ASLB) authorizing their issuance. In a Memorandum and Order issued on May 28, 1981, LBP–81–14, 13 NRC 677, the ASLB granted summary disposition of all contentions involving the proposed repairs; on June 19, 1981, the Board issued a final order permanently cancelling the evidentiary hearing concerning the proposed amendments and authorizing the Director of NRR to issue the amendments. LBP–81–16, 13 NRC 1115. Mr. Jaffer was not a party to that proceeding.

Mr. Jaffer requested leave to file an *amicus curiae* brief before the Atomic Safety and Licensing Appeal Board in the appeal taken by Mark Oncavage, a party to the license amendment proceeding. Mr. Jaffer's request was denied on October 9, 1981, on the basis that the request was untimely and that he did not adequately show why it was not possible to have acted at an earlier date.

On November 30, 1981, the Appeal Board affirmed the decisions of the Licensing Board. ALAB–660, 14 NRC 987. That decision became final on February 18, 1982.

Mr. Jaffer also sought review of the ASLB decision in the U.S. Court of Appeals for the D.C. Circuit. The Court of Appeals denied his motion for leave to file a petition for review *in forma pauperis* and his motion for temporary restraining order and stay on the grounds that he was not a party to the administrative proceeding and therefore lacked standing to seek review. *Jaffer v. NRC*, No. 81–8035 (D.C. Cir., Oct. 2, 1981), *rehearing denied* (Dec. 7, 1981).

II

On February 12, 1982, Mr. Jaffer, pursuant to 10 CFR 2.802 of the Commission's regulations, filed a one-page petition for rulemaking with the Commission seeking the "promulgation of rules giving legal and binding effect to requests for information and authorized communications to appropriate employees of the Commission over WATS and business telephone lines which it supports and operates and public hearings in which the Commission and/or such employees are involved." Section 2.802(c) describes certain information which must be included in a petition for rulemaking in support of the action sought before a petition for rulemaking will be formally docketed for consideration.[1] On April 2, 1982, the Executive Director for Operations (EDO) of the NRC notified Mr. Jaffer that his petition was incomplete in that it did not meet the criteria established for petitions filed with the Commission. Specifically, the request did not clearly describe the problem to be corrected nor did it provide any proposed text of the amendment. In addition, the Executive Director stated, "It is not clear to us what you want the NRC to do, or how the NRC can amend its regulations to alleviate what you perceive to be a problem. In addition, your petition does not clearly and concisely state your interest in the action requested."[2]

Thus, Mr. Jaffer's petition for rulemaking is not currently before the Commission for consideration. Consequently, there is no action under consideration by the Commission which might have any impact on the effectiveness of the Turkey Point license amendments. Even if Mr. Jaffer's petition for rulemaking had been docketed, however, there is nothing in either the Commission's regulations or the apparent nature of the rule proposed by Mr. Jaffer which establishes a basis to suspend the license amendments granted to Turkey Point Units 3 and 4.

Section 2.802(d) of the Commission's regulations provides that a rulemaking petitioner may request the Commission to suspend all or any part of any licensing proceeding to which the petitioner is a party pending disposition

---

[1] The regulation states:

(c) Each petition filed under the section shall:

(1) Set forth a general solution to the problem or the substance or test of any proposed regualation or amendment, or specify the regulation which is to be revoked or amended;

(2) State clearly and concisely the petitioner's groudns for and interest in the action requested;

(3) Include a statement in support of the petition which shall set forth the specific issues involved, the petitioner's views or arguments with respect to those issues, relevant technical, scientific or other data involved which is reasonably available to the petitioner, and such other pertinent information as the petitioner deems necessary to support the action sought. In support of its petition, petitioner should note any specific cases of which petitioner is aware where the current rule is unduly burdensone, deficient, or needs to be strengthened.

[2] In accordance with 2.802(f), Mr. Jaffer has 90 days from April 2, 1982 to submit additional data to complete his petition. If he does not submit the required additional information, his petition will be returned without prejudice to his right to file a new petition.

of the petition for rulemaking. That section has no application here for several reasons. Mr. Jaffer's petition for rulemaking is not currently before the Commission for action. Each if it were, no proceedings regarding the Turkey Point license amendments remain before any adjudicatory body in the Commission. Finally, as noted above, Mr. Jaffer was not a party to the license amendment proceeding and therefore would not be entitled to invoke § 2.802(d) in any event.

Mr. Jaffer's substantive argument appears to be that if his proposal were adopted, then "legal effect" would be given to telephone communications to "appropriate employees" of the Commission in public hearings in which such employees are involved. Mr. Jaffer apparently believes that adoption of such a proposal would then given "legal effect" to some communications made by him in the Turkey Point proceeding and thereby create a "jursidictional defect in the license amemdments" and presumably render them invalid. In neither his rulemaking nor his 2.206 petition is Mr. Jaffer clear as to the exact nature of the "legal effect" to be given to certain telephone calls or the jursidictional defect which might result. If, however, the jursidictional defect to which Mr. Jaffer refers is the failure to hold an evidentiary hearing at his request in the license amendment proceedings, that matter was, in effect, decided by the D.C. Circuit's October 2, 1981, decision, in *Jaffer v. NRC.* As the Commission noted in its Opposition to Petitioner's motion before the court, Mr. Jaffer never filed a petition to intervene in the license amendment proceeding; at most he filed a request to make a "limited appearance" statement pursuant to 10 CFR 2.715(a) if an evidentiary hearing were held. Despite Mr. Jaffer's apparent familarity with the NRC's rules of practice, he did not exercise any opportunity to petition to intervene as described in those regulations. The court concluded that Mr. Jaffer was not a party to the administrative proceeding. Given Mr. Jaffer's apparent familiarity with the Commission's regulations and the requirements for a petition to intervene at the time of the Turkey Point proceedings, he has offered no justification why his proposed rule, even if it were under consideration, should be applied retroactively to a completed licensing action. A potential party to agency proceedings must act affirmatively to protect his rights to participate; he may not await the outcome of a case and only then attempt to take part in the process. *Easton Utilities Commission v. Atomic Energy Commission,* 424 F.2d 847, 851–52 (D.C. Cir 1970) *(en banc).*

III

Mr. Jaffer has provided no adequate basis for suspension of the license amendments for Turkey Point Units 3 and 4 authorizing steam generator repair. Consequently, his request is *denied.*

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Md., this 5th day of May 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-12784 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 72-1]

General Electric Co.; Renewal of Materials License for the Storage of Spent Fuel

The U.S. Nuclear Regulatory Commission (the Commission) has issued a license renewal, License No. SNM-2500, to the General Electric Company (licensee) authorizing the receipt, possession, storage and transfer of spent reactor fuel at its Morris Operation.

The Morris Operation is a spent fuel storage installation located at the licensee's site in Grundy County, Illinois about seven miles east of the city of Morris. The license is effective as of the date of issuance and the term of the license is 20 years.

The application for the renewal of the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license. Prior public notice of the action involving the proposed renewal of the license was published in the **Federal Register** on April 25, 1979 (44 FR 24354).

The preparation of an environmental impact statement for this particular action has been found not to be warranted because the proposed action will not significantly affect the quality of the human environment nor will there be any significant impact resulting from the proposed action. A Negative Declaration and an Environmental Impact Appraisal (NUREG-0695, June 1980) have been prepared.

For further details with respect to this action, see (1) Materials License No. SNM-2500 complete with Technical Specifications; (2) the Commission's Safety Evaluation Report (NUREG-0709) dated July 1981; (3) the licensee's Consolidated Safety Analysis Report; (4) the Commission's Environmental Impact Appraisal (NUREG-0695) dated June 1980; and (5) the Commission's Negative Declaration dated May 4, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Local Public Document Room at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of Materials License No. SNM-2500 and the Safety Evaluation Report may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82-12785 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 72-1]

General Electric Co. Morris Operation; Environmental Review and Evaluation; Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has completed its environmental review and evaluation for the renewal of Materials License No. SNM-2500. This license renewal was requested by the General Electric Company for the storage of spent nuclear fuel at the Morris Operation near Morris, Illinois. For administrative purposes, the license renewal has been designated License No. SNM-2500, Docket No. 72-1, replacing the previous designation of License No. SNM-1265, Docket No. 70-1308.

The Commission's Division of Fuel Cycle and Material Safety prepared an environmental appraisal based on its review. The document, "Environmental Impact Appraisal Related to the Renewal of Materials License SNM-1265 for the Receipt, Storage and Transfer of Spent Fuel," NUREG-0695, was issued in June 1980, and concluded that the proposed renewal will not significantly affect the quality of the human environment and that there will be no significant environmental impact from

the proposed renewal. Based on this appraisal, the Commissioon therefore concluded that an environmental impact statement for this particular license renewal was not warranted. The environmental impact appraisal has been available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC 20555, and at the Local Public Document Room established at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Silver Spring, Maryland this 4th day of May, 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82-12786 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York (Indian Point Unit 3); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-64 which authorizes operation of the Indian Point Nuclear Generating Unit No. 3. This license provides, among other things, that the licensee is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility is comprised of one pressurized water reactor at the licensee's site located in Buchanan, Westchester County, New York.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particulary aspect of the fire protection features at a nuclear power plant. Of the fifteen subsections, the subject of this exemption request is subsections III.G, III. and III.O. III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3). Section III.J specifies requirements for emergency lighting and section III.O specifies oil collection systems for reactor coolant pumps.

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion with a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, as amended June 22, 1981, August 28, 1981, November 16, 1981, and March 19, 1982, the licensee requested exemptions from 10 CFR 50.48(c) with respect to the requirements of sections III.G, III.J, and III.O of Appendix R as follows:

(1) Extend from March 19, 1981, to July 1, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to July 1, 1982, the date for filing additional exemptions from section III.G. pursuant to §§ 50.12(a) and 50.48(c)(6);

(3) Extend from March 19, 1981, to July 1, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3, if such are necessary;

(4) Extend from February 17, 1981, to July 1, 1982, the date from which the installation schedules established in § 50.48(c) (2) and (3) are calculated;

(5) Extend from March 19, 1981 until June 22, 1981 the date for submittal or plans and schedules to achieve compliance with III.J required by § 50.48(c)(5); and

(6) Extend from March 19, 1981 until November 16, 1981 the date for submittal of plans and schedules to achieve compliance with III.O required by § 50.48(c)(5).

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plants to determined whether they meet the requirements of section III.G of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be peformed to determine whether the existing configuration provided sufficient fire protection. If if did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81-12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, Indian Point Unit No. 3 had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5-1 (BTP 9.5-1). The BTP 9.5-1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R, and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of these

items as documented in two supplements to the FPSER. The FPSER and its supplements supported the issuance of an amendment to the operating license of Indian Point Unit #3 [1] which modifications to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Interim technical specifications have been implemented and an updated version is being processed. Therefore, Indian Point Unit 3 has been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Sections III.G, III.J, and III.O to Appendix R of 10 CFR 50. By completing the modifications described in the FPSER and its supplements, the licensee has completed all the other requirements of the Fire Protection Rule. By letter dated June 22, 1981, the licensee states he is in compliance with section III.J. By letter dated November 16, 1981, the licensee provided a schedule for compliance with section III.O.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Indian Point Unit No. 3 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassesment on July 1, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted. The licensee now states he is in compliance with sections III.J and III.O.

IV

Accordingly, the Commission has determined that, purusant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Appendix R to 10 CFR 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance with section III.G.2 as required by § 50.48(c)(5) is extended to July 1, 1982;

(2) The date, March 19, 1981 for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to July 1, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with sections III.G.3, as required by § 50.48(c)(5) is extended to July 1, 1982;

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) for section III.G are calculated, is extended to July 1, 1982;

(5) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance with section III.J as required by § 50.48(c)(5) is extended to June 22, 1981; and

(6) The date, March 19, 1981 for submittals of plans and schedules to achieve compliance with section III.O as required by § 50.48(c)(5) is extended to November 16, 1981;

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c)(6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design description of alternative or dedicated shutdown systems to comply with section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in section 8 of Enclosure 1 to Generic Letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 5th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-12787 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

---

[1] Indian Point Unit #3—Operating License DPR-64 Amendment 24 supported by FPSER issued March 6, 1979.

[Docket No. 50-272]

Public Service Electric and Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment modifies the Radiological Technical Specifications to permit examination of steam generator

channel heads by either visuals means or by television camera.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant evironmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1982, (2) Amendment No. 42 to License No. DPR–70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem, Free Public Library, 112 West Broadway, Salem New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd of April 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–12788 Filed 5–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–522 & STN 50–523]

Puget Sound Power and Light Co., et al.; Availability of Draft Environmental Statement for Skagit/Hanford Nuclear Project, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG–0894) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of the Skagit/Hanford Nuclear Project, Units 1 and 2, located in Benton County, Washington, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the Richland Public Library, Swift and Northgate Streets, Richland, Washington. The Draft Statement is also being made available at the Office of the Governor, Planning and Community Affairs Agency, 400 Capitol Center Building, Olympia, Washington, and at the Benton—Franklin Governmental Conference, P.O. Box 217, Richland, Washington. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The applicant's Environmental Report, as supplement, submitted by Puget Sound Power & Light Company is also available for public inspection at the above-designated locations. Notice of availability of the applicant's Environmental Report was published in **Federal Register** on December 20, 1974 (39 FR 44065) and January 28, 1982 (47 FR 4173).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by June 28, 1982. Comments by Federal, State and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Richland Public Library, Swift and Northgate Streets, Richland, Washington. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May 1982.

For the Nuclear Regulatory Commission.

William H. Regan, Jr.,

Chief, Siting Analysis Branch, Division of Engineering.

[FR Doc. 82–12789 Filed 5–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–305]

Wisconsin Public Service Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR–43, issued to Wisconsin Public Service Corporation, Wisconisn Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment modified the Appendix B Environmental Technical Specifications to delete sections relating to the protection of the aquatic environment. The Commission will rely on the NPDES permitting system administered by the State of Wisconsin for regulation and protection of the aquatic environment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior notice of this amendment was not required since this amendment does not involve a significant hazards condideration.

The Commission has concluded that, since this is a ministerial action required as a matter of law, no environmental assessment need be prepared as a condition precedent to taking the action.

For further details with respect to this action, see (1) the application for amendment dated February 20, 1981, (2) Amendment No. 43 to License No. DPR–43 and (3) the Commission's related letter dated May 5, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington,

D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactor Branch No. 1, Division of Licensing.

[FR Doc. 82-12790 Filed 5-10-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP): Notice of Deadline for Acceptance of Petitions Requesting Modification of the List of Articles Eligible for Duty-Free Treatment Under the GSP

Notice is hereby given that all petitions to modify the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP), in order to be considered during the 1982 GSP product review, must be received no later than close of business, Tuesday, June 1, 1982. The GSP provides for the duty-free importation of qualifying eligible articles when imported from designated beneficiary developing countries. The GSP was established by Title V of the Trade Act of 1974 and was implemented by Executive Order 11888 of November 24, 1975.

Interested parties or foreign governments may submit petitions (1) to designate additional articles as eligible for the GSP; or (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; or (3) to otherwise modify GSP coverage.

Requests to modify GSP treatment should be submitted in English, in 20 copies, in conformance with regulations codified in 15 CFR, Chapter XX, especially Part 2007 (published in the September 9, 1977 **Federal Register**, 42 FR 45532), and addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 316, 600 Seventeenth Street, N.W., Washington, D.C. 20506. Further information may be obtained by calling the GSP Information Center at (202) 395-6971.

To expand GSP duty-free treatment for less advanced developing countries, a special effort will be made to include on the GSP eligible list products of particular export interest to low income beneficiary developing countries, including handicraft articles. In addition, limitation of GSP treatment for economically advanced developing countries will be considered in specific products where they have demonstrated international competitiveness. Three criteria will be taken into account in considering such requests: the economic development level of individual beneficiaries, their competitive position with respect to the product or products in question, and the overall economic interests of the United States. When requesting withdrawal, suspension or limitation or GSP treatment for an individual beneficiary developing country with respect to a particular product, a petitioner should submit information on the domestic industry as enumerated in part 2007.1(5) of the regulations cited above.

Limitation of GSP treatment for competitive beneficiaries also will be considered when new products are added to the GSP eligible list. For additional information on limitation of GSP duty-free treatment for competitive beneficiary countries in certain products, reference should be made to the Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences (GSP), Transmitted by the President of the United States on April 17, 1980, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Notice of petitions accepted for review will be published in the **Federal Register** on or about Wednesday, July 14, 1982. Public hearings on accepted petitions will begin at 10:00 a.m., Monday, October 4th, in Room 2008 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Streets, N.W.), Washington, D.C., and will continue on that and subsequent days until all witnesses wishing to appear have been heard. The U.S. International Trade Commission will hold public hearings the same week to determine the probable economic effect of modifying the list of articles eligible for duty-free treatment.

Fredrick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc 82-12666 Filed 5-10-82; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act Notice; Announcement of an Administrative Change and a Proposed Survey and Addition of a New Subsystem to an Existing System

AGENCY: Office of Personnel Management.

ACTION: Notice; announcement of an administrative change and a proposed survey and addition of a new subsystem to an existing system.

SUMMARY: The purpose of this notice is to make an administrative change in the retention schedule of subsystem B, announce a proposed survey to be conducted utilizing records within a system of records, and to establish a new subsystem as part of the Office's OPM/CENTRAL-12, Survey Information Records system of records. This action will permit the Office to conduct a personnel management research study where it is both necessary to identify respondents and to maintain records about them along with their responses in a system of records. These records will be maintained only by OPM (or persons under contract to OPM) and, therefore, this action has no direct impact on agencies.

COMMENT DATE: Interested parties may submit written comments concerning the proposed new survey and subsystem. To be considered, comments must be received on or before June 10, 1982.

ADDRESS: Mail or deliver comments to: Assistant Director for Work Force Information, Office of Personnel Management (Room 6429), 1900 E Street, NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Frank Cavanaugh, Employee Counseling Services, 202-523-4550.

SUPPLEMENTARY INFORMATION: The change in subsystem B's retention schedule is necessary to reflect the current expected completion of the survey described therein. With regard to the new survey being proposed, it will assist OPM in meeting an important oversight responsibility, i.e., to examine and review personnel management policies and practices relating to the operation of special personnel programs. OPM will also be able to determine the cost-effectiveness and the impact of this program on the Federal work force. This

function is generally performed by on-site evaluations and surveys of selected agencies' operations of the programs. These evaluations are necessary so that the Office may properly and effectively exercise its oversight role. These surveys use questionnaires that solicit opinions or factual responses from individuals and are generally conducted without retaining responses linked to individual respondents. Occasionally it is necessary to gather individually identifiable information from current and former participants in special programs, in order to determine the effectiveness of those programs. When such is the case, the individually identifiable data itself or the link to the respondent is disposed of at the end of the survey and no participant is ever identified in the final report.

The Office has negotiated a contract with Macro Systems, Inc., Silver Spring, Maryland, under the authority of 5 U.S.C. 4702, 42 U.S.C. 4561 et seq. and 21 U.S.C. 1180 et seq. for the purpose of surveying certain Federal employees. The purpose of the surveys is to conduct evaluative research which will assist Federal managers to make practical decisions regarding program planning and implementation of Federal employee counseling service programs. The objectives of the research are:

1. To evaluate organizational cost-effectiveness and loss or gain in productivity as a result of selected Federal employee counseling service programs.

2. To identify effects of those programs upon employees, supervisors and managers.

3. To define, identify, and analyze characteristics of successful programs.

4. To identify inhibitors to effective program implementation and operation.

In order to achieve these goals, the survey will require that a number of information collection efforts (e.g., on-site program reviews, interviews, questionnaires, etc.) be used which will provide data on the cost effectiveness of the Employee Counseling Service Programs in Federal agencies. This information will be collected from current and past clients of Employee Counseling Service Programs, current employees, supervisors, management officials and employee counseling service program administrators/coordinators at selected agencies and installations. Participation in the survey by counselees will be on a voluntary basis. Records on the counselee will be obtained in a manner so as not to divulge to record custodians the fact that they are/were in the program. The data collected during the survey and possible routine uses of the data are as stated in the system notice below.

Collection of data about individuals is scheduled to begin after the completion of the comment period. The entire project began November 1, 1981, and is expected to last no longer than 18 months. This report will not contain any individually identifiable information. When the report is completed, all individually identifiable data will be destroyed or returned to the originating agency and/or all links to identifiable responses will be severed. The final report will be available in OPM's, Workforce Effectiveness and Development Group (OPP–EHSP), 90 days after completion of the survey.

Since, to some extent, the survey involves an evaluation of how well OPM has performed its leadership role in developing and maintaining the programs and services question, it is believed that objectivity can be only achieved if OPM employees do not conduct the survey nor prepare the evaluation. Therefore, the survey will be conducted by a contractor. The contract has been negotiated under provisions that will insure protection of an individual's privacy and with the contractor's full recognition that individual records furnished by OPM and agencies, and information collected directly by interview or use of a questionnaire, are subject to the Privacy Act and are extremely sentitive in nature. The contract recognizes the Office's ownership and control over all individually identifiable records in the possession of the contractor. However, no OPM employee will have access to individually identifiable data unless necessary to resolve any Privacy Act issues. Further, the contractor agrees: (1) Not to use such records for any purpose other than to meet the terms of the contract; and (2) to safeguard such records while in the possession of the contractor by keeping them in locked cabinets or otherwise in a secure manner when not in use and by limiting disclosure of the records to only the contractor staff working directly on the contract. Upon issuance of the report by OPM, all individually identifiable records will be destroyed by shredding or burning. As previously announced when the OPM/Central-12 system was adopted (see 45 FR 67490 et seq.), although a survey periodically be added or deleted, the system remains relatively free of substantive changes. Therefore, addition of this survey and subsystem does not fall within the meaning of 5 U.S.C. 552a(o) regarding "Report of New Systems" and no such report will be made to Congress and OMB. None of the previous surveys identified as subsystems A through C have yet been completed.

The complete text of the OPM/CENTRAL-12, Survey Information Records, system including this proposed survey (Subsystem D), appears below. This proposed survey and subsystem will become part of this system one week after completion of the comment period, without further notice, unless comments received necessitate otherwise.

Office of Personnel Management.

Donald J. Devine,

Director.

OPM/Central—12

SYSTEM NAME:

Survey Information Records.

Subsystem A: Assessment of the Impact of the Civil Service Reform Act.

Subsystem B: Federal Employee Attitude Survey.

Subsystem C: Comparative Assessment of Upward Mobility Programs.

Subsystem D: Evaluation of Federal Employee Counseling Services Programs.

SYSTEM LOCATION:

Records in this system may be located at any of the Office of Personnel Management's central or regional offices or with private sector contractors participating in the conduct of the survey.

Subsystem A: Records are retained by the contractor, i.e., University of California at Irvine, University of Michigan, and Case Western Reserve University.

Subsystem B: Records are retained by the contractor, Westinghouse Learning Corporation Division, Iowa City, Iowa.

Subsystem C: Records are retained by the contractor, the Granville Corporation, Washington, D.C.

Subsystem D: Records are retained by the contractor, Macro Systems, Inc., Silver Spring, Md.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subsystem A: Current and former Federal employees and members of the public who are recipients of Federal services or products.

Subsystem B: Current Federal employees.

Subsystem C: Current and former Federal employees.

Subsystem D: Current and past clients of Employee Counseling Service Programs, current employees, supervisors, management officials and employee counseling services program administrators/coordinators at selected agencies and installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system, both manual and automated, includes:

a. Demographic data, e.g., including but not limited to names, home or business address, age, sex, employment and educational history data, description of present assignment and duties (current Federal employees), and a description of the nature of association with a Federal agency (non-Federal recipients of Federal services and products).

b. Responses to questionnaires that call for specific details regarding the implementation of agency programs and their impact on the respondent's duties, work environment, performance, or other work related issues (current Federal employees) or on the actual manner and method by which services or products are provided as well as any improvement or deterioration in these areas (recipients of services/products).

c. Responses that calk for opinions or judgments on the part of respondents concerning their perception on how programs and new procedures have affected agency performance, employee morale, mission accomplishment, and service to the public.

d. Self-identification as to race, sex, ethnicity, or handicap where appropriate.

Although it is not possible to foresee all information to be collected, these data elements would constitute what is sought for the majority of surveys conducted. Where the survey seeks significant additional data, the Federal Register notice for the survey will identify the specific information to be maintained beyond that identified here.

Subsystem A: This subsystem will contain no additional records beyond those listed in the "Categories of records" section.

Subsystem B: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

Subsystem C: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

Subsystem D: In addition to the records listed in the "Categories of records" section, this subsystem will contain records identifying participants of specific counseling programs, medical and quasi-medical records relating to participants, and records relating to medical situations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Office of Personnel Management is authorized to regulate (and thus to survey the impact of those regulations) various aspects of the personnel management practices and policies of Federal agencies under various sections of title 5 of the United States Code, including sections 1104, 1302, 3136, 3502, 3595, 4118, 4315, 4702, 4706, 5115, 5338, 5405, 6311, 7504, 7514, 8347, 8716, and 8913 or other status or Executive orders. Additionally sections 7105, 7118, and 7132 provide for an Office role in the functions described therein.

Subsystem A: One or more of the authorities cited, above.

Subsystem B: 5 U.S.C. 4702.

Subsystem C: 5 U.S.C. 4702.

Subsystem D: 5 U.S.C. 4702, 42 U.S.C. 4561 et seq. and 21 U.S.C. 1180 et seq.

PURPOSE:

Information in this system will be used to develop statistical reports on agency personnel management practices and policies. Information will also be used to determine the impact of Office regulations in those areas, as well as the impact of changes in the Federal civil service mandated by statute or Executive order. Maintenance of a system of records as defined by the Privacy Act is necessary so that longitudinal surveys of Federal employees and non-Federal recipients of Federal services/products can be made.

Subsystem A: The purpose of this subsystem is to assess the impact of the Civil Service Reform Act on personnel management.

Subsystem B: The purpose of this subsystem is to assess the attitudes of supervisors/managers and senior level executives toward the recent reforms in the civil service system.

Subsystem C: The purpose of this subsystem is to determine and compare the effectiveness of Upward Mobility Programs and to ascertain the perceptions of the value of these programs by participants and their supervisors/managers.

Subsystem D: The purpose of this subsystem is to provide evaluative research which will assist Federal managers in making practical decisions regarding program planning and implementation of Federal employee counseling service programs.

The objectives of the research are as follows:

(1) To evaluate organizational cost-effectiveness and loss or gain in productivity as a result of selected Federal employee counseling services programs.

(2) To identify effects of those programs upon employees, supervisors and managers.

(3) To define, identify and analyze characteristics of successful programs.

(4) To identify inhibitors to effective program implementation and operation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

By the Office of Personnel Management or the contractor in the production of summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained, or related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

Subsystem A: None, other than as shown above.

Subsystem B: None, other than as shown above.

Subsystem C: None, other than as shown above.

Subsystem D: None, other than as shown above.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

For all subsystems, records will be stored as a manual, automated or hybrid system.

Manual records are maintained in file folders, on questionnaires, lists, and forms. Automated records in computer processible storage media.

Subsystem A: A hybrid system.

Subsystem B: A hybrid system.

Subsystem C: A hybrid system.

Subsystem D: A hybrid system.

SAFEGUARDS:

For all subsystems, records are to be stored in locked file cabinets or secured rooms. Access to manual or automated records is limited to specially designated OPM and contractor personnel.

Subsystem A: These survey records are available for review only by OPM and contractor personnel.

Subsystem B: These survey records are available for review only by contractor personnel.

Subsystem C: These survey records are available for review only by contractor personnel.

Subsystem D: These survey records are available for review only by contractor personnel.

RETENTION AND DISPOSAL:

In each subsystem, individually identifiable information may be destroyed in a relatively short period of

time, e.g., as soon as practicable after aggregate statistics are compiled or after any follow-up request for an individual's voluntary participation in the survey.

Computerized records and statistical reports based on the data collected with all identifiers removed may be retained indefinitely. Other records are retained up to one year after completion of the survey.

Manual records are burned or shredded while automated records are erased.

Subsystem A: This subsystem will continue for a period of 4 years and some records will last the duration of the survey.

Subsystem B: The records in this subsystem will be destroyed at the completion of each survey, the final being concluded 1985.

Subsystem C: The records in this subsystem will be destroyed by the contractor at the completion of the survey, approximately May 1983.

Subsystem D: Identifiable data will be retained until 6 months after completion of the project.

Note:—Where the Office, in conducting a survey, contracts with non-Federal parties, the contracts shall stipulate agreement to the above procedures on the part of the contractor.

SYSTEM MANAGER(S) AND ADDRESS:

For all subsystems, the system manager is (unless changed in the notice for the subsystem) the Chief, CSRA Evaluation Management Division, Office of Planning and Evaluation, Office of Personnel Management (Room 3305), 1900 E Street N.W., Washington, D.C. 20415.

Subsystem A: As shown above.

Subsystem B: As shown above.

Subsystem C: As shown above.

Subsystem D: Program Manager, Employee Counseling Services, Employee Health Services Branch, Office of Performance and Productivity Management, Work Force Effectiveness and Development, Office of Personnel Management (Room 9331), 1100 L St., N.W., Washington, D.C.

NOTIFICATION PROCEDURE:

For all subsystems, individuals wishing to inquire whether this system of records contains information about them should contact:

a. The OPM office conducting the survey, if known, or the system manager.

b. When the survey is being conducted by a non-Federal contractor, the specific contractor involved; or

c. The office specified in the **Federal Register** notice announcing the subsystem if different from "a" or "b" of this section.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Any additional identifiers as shown in the **Federal Register** announcement of the subsystem.

RECORDS ACCESS PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the subsystem, any individuals wishing to request access to their records should contact the OPM sponsoring office, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the subsystem, individuals wishing to request amendment to their records should contact the OPM sponsoring office conducting the survey, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting amendment must comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORDS SOURCE CATEGORIES:

Unless specified in the **Federal Register** notice for the subsystem, all subsystems obtain information from individual participants of the survey from Office or agency personnel records, and from labor organizations.

[FR Doc. 82-12700 Filed 5-10-82; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-11635]

ACF Industries, Inc.; Application and Opportunity for Hearing

Notice is hereby given that ACF Industries, Incorporated (the "Applicant") has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Citibank, N.A. ("Citibank") under the Applicant's Series D Equipment Trust Agreement and under a new indenture to be qualified under the Act 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 Citibank from acting as trustee under the existing indenture and under the indenture to be qualified.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of providing, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture 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 either of such indentures.

The Applicant alleges that:

1. Applicant was incorporated in 1899, and is engaged, among other things, in the business of manufacturing and leasing various types of freight cars for use in the railroad industry. Since its organization, Applicant has issued

equipment trust certificates from time to time under a number of separate equipment trust agreements. Four of these equipment trust agreements (Series A, B, J, and L) required qualification and were qualified under the Act. The remainder of those now outstanding, being 12 in number, involved private placements of equipment trust certificates at various times from 1968 through 1980, and were exempt from qualification under the Act by reason of Section 304(b) thereof, since the equipment trust certificates issued thereunder were exempt from registration under the Securities Act of 1933 (the "1933 Act") by reason of Section 4(2) thereof. Trustees under the equipment trust agreements for the various series are major banks. Heretofore, each of the equipment trust agreements qualified under the Act has had trustees different from one another and different from any trustee serving as such under any equipment trust agreement not requiring qualification under the Act.

2. Applicant intends to file with the Commission a registration statement under the 1933 Act and Rule 415 thereunder in connection with the proposed future public offering of equipment trust certificates, to be issued pursuant to an equipment trust agreement or agreements to be qualified under the Act.

3. Applicant desires to appoint Citibank, a natural banking association, to act as trustee under the first series of such certificates to be issued under said equipment trust agreement.

4. Citibank presently is acting as trustee in connection with one of the aforementioned private placements of the Applicant's trust certificates, namely the equipment trust agreement dated as of February 15, 1975, Series D. Of the original aggregate of $35,000,000 principal amount issued thereunder, there remains issued and outstanding a total of $18,669,000. Copies of this Equipment Trust Agreement and of the proposed equipment trust agreement under which Citibank, N.A., is proposed to be qualified are attached as exhibits to the application.

5. The Series D equipment trust certificates are, and the proposed new certificates will be, secured by separate lots of specifically identified railroad cars. Thus, the existence of the two trusteeships should in no way inhibit or discourage the actions of Citibank as trustee under either of the trusts.

6. Applicant believes, in view of the specialized nature of an equipment trust, that holders of the equipment trust certificates and Applicant would benefit by having a trustee familiar with the operation of the Applicant's equipment trusts. The Applicant also believes that the Commission has granted similar applications with respect to trusteeships under equipment trust agreements for other railroad car lessors where the situations were similar factually to the matter which is the subject of this application.

7. None of Applicant's existing equipment trusts are in default.

Applicant has waived notice of hearing, hearing on the issues raised by this application, and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application, which is a public document on file in the office of the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than June 4, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 82-12755 Filed 5-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18702; File No. SR-NYSE-82-2]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.; Trading of Index Stock Group Options

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

On February 5, 1982, the Exchange filed a proposed rule change respecting index stock group options, File No. SR-NYSE-82-2 (the "February index stock group option filing"). Amendment No. 1 changes the February index stock group option filing in order (i) to increase the minimum number of stocks in an underlying index stock group from 25 to 50 in the absence of specific Commission approval of an index stock group including a smaller number of stocks, (ii) to subject futures contracts on stock groups that are substantially identical to index stock groups underlying Exchange options to many of the reporting, record keeping, access to records and other requirements to which index stock group options are subject and (iii) to make minor technical corrections.

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 Amendment No. 1 is to change the February index stock group option filing in order to incorporate as appropriate comments received from the Commission staff following its review of the February index stock group option filing and to make minor technical corrections. More specifically, the purposes of the principal changes are as follows:

Futures on Index Stock Groups Underlying Options—In order to detect and deter manipulation by means of concurrent activity in both an option on

an index stock group and a futures contract on an identical (or substantially identical) stock group, Amendment No. 1 amends the February index stock group option filing to expand the requirements as to options on an index stock group (no matter where traded) (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 futures contracts on an identical (or substantially identical) stock group.

Composition of Index Stock Group—The February index stock group option filing proposed that an index stock group could contain as few as 25 stocks. Because of the theoretical possibility that an index based upon a group of less than 50 stocks might be subject to manipulation if constructed so as to include a few stocks whose prices dominated the index calculation, Amendment No. 1 proposes to increase the minimum number of stocks in an underlying index stock group from 25 to 50. However, it excepts any group of 25 through 49 stocks proposed as an underlying index stock group if the Commission specifically approves its composition.

(2) *Statutory Basis.* The additional changes to the February index stock group option filing proposed in Amendment No. 1 have the same statutory basis as the February index stock group option filing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the changes proposed to the February index stock group option filing will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, and that the changes will contribute to the competitive benefits noted in the February index stock group option filing.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has considered the comments from the Commission staff on the February index stock group option filing. Amendment No. 1 incorporates those comments to the extent such incorporation seems appropriate to the Exchange. The Exchange has not solicited, and does not intend to solicit, comments regarding the amendment. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By June 15, 1982, 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 any any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 1, 1982.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: April 30, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-12754 Filed 5-10-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/522]

Shipping Coordinating Committee, Meeting Subcommittee on Safety of Life at Sea;

The Working Group on Ship Design and Equipment of SOLAS will conduct an open meeting on May 26, 1982 at 9:30 a.m. in Room 1303 at the Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C. 20593.

The purpose of the meeting will be to prepare for the Twenty-fifth Session of the Ship Design and Equipment Subcommittee of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for June 28–July 2, 1982 in London. The agenda includes the following topics:

—Requirements for machinery and electrical installation

—Safety measures for special purpose ships

—Maneuverability of ships

—Safety measures for diving systems

—Statistical data on failures of steering systems, propulsion plant and/or electrical plant and reliability and duplication of ship components

—Helicopter facilities for all types of ships.

Members of the public may attend up to the seating capacity of the room.

Further information may be obtained by contacting Capt. R. L. Brown, USCG (G-MMT/12), Washington, D.C., 20593,telephone (202) 426-2167.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

April 26, 1982.

[FR Doc. 82-12720 Filed 5-10-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM/8-520]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The U.S. SOLAS Working Group on Fire Protection will conduct an open meeting on May 27, 1982, at 9:30 a.m., in Room 1303 of the Coast Guard Headquarters Building, 2100 Second Street, SW, Washington, D.C.

The purpose of this meeting will be to:

—Review results of FP 27 (25–29) January 1982)

—Discuss plans for FP 28 (January 1983)

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Donald J. Kerlin, U.S. Coast Guard (G-MMT-4/13), Washington, D.C. 20593. Telephone (202) 426-2197.

Dated: April 27, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc 82-12721 Filed 5-10-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/523]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The U.S. SOLAS Working Group on the Carriage of Dangerous Goods will conduct an open meeting on June 3, 1982, at 9:30 a.m., in Room 3201 of the Coast Guard Headquarters Building, 2100 Second Street, SW, Washington, D.C.

The purpose of this meeting will be to discuss the following:

—Amendment 20 and 21 of the IMDG Code

—Decisions of the Maritime Safety Committee taken at their 46th Session

—Preparation for the 34th Session of the IMCO Subcommittee on the Carriage of Dangerous Goods

—IMCO activities of a continuing nature

Members of the public may attend up to the seating capacity of the room.

Requests for further information on the meeting should be directed to Lieutenant Kevin J. Eldridge, U.S. Coast Guard (G-MHM-2), 2100 Second Street, SW, Washington, D.C. 20593. Telephone (202) 426-1577.

Dated: April 23, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-12722 Filed 5-10-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/521]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 26, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Dated: April 27, 1982.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 82-12719 Filed 5-10-82; 8:45 am]

BILLING CODE 4710-07-M

SYNTHETIC FUELS PROJECTS

Clarification of Second Solicitation for Synthetic Fuels Projects

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Clarification of Second Solicitation for Synthetic Fuels Projects.

SUMMARY: On December 23, 1981, the United States Synthetic Fuels Corporation published notice of the issuance of a Second Solicitation for Synthetic Fuels Projects under the Energy Security Act of 1980, Pub. L. 96-294, (46 FR 62353). Notice is hereby given that the Synthetic Fuels Corporation has published a clarification of such solicitation which advises that due to the Memorial Day holiday on May 31, 1982, the deadline for submission of proposals shall be June 1, 1982.

EFFECTIVE DATE: May 5, 1982.

FOR FURTHER INFORMATION CONTACT: The Projects Office, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6444.

FOR COPIES OF THE CLARIFICATION CONTACT: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6460.

Dated: May 5, 1982.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

[FR Doc. 82-12684 Filed 5-10-82; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Privacy Act of 1974; Proposed New System of Records

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Bureau of Engraving and Printing gives notice of the following proposed system of records entitled: "Executive Profiles," (Treasury/BEP 00.015). The proposed system will contain personal information about key personnel who occupy sensitive positions in the Bureau. These employees could be targets for criminal extortion, kidnapping or other violence. A new system report was filed with the Office of Management and Budget, the Speaker of the House, and the President of the Senate.

DATES: Public comments must be received on or before July 12, 1982. If no public comments are received, this system of records will become effective July 12, 1982.

ADDRESS: Director, Bureau of Engraving and Printing, 14th & C Streets, SW, Washington, DC 20228.

FOR FURTHER INFORMATION CONTACT: Disclosure Officer, Office of Management and Systems, Bureau of Engraving and Printing, 14th & C Streets, SW, Washington, DC 20228, Phone: (202)-447-0161.

Cora P. Beebe,

Assistant Secretary (Administration).

Treasury/BEP 00.015

SYSTEM NAME:

Executive Profiles.

SYSTEM LOCATION:

Office of Security, Bureau of Engraving and Printing, 14th & C Streets, SW Washington, DC 20228

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains vital personal information about high-level Bureau executives and their families. These executives who occupy high-level and/or sensitive positions may be targets for criminal extortion, kidnapping or other violent acts.

The individuals to be covered by the system are designated by the Director, Bureau of Engraving and Printing, and are participating in the program voluntarily.

CATEGORY OF RECORDS IN THE SYSTEM:

The system contains personal information about key Bureau employees, their spouses, children or other persons in the household. The employees' neighbors or other persons who might have knowledge of family members' locations are listed with addresses and phone numbers. Also included are fingerprints, samples of

handwriting, and photographs of any residences and automobiles owned by the key employees and/or their families.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 11490 as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used exclusively by law enforcement officials during situations involving attempted extortion—such as kidnapping, the taking of hostages—or other similar emergencies, as a readily available source of background data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File Folder in a sealed envelope.

RETRIEVABILITY:

By name or position of employee.

SAFEGUARDS:

Locked file cabinet, access Limited to Office of Security Staff for update purposes and law enforcement officials for emergency use.

RETENTION AND DISPOSAL:

Retained during employees' tenure with Bureau, then destroyed.

SYSTEM MANAGER AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing, 14th & C Streets, SW Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Management and Systems Division, 14th & C Streets, SW Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See Notification Above.

CONTESTING RECORD PROCEDURES:

See Notification Above.

RECORD SOURCE CATEGORIES:

Designated key personnel on a voluntary basis.

[FR Doc. 82-12819 Filed 5-10-82; 8:45 am]

BILLING CODE 4840-01-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendments of Systems Notices Changes Other Than Routine Use

Notice is hereby given that the Veterans Administration is changing six statements that appear in a system of VA records. The system name, date and page number of the last publication in the Federal Register is as follows:

10VA31 Employee Reporting System for Project Administration and Control (Data Processing Centers) VA, December 2, 1977, p. 49732.

When this system was previously published, the system was limited to include only VA Data Processing Center employees in the system and technical assistance areas. The current changes expand the scope of the system to include all Office of Data Management and Telecommunications employees at both the Data Processing Centers and VA Central Office. In keeping with this change, and to update the system notice, references to the system name, the system location, the categories of individuals covered by the system, storage, retrievability, retention and disposal, the system manager, the notification procedure and the record access procedures have been amended accordingly.

These changes are administrative in nature and public comment is not required.

Dated: May 4, 1982.

Robert P. Nimmo,

Administrator.

Notice Of Systems of Records

In the system of records identified as 10VA31 "Employee Reporting System For Project Administration And Control (DATA PROCESSING CENTERS) VA", appearing at 42 FR 49732, the following statements are changed to read as follows:

SYSTEM NAME:

Employee Reporting System for Project Administration and Control (Office of Data Management and Telecommunications) VA

SYSTEM LOCATION:

Records are located at VA Central Office and at The VA Data Processing Centers (Address locations are listed in Appendix 1 at the end of this document).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by this system: all Office of Data Management and Telecommunications employees.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper documents, magnetic disc and tape.

RETRIEVABILITY:

Records are retrievable by a coded employee identifier.

* * * * *

RETENTION AND DISPOSAL:

Once the information on the source (paper) documents is stored on a magnetic disc or tape, and the information is verified for accuracy, the source documents are destroyed. Generally, source documents are destroyed within one week of verification. Magnetic disc and tape records are updated weekly and retained for various periods from 3 months up to 2 years after which time they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Project Management Division (313), Office of Data Management and Telecommunications, VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual seeking information concerning the existence and contents of a record pertaining to himself or herself should submit a written request or apply in person to the Director of the VA Data processing Center where either previously or current employed. VA Central Office personnel should submit a written request or apply in person to their Service or Staff Office Director where previously or currently employed. Inquiries should include the individual's full name and TRIMS identification, if known, and approximate dates of employment.

RECORD ACCESS PROCEDURES:

Individuals or their authorized representatives seeking information regarding access to and contesting of their TRIMS Record may contact the Director of the ODM&T Central Office, Service/Staff Office or VA Data Processing Center where the individual is (was) employed.

[FR Doc. 82-12735 Filed 5-10-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 91
Tuesday, May 11, 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).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Consumer Product Safety Commission	3, 4
Federal Deposit Insurance Corporation	5
International Trade Commission	6
Securities and Exchange Commission	7

1

[M-350, Amdt. 1]

CIVIL AERONAUTICS BOARD

Notice of deletion and additions and closure of items to the May 7, 1982 board meeting.

TIME AND DATE: 10:00 a.m., May 7, 1982.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C.

SUBJECT:

Addition: 2a. Delegation of authority to the Bureau of Domestic Aviation to make commuter fitness determinations. (Memo 1257, OGC, BDA)

Deletion: 19. Docket 40294, Final order in the *United States-Latin America All-Cargo Show Cause Proceeding.* (Memo 960–A, BIA)

Addition: 20. Report on Ongoing Negotiations with Canada. (BIA)

Addition: 21. Review of Brazilian Negotiations. (BIA)

Addition: 22. Review of Scandinavian Negotiations. (BIA)

Addition: 23. Review of ECAC Negotiations. (BIA)

STATUS: Open (Items 1–19), Closed (Items 20–23).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S-695-82 Filed 5-7-82; 3:26 pm]

BILLING CODE 6320-01-M

2

[M-350, Amdt. 2]

CIVIL AERONAUTICS BOARD

Notice of Addition of Item to the May 7, 1982 Board Meeting.

TIME AND DATE: 10:00 a.m., May 7, 1982.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C.

STATUS: 14a. Applications of American Charter Enterprise Services, Inc. d.b.a. ACES, for an operating authorization as an Overseas Military Personnel Charter Operator, and for a waiver of Part 372 relating to tariff filing and financial security requirements. (Memo 1252, BDA)

SUBJECT: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: In order for the Board to discuss and act on the above-referenced application to make it possible for American Charter Enterprise Services, Inc. d.b.a. ACES, to take advantage of the summer travel season, Item 14a is being added to the May 7, 1982 meeting on less than seven days' notice. Accordingly, the following Members have voted that Item 14a should be added on less than seven days' notice and that no earlier announcement was possible: Chairman Dan McKinnon; vice Chairman Elizabeth E. Bailey; Member Gloria Schaffter; Member George A. Dalley; and Member James R. Smith.

[S-696-82 Filed 5-7-82; 3:28 pm]

BILLING CODE 6320-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 12 Noon, Friday, May 7, 1982.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Walk-Behind Power Lawn Mowers*
The Commission will consider Petition CP 82–2 from the Toro Company requesting an extension of the effective date of the Safety Standard for Walk-Behind Power Lawn Mowers. The Commission decided that agency business required the waiving of seven day advance notice in this matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S-692-82 Filed 5-7-82; 2:01 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 13, 1982.

LOCATION: Third Floor Hearing Room, 1111—18th Street, N.W., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Aluminum Wire Options*
The staff will brief the Commission on the Status of the "old technology" aluminum wire project and will present options concerning the project.
2. *Physician Samples*
The staff will brief the Commission on issues related to the Commission's policy regarding manufacturers responsibility for special packaging of prescription drugs distributed to physicians.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westboard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S-693-82 Filed 5-7-82; 2:10 pm]

BILLING CODE 6355-01-M

5

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 6:35 p.m. on Wednesday, May 5, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider the following matters:

Memorandum re: Employees' Health Plan.
Memorandum re: Revisions to the General Travel Regulations (GTR).

In calling the meeting, the Board determined, on motion of Chairman William M. Isacc, 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 and that no earlier notice of the meeting was practicable.

The meeting was held in the Executive Dining Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: May 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-961-82 Filed 5-7-82; 2:02 pm]

BILLING CODE 6714-01-M

6

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 19, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 22-45 (Sugar)—briefing and vote.
6. Investigation 731-TA-91 [Preliminary] (Sodium Nitrate from Chile)—vote.
7. Investigation 337-TA-103 (Certain Stablized Hull Units and Components Thereof and Sonar Units Utilizing Said Stabilized Hull Units)—briefing and vote.

Portions closed to the public:

6. Investigation 731-TA-91 [Preliminary] (Sodium Nitrate from Chile)—briefing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-894-82 Filed 5-7-82; 2:01 pm]

BILLING CODE 7020-02-M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 18703, 4/30/82.

STATUS: Closed/Open meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, April 30, 1982.

CHANGES IN THE MEETING: Rescheduling/ additional items.

The following items were not considered at a closed meeting scheduled for Tuesday, May 4, 1982, at 10:00 a.m., but rescheduled for Thursday, May 6, 1982, following the 9:00 a.m. open meeting:

Litigation matters.

Institution of administrative proceeding of an enforcement nature.

The following additional items will be considered at a closed meeting scheduled for Tuesday, May 6, 1982, following the 9:00 a.m. open meeting:

Dismissal of injunctive action.
Institution of injunctive action.
Freedom of Information Act appeal.

The following item will be considered at an open meeting scheduled for Tuesday, May 11, 1982, at 10:00 a.m.:

Consideration of whether to adopt amendments (proposed for comment in January 1982) to its financial responsibility rules. The amendments, among other things, will increase the percentage deduction ("haircuts") for certain debt securities including Government and municipal securities, and will change the treatment or fail to deliver contracts and securities borrowing under the financial responsibility rules. For further information, please contact Michael A. Macchiaroli at (202) 272-2372.

The following additional item will be considered at a closed meeting scheduled for Tuesday, May 11, 1982, following the 10:00 a.m. open meeting:

Subpoena enforcement action.

The following additional item will be considered at an open meeting scheduled for Thursday, May 13, 1982, at 10:00 a.m.:

Consideration of whether to publish for comment proposed Rule 13d-8 under the Securities Exchange Act, which would provide that if a greater number of shares are deposited pursuant to a partial tender offer than the person making the tender offer is bound or willing to take up and purchase, the securities deposited must be taken up pro rata according to the number of securities deposited by each depositor during the period such offer remains open. For further information, please contact Arthur H. Miller at (202) 272-2589.

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

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 Richard Starr at (202) 272-2467.

May 6, 1982.

[S-890-82 Filed 5-7-82; 10:22 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
May 11, 1982

Part II

Department of Agriculture

Agricultural Marketing Service

Egg Research and Promotion Order; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1250

[Docket No. ERPA-2]

Egg Research and Promotion Order; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written exception on the proposed amendments to the Egg Research and Promotion Order. The proposed amendments would increase the rate of assessment paid by egg producers and add two consumers to the 18-member American Egg Board. The intent of the proposed change is to maintain and improve a continuous coordinated program of research, consumer and producer education, and promotion for eggs, egg products, and spent fowl, and products of spent fowl.

DATE: Written exceptions to this recommended decision are due on or before July 12, 1982.

ADDRESS: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077 South Agriculture Building, Washington, D.C. 20250. Four copies of all written exceptions should be submitted, and they will be made available for public inspection during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Poultry Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 382–8132.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing: Issued January 5, 1982, published January 8, 1982, (47 FR 1106). The notice contained proposals submitted by an egg industry study task force representing 18 egg and poultry associations. In addition, proposed conforming changes were proposed by the Poultry Division, Agricultural Marketing Service.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because any egg producer covered by the Order may receive a refund of his/her assessment upon demand to the American Egg Board. In addition, egg producers with 3,000 or fewer laying hens are exempt from paying assessments. Also exempt are producers whose flocks of breeding hens are producing eggs primarily for the hatching of baby chicks.

List of Subjects in 7 CFR Part 1250

Egg research, Egg promotion, Fowl.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the Egg Research and Promotion Order. Copies of this decision may be obtained from the Hearing Clerk. This notice is issued pursuant to the provisions of the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) as amended, and the applicable rules of practice and procedure governing proceedings to formulate such an Order (7 CFR 1250.1–1250.19).

The proposed amendments set forth below are based on the record of a public hearing which was held at Washington, D.C., March 1; at St. Louis, Missouri, March 4; and at San Diego, California, March 23, 1982, as announced in the notice published January 8, 1982, (47 FR 1106). Testifying at the hearing were 16 witnesses in favor of the amendments and 3 witnessses in opposition. The statement presented by the Egg Industry Promotion Study Task Force at the hearing shows general nationwide support for the adoption of the amendments. Forty-nine State, regional, and national organizations endorsed the amendments to the Egg Research and Promotion Order.

Material Issues

The material issues of record are as follows:

(1) Two consumer members would be added to the 18-member board. Such members and their alternates would be representative of the consuming public and not associated with the egg industry. These consumer representatives and their alternates would be appointed by the Secretary of Agriculture from nominations submitted by producer organizations.

(2) The American Egg Board, with approval of the Secretary, would be authorized to increase the rate of assessment from 5 cents per 30-dozen case of eggs up to a maximum of 10 cents. The rate of assessment the first 12 months following issuance of regulations by the Board would not exceed 7½ cents per case. In subsequent years the Board would have the discretion to recommend additional increases in increments of no more than three-quarters of 1 cent per case annually up to the 10-cent maximum.

Findings and Conclusions

The following findings and conclusions on the material issues are based on the record of hearing:

(1) The definition of consumer or consumer representative should be added to the Order as § 1250.317 and provision made for appropriate eligibility requirements. The record evidence suggests that the proposed amendments to the Order merely implement the amended Egg Research and Consumer Information Act (Pub. L. 96–276, section 8 (a) and (b)). The Act provides that a consumer or consumer representative must be an individual who is a representative of the consuming public and is not associated with the egg industry. Further, such person may be a member of a bona fide consumer organization, but such membership is not required.

Provision should be made in § 1250.326 for the addition of two consumer members and two consumer alternates to the 18-member Board. The record includes several statements which cite the importance of providing new and varied viewpoints to the Board through consumer representation.

Evidence further shows that consumers or consumer representatives are to be appointed from nominations submitted by producer organizations. However, the Secretary of Agriculture has the discretion to select other consumers or representatives of consumers if he determines that nominations submitted by producers do not represent consumers.

A new section should be added as § 1250.329 to specify procedures for nominating consumer members and alternates. The record evidence supports the inclusion of a nomination procedure for consumer representatives which parallels the procedure for nominating producer members. Therefore, consumer and producer members would be nominated through caucuses of eligible organizations representing egg producers.

(2) The Order should be amended in § 1250.347 to provide for an assessment rate not to exceed 10 cents per 30-dozen case of eggs. Provision should be made for the Board to set the rate of assessment, with approval of the

Secretary of Agriculture, at 7½ cents per case for the first 12 months following issuance of regulations. An additional provision should be included to give the Board discretion to recommend an increase in the rate of assessment by no more than three-quarters of 1 cent per case year thereafter up to the 10-cent maximum.

The evidence in support of the increase in assessment emphasized the benefits of and continued need for the various activities conducted by the Board. The detrimental impact of inflation on the effectiveness of these programs was also emphasized. The fact that inflation has had an impact on the Board's ability to conduct promotion and advertising, research, and education activities is illustrated by information published by the Department of Labor, Bureau of Labor Statistics. This information shows an increase of more than 60 percent in inflation since the program began in 1977, and was contained in an exhibit to the hearing record entitled "Economic Indicators, January 1982," prepared for the Joint Economic Committee by the Council of Economic Advisers.

The primary activities of the American Egg Board, as presented in testimony at the hearing, include the following:

(a) Promotion and advertising through television, radio, and national magazine advertising.

(b) Nutrition research through grants to investigate the role of eggs in human nutrition, with particular attention to their effect on serum lipids and lipoproteins.

(c) Procuct and market development research through grants to encourage new products and technology designed to increase the demand for processed products from eggs or spent fowl.

(d) support and assistance to State and regional egg promotion organizations through allocation of cooperative funds and furnishing of promotional and educational materials.

(e) Consumer education through a variety of means.

(f) Producer relations through various communication methods to report Board activities and other significant affairs to egg producers.

(g) Export development including exhibits at trade shows that attract potential foreign customers.

Testimony on behalf of the American Egg Board shows that the majority of egg producers recently surveyed believes promotion and advertising, particularly television advertising, are the most visible and effective means to enhance the image, acceptability, and/or desirability of eggs and egg products. Four separate studies conducted by Market Facts, Inc., Chicago, Illinois, were introduced as exhibits to the hearing record. The studies were funded by the Board and show the positive results of promotion and advertising. For example, a 1977 study of retail sales in four test markets where advertising was the heaviest showed that 3.4 percent more eggs were sold than in previous years. In four similar markets that received less advertising, sales had declined 0.4 percent. In addition, each year since 1977, Market Facts, Inc., has conducted studies tracking consumer attitudes about eggs and found that since advertising began, key attitudes have become more positive. For example, the 1980 study shows a positive turn in egg consumption and confirmation of the positive effects of advertising which emphasizes the good value eggs are for the money expended.

The Board's testimony further disclosed that because of inflation, the Board found it necessary to curtail television advertising during the past 2 years in favor of concentrated radio and magazine advertising. An illustration of the impact of inflation showed that since the inception of the program in 1977, media costs (television, radio, and national magazine advertising) have increased approximately 10 percent a year. The cumulative effect of this inflation has been a 61-percent increase in media costs. As a measure of comparison, it would take $5.3 million to duplicate the 1977 advertising program that cost $3.5 million at that time.

With only one exception, witnesses supported continued and strengthened funding for the nutrition research program. The witness for the Board testified that it had made grants of more than $2 million in the past 5 years to leading scientific investigators in the field of lipid research. Also, several studies financed by the Board have been published in scientific literature. Evidence demonstrates that this program has been successful in encouraging study and continuing dialogue about the effects of dietary cholesterol on heart disease. Witnesses expressed concern, however, that reduced purchasing power caused by inflation would severly limit the Board's ability to maintain this important program unless additional funds are made available.

Witnesses described the product and market development research program as having great potential for increasing the demand for eggs, egg products, spent fowl, and products of spent fowl. Grants given to universities over the years have resulted in the development of several further processed products form eggs and spent fowl. Testimony from the Board indicated that inflation had decreased planned resource outlays, necessitating reductions for this program.

Central to the consumer education and State and regional support programs is the development and distribution of booklets, brochures, educational materials and other promotional pieces, examples of which were admitted into evidence at the hearing. As explained in testimony, These materials are used extensively by State and regional egg promotion organizations, newspaper and national magazine food editors, extension home economists, teachers, and consumer educators. These programs, however, have been curtailed because of escalating development, printing, and mailing costs.

Proponents expressed the need for the increase despite over 2 years of severe economic losses for the industry. USDA statistics entered for the record on estimated costs and returns for market eggs show an estimated average net return of −3.7 cents per dozen in 1980 and −3.0 cents in the first three-quarters of 1981. Testimony, however, showed that support for the program in 1981 represented 70 percent of egg production—even with a 30-percent refund of assessments.

Witnesses testifying did not consider the provision for a gradual yearly increase of three-quarters of 1 cent to be excessive. Also there was consensus that the Board would be the appropriate decision-maker with respect to recommending the yearly increases.

The record reflects a sampling of States with egg promotion and education programs financed by producer assessments over and above the national assessment. California egg producers, for example, are assessed 5½ cents per case, Illinois—3 cents, Minnesota—4 cents, Missouri—6 cents, and North Carolina—2 cents. Witnesses stated that there would be no negative impact on State programs due to an increase in the national assessment. They pointed out that the programs, materials, and funds from the Board have been of vital assistance to State programs. In addition, the number and participation rate in State programs have increased since the national program was implemented.

Notice was taken at the hearing of the House report, 96–752, second session of the 96th Congress, "To amend the Egg Research and Consumer Information Act." That report states that the impact of the increase on the retail price of eggs would be minimal. If the total 5-cent increase per case were directly passed

on to consumers with no offsetting benefits, the increase in cost to consumers would be about one-tenth of a cent per dozen eggs.

Evidence was presented which highlighted the effectiveness of brand advertising, particularly at local markets. Statements from witnesses showed no indication, however, that the value of generic promotion on a national level would be diminished even with brand advertising.

It is concluded that a coordinated national advertising and research program is the most effective means available to the egg industry to compete for a share of the market. Therefore, in order to offset the detrimental impact of inflation and sustain an effective level of research, promotion, and education, the proposed amendments should be adopted. Further, the proposed amendments will not change the refunding process; i.e., producers may, under law, request a refund of all or a portion of their assessment. Proponents and opponents stated that there would be no additional paperwork burden on producers seeking refunds or on handlers collecting assessments.

Rulings on Proposed Findings and Conclusions

At the end of the hearing, the Administrative Law Judge fixed April 20, 1982, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence presented at the hearing. A brief was filed on behalf of the Egg Industry Promotion Study Task Force. Each point included in the brief was carefully considered, along with evidence in the record, to make the findings and reach the conclusions contained herein. To the extent that any suggested findings or conclusions contained in the brief or arguments are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of facts found and stated in connection with the recommended decision.

General Findings

(1) The findings hereinafter set forth are supplementary and in addition to the previous findings and determinations which were made in connection with the issuance of the Egg Research and Promotion Order. Except when such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The amendments to the Egg Research and Promotion Order and all the terms and conditions thereof, as hereinafter set forth, will tend to effectuate the declared policy of the Act;

(3) All handling of eggs produced in the 48 contiguous States of the United States, as defined in the Order, is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in eggs, spent fowl, and their general products; and

(4) The following terms and conditions relalted to the amendments are recommended as the detailed means of carrying out the declared policy of the Act with respect to the establishment of an orderly procedure for the financing through adequate assessments on eggs produced in the 48 contiguous States of the United States for human consumption, and the carrying out of a program of research, development, advertising, consumer information, and promotion.

Recommended Amendments to the Egg Research and Promotion Order

The following amendments to the Egg Research and Promotion Order are recommended as the detailed means by which the foregoing conclusions may be carried out. Some of the amendatory actions require certain minor conforming changes as hereinafter set forth and as published January 8, 1982, (47 FR 1106).

PART 1250—EGG RESEARCH AND PROMOTION

1. Section 1250.317 is added as follows:

§ 1250.317 Consumer or consumer representative.

"Consumer" or "consumer representative" means an individual who is representative of the consuming public and is not associated with the egg industry; such person may be a member of a bona fide consumer organization, but such membership is not required.

2. Section 1250.326 is revised to read as follows:

§ 1250.326 Establishment and membership.

There is hereby established an Egg Board, hereinafter called the "Board," composed of 18 producers or representatives of producers, 2 consumers or representatives of consumers, and 20 specific alternates. The Board members and alternates shall be appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, or by other producers pursuant to § 1250.328 and § 1250.329. If the Secretary determines that the nominees to the Board as consumers or consumer representatives are not members of a bona fide consumer organization or do not represent consumers, the Secretary may appoint such consumers or representatives of consumers as deemed necessary to properly represent the interest of consumers.

3. The section heading for § 1250.328 and the first sentence in that section are revised as follows:

§ 1250.328 Nominations of producers.

All nominations of producers and representatives of producers authorized under § 1250.326 shall be made in the following manner:

* * * * *

4. Sections 1250.329 through 1250.336 are redesignated as §§ 1250.330 through 1250.337, and a new § 1250.329 is added to read as follows:

§ 1250.329 Nominations of consumer representatives.

Eligible organizations certified by the Secretary pursuant to § 1250.356 within each geographic area designated pursuant to § 1250.328 of this Order may caucus for the purpose of jointly nominating consumer representatives to the Board for each consumer member and alternate to be appointed. If joint agreement is not reached with respect to the nominations or no caucus is held, each eligible organization may submit names. Such nominations shall be submitted to the Secretary within 60 days of the approval of this amendment to the Order in referendum. After the appointment of the initial consumer representatives and alternates to the Board, the nominations for subsequent consumer representatives to the Board and alternates shall be submitted to the Secretary not less than 60 days prior to the expiration of the terms of the members and alternates previously appointed.

5. Section 1250.347 is revised to read as follows:

§ 1250.347 Assessments.

(a) Each handler designated in § 1250.348 and pursuant to regulations issued by the Board shall collect an assessment from each producer and shall pay that assessment to the Board at such times and in such manner as prescribed by the regulations issued by the Board; *Provided*, That the following shall be exempt from the provisions of this section: (1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has

not exceeded 3,000 laying hens, and (2) any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(b) The Board with the approval of the Secretary shall set the amount of assessment, not to exceed 10 cents per 30-dozen case of eggs, or the equivalent thereof, as provided in paragraph (c) of this section to cover such expenses and expenditures, including provisions for a reasonable reserve and those administrative costs incurred by the Department of Agriculture as the Secretary finds are reasonable and likely to be incurred by the Board and the Secretary under this subpart, except that no more than one such assessment shall be made on any case of eggs.

(c) The rate of assessment for the first 12 months following issuance of regulations by the Board shall not exceed 7½ cents per case and shall not be increased by more than three-quarters of 1 cent per case during each fiscal year thereafter.

Signed at Washington, D.C., on May 5, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-12833 Filed 5-10-82; 8:45 am]

BILLING CODE 3410-02-M

federal register

Tuesday
May 11, 1982

Part III

Office of Personnel Management

Appointment Authority for Professional and Administrative Career Positions

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 752

Schedule B Appointment Authority for Professional and Administrative Career Positions.

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations establish a new appointing authority which agencies may use during a period when the Office of Personnel Management does not have a register of eligibles for use in filling professional and administrative career positions subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271. This new authority is applicable only when agencies must utilize external recruiting and hiring procedures to fill such positions. The proposed regulations also contain an amendment to extend adverse action protections to individuals appointed under the new authority.

DATE: Comments must be received on or before June 10, 1982.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director for Staffing, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or delivered to Room 6F08, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Part 213: William Bohling—(202) 632–6000. Part 752: Cynthia Field—(202) 254–5517.

SUPPLEMENTARY INFORMATION: On November 19, 1981, the United States District Court for the District of Columbia entered a decree in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271. Defendants in that lawsuit included the Director of the United States Office of Personnel Management (OPM) and the heads of 45 other Federal departments, agencies, and establishments in the Legislative and Executive Branches of the United States Government. Pursuant to that decree, OPM has eliminated the use of the Professional and Administrative Career Examination (PACE) and cancelled registers of eligibles derived therefrom. At the present time, OPM has no equivalent register of eligible applicants for entry-level professional and career positions and, pending further notice, will not establish such a register.

Because of substantial reductions in Federal governmental operations and spending, most agencies will not engage in significant outside hiring for the probable life of the decree. Instead, agencies generally will fill many vacancies that arise either by internal placement; by reinstatement of individuals with career status; or by interagency transfer to accommodate Federal employees who have been displaced by reduction in force, abolition of function, reorganization, or some other agency action taken either to achieve compliance with budgetary or personnel ceiling limitations or to accomplish desirable program changes. In filling vacancies, agencies will give precedence to individuals with priority placement rights and will make maximum use of available applicant sources such as (a) OPM Displaced Employee and VIPP lists and (b) agency repromotion and reemployment priority lists.

OPM recognizes, however, that agencies may on occasion experience vacancies in positions that were covered by the PACE on the effective date of the consent decree and that can be filled only through external hiring at the GS–5 and GS–7 entry levels. In the absence of OPM registers of eligible applicants for such positions, and in the event that agencies need to make external appointments to such positions, the agencies must have a special authority to do so. Thus, OPM, pursuant to its authority under Civil Service Rule VI, has determined, that such entry-level professional and administrative career positions at the GS–5 and GS–7 grades should be excepted from the competitive service on a case-by-case, position-by-position basis when it is necessary to fill those positions through external hiring. Excepting these positions from the competitive service and placing them in Schedule B is appropriate because, given the elimination of PACE and the unavailability of alternative written tests and other merit selection procedures, it is impracticable to hold competitive examinations for the positions.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 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 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 United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to procedures for appointment of employees by Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

List of Subjects in 5 CFR Part 752

Administrative practice and procedures, Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend Title 5, Code of Federal Regulations, as follows:

PART 213—EXCEPTED SERVICE

(1) 5 CFR 213.3202 is amended by adding paragraph (l) to read as follows:

§ 213.3202 Entire executive civil service.

* * * * *

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271, and which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and when no qualified applicant already in the competitive service is available for appointment thereto, and the agency has made maximum use of priority placement sources, then the agency may apply to OPM for authority to make a new appointment under this paragraph. Such appointments shall be made pursuant to such Schedule B authorities for PAC positions as shall be prescribed in the Federal Personnel Manual. An incumbent of a Schedule B PAC position may be appointed to a competitive postion upon a demonstration by the agency that the employee has met qualifications on the basis of an

examination. Terms of service under this appointment authority shall be established by a delegation agreement to be executed for each individual position excepted from the competitive service pursuant to this authority.

PART 752—ADVERSE ACTIONS

(2) 5 CFR 752.401(b) is amended by adding paragraph (4) to read as follows:

§ 752.401 Coverage.

(b) *Employees covered.* The following employees are covered by this subpart:

* * * * *

(4) An employee who occupies a professional and administrative career (PAC) position in Schedule B of Part 213 of this title, provided that the employee has completed a trial period of one year after initial appointment in such a position.

Authority: 5 U.S.C. §§ 3301, 3302; E.O. 10577.

[FR Doc. 82-12972 Filed 5-10-82; 11:35 am]
BILLING CODE 6325-01-M

federal register

Tuesday
May 11, 1982

Part IV

Office of Personnel Management

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) proposes to issue regulations governing solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations, under authority of new Executive Order 12353, Charitable Fund-Raising, March 23, 1982. These regulations provide a system for administering the annual solicitation campaigns and establish requirements for organization participation.

DATES: Comments must be received on or before June 11, 1982.

ADDRESS: Send or deliver comments to: U.S. Office of Personnel Management, 1900 E Street, N.W., Room 5532, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Joseph L. Patti, (202) 632–5544.

SUPPLEMENTARY INFORMATION: There always has been a legitimate Federal Government interest in cooperating with and assisting voluntary agencies in soliciting funds for worthy causes from Federal personnel. At one time, the increasing number of fund drives created an administrative burden for Federal officials. They were besieged by a multitude of agencies seeking endorsements and the privilege of soliciting employees on the job. In addition, employees were confused by the large number of appeals—as many as 10 to 20 a year in some departments. After extensive study of the situation, a uniform program was established in 1956 to limit the number of campaigns and to ensure true voluntary giving by Federal personnel. The purpose of the fund-raising program within the Federal service is to establish appropriate policies and procedures governing the solicitation of Federal civilian and uniformed services employees for contributions to private charitable agencies so as to protect the interests of the Government and the rights of employees. The program was originally monitored by the President's Committee on Fund-Raising Within the Federal Service. When the committee was abolished, its responsibilities were assigned to the Chairman of the U.S. Civil Service Commission (now, Director, Office of Personnel Management) by Executive Order 10927, "Abolishing the President's Committee on Fund-Raising Within the Federal Service and Providing for the Conduct of Fund-Raising Activities," March 18, 1961. In order to express a renewed commitment to voluntary charity, and to set the basis for more precise standards, President Reagan revoked the outdated Order and replaced it with Executive Order 12353 under which authority this Part is issued.

Scope

This Part governs all fund-raising by private voluntary charitable agencies among Federal employees and members of the uniformed services of the United States. Thus it is applicable to civilian and uniformed personnel in all executive departments and agencies throughout the world.

The Director finds that good cause exists for reducing the comment period on this proposed rulemaking from 60 to 30 days. The comment period is reduced in order to allow sufficient time for the private voluntary agencies to make applications to OPM and for OPM to properly carry out its responsibilities in granting solicitation privileges in advance of the 1982 Combined Federal Campaign. The period for submitting applications for admittance to the campaign is extended until 10 days after publication of the final rules.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase 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 United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The nominal costs to voluntary agencies, which are primarily associated with developing the initial application, are essentially the same as under current procedures.

List of Subjects in 5 CFR Part 950

Government employees, Charitable contributions.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR by adding new Part 950 to read as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICES PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

Subpart A—Administration and General Provisions

Sec.
950.101 Definitions.
950.103 Summary description of the program.
950.105 Federal policy on civil activity.
950.107 Preventing coercive activity.

Subpart B—Organization and Functional Responsibilities

950.201 Development of policy and procedures.
950.203 Program administration.
950.205 Program coordination.
950.207 Local voluntary agency representatives.
950.209 Local Federal agency heads.
950.211 Local Federal coordinating committees.
950.213 Avoidance of conflicts of interest.

Subpart C—Campaign Arrangements for Voluntary Agencies

950.301 Types of voluntary agencies.
950.303 Types of fund-raising methods.
950.305 Considerations in making Federal arrangements.
950.307 Definition of terms used in Federal arrangements.
950.309 Federated and overseas campaigns.
950.311 Off-the-job solicitation at places of employment.

Subpart D—Eligibility Requirements for National Voluntary Agencies

950.401 Purpose.
950.403 General requirements for national agencies.
950.405 Specific requirements.
950.407 Application requirements.
950.409 Public announcement of recognized agencies and assigned periods.
Appendix A—Source of Funds and Costs Report.

Subpart E—The Local Combined Federal Campaign

950.501 Authorized local voluntary agencies.
950.503 Participation in Federal campaigns by local independent agencies.
950.505 Responsibility of local Federal coordinating committees.
950.507 Local CFC plan.

Sec.
950.509 Organizing the local campaign: The Principal Combined Fund Organization.
950.511 Basic local CFC ground rules.
950.513 Contributions.
950.515 Dollar goals.
950.517 Suggested giving guides and voluntary giving.
950.519 Central receipt and accounting for contributions.
950.521 Campaign and publicity materials.
950.523 Payroll withholding.
950.525 National coordination and reporting.
Appendix A—Sample of CSC Form 804–1981 and Privacy Act Notice.

Authority: E.O. 12353.

Subpart A—Administration and General Provisions

§ 950.101 Definitions.

For purposes of this Part:

(a) The term "national voluntary health and welfare agencies and such other national voluntary agencies as may be appropriate" means national agencies that:

(1) Meet all eligibility requirements established in this Part;

(2) Are not "action" organizations within the meaning of 26 CFR 1.501(c)(3)–1(c)(3); and are eligible to receive tax deductible contributions under 26 U.S.C. 170; and

(3) Provide or substantially support one or more of the following services:

(i) Relief of needy, poor or indigent children and of orphans, including adoption services;

(ii) Relief of needy, poor or indigent adults; and the elderly;

(iii) Delivery of health care to the needy, poor, indigent, ill or infirm;

(iv) Education and training of personnel for the delivery of health care to the needy, poor and indigent;

(v) Health research;

(vi) Education, training, care and relief of physically and mentally handicapped persons;

(vii) Delivery of legal services to the poor and indigent, and defense of human and civil rights secured by law;

(viii) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes;

(ix) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(x) Assistance, consistent with the mission of the Department of Defense, to members of the armed forces and their families;

(xi) Protection of families in short or long-term need of family and child care services, child and marriage counseling, foster care, and management and maintenance of the home;

(xii) Neighborhood and community-wide services which assist the needy as part of the whole community, including emergency relief and shelter, recreation, safety, preparation or delivery of meals, and transportation;

(xiii) Information and counseling with respect to the obtaining of any of the foregoing services; or

(xiv) Lessening the burdens of government with respect to the provision of any of the foregoing services.

(b) Campaign terms:

"Combined Federal Campaign" or "Campaign" or "CFC" shall mean the fund-raising program established and administered by the Director pursuant to Executive Order 12353, and any subsidiary units of such program;

"Community" shall mean a community that is defined either by generally recognized geographic bounds or by its relationship to an isolated government installation;

"Direct Contributions" shall mean gifts, in cash or in donated material, given by individuals and/or other non-governmental sources directly to the spending health and welfare organization.

"Director" shall mean the Director of the United States Office of Personnel Management, or his delegate;

"Employee" shall mean any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service and in the uniformed services;

"Indirect Contributions" shall mean gifts, in cash or in donated material, given to the spending health and welfare organizations by another health and welfare organization, but not transfers, dues or other funds from affiliated organizations.

(c) The term "Principal Combined Fund Organization" means the organization in a local Combined Federal Campaign that has been selected and so prescribed in § 950.509 of this Part to manage and administer the local Combined Federal Campaign, subject to the direction and control of the local Federal officials and the Director.

(d) The term "local volunteer evaluation and allocation committee" means a committee of volunteers of the Principal Combined Fund Organization that is broadly representative of the area where a Combined Federal Campaign is conducted and that regularly carries out a process of program development and review of the delivery of the services specified in § 950.101(a) of this Part for the purpose of determining how funds designated or distributed to the Organization of which the committee is a part should be allocated in support of voluntary agencies providing health and welfare services within the area.

§ 950.103 Summary description of the program.

(a) *Eligibility of National Voluntary Agencies.* National voluntary agencies apply to the Director each year for on-the-job solicitation privileges in the Federal Government. Early each calendar year, he issues a list of agencies that have met the prescribed standards as to program objective, eligibility, administrative integrity, and financial responsibility.

(b) *Assigned Campaign Periods.* In the United States, Combined Federal Campaigns are held when set by the Director, usually in the fall; the DOD Overseas Combined Federal Campaign is also usually held during the fall. The solicitation period for a Combined Federal Campaign is limited to six weeks.

(c) *Combined Federal Campaign.* At locations where there are 200 or more Federal personnel, all campaigns must be consolidated into a single, annual drive, the Combined Federal Campaign. The campaign is managed by the organization designated as the Principal Combined Fund Organization, in accord with § 950.509 of this Part, under the supervision of the local Federal Coordinating Committee and the Director. Such campaigns are conducted under administrative arrangements that provide for individual agency recognition, description of each agency's services, and allocation of contributions in accordance with specific designations by donors.

(d) *Decentralized Operations.* Following designation of a Principal Combined Fund Organization, representatives of that Organization initiate campaigns in their assigned periods by direct contact with the heads of Federal offices and installations in the local communities. Each Federal agency conducts its own solicitation among its employees, using campaign materials, supplies, and speakers furnished by or through the Principal Combined Fund Organization, under the direction of the local Federal Coordinating Committee and the Director.

(e) *Solicitation Methods.* Employee solicitations are conducted during duty hours using methods that permit true voluntary giving and reserve to the individual the option of disclosing the gift or keeping it confidential.

(f) *Off-the-Job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility. Such agencies may solicit Federal employees at their homes as they do other citizens of the community, or appeal to them through union, veteran, civic, professional, political, legal defense, or other private organizations. In addition, limited arrangements may be made for off-the-job solicitations on military installations and at entrances to Federal buildings.

(g) *Prohibited Discrimination.* The Campaign is a means for promoting true voluntary charity among members of the Federal community. Because of the participation of the government in organizing and carrying out the Campaign, all kinds of discrimination prohibited by law to the government must be proscribed in the Campaign. Accordingly, discrimination for or against any individual or group on account of race, color, religion, sex, national origin of citizens, age, handicap, or political affiliation is prohibited in all aspects of management and execution of the Campaign. Nothing herein denies eligibility to any voluntary agency, which is otherwise eligible under this Part to participate in the Campaign, merely because such agency is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

§ 950.105 Federal policy on civic activity.

Federal personnel are encouraged to participate actively in the work of voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with agency policy and prudent use of official time. They are encouraged also to devote private time to such volunteer work.

§ 950.107 Preventing coercive activity.

True voluntary giving is basic to Federal fund-raising activities. Actions that do not allow free choices or even create the appearance that employees do not have a free choice to give or not give, or to publicize their gifts or keep them confidential, are contrary to Federal fund-raising policy. The following activities are not in accord with the intent of Federal fund-raising policy and, in the interest of preventing coercive activities in Federal fund-raising, are not permitted in Federal fundraising campaigns:

(a) Supervisory solicitation of employees supervised;

(b) Setting 100% participation goals;

(c) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and installment pledges;

(d) Establishing personal dollar goals and quotas; and

(e) Developing and using lists of noncontributors.

Subpart B—Organization and Functional Responsibilities

§ 950.201 Development of Policy and Procedures.

(a) *Director, U.S. Office of Personnel Management.* Under Executive Order 12353, Charitable Fund-Raising, the Director is responsible for establishing fund-raising policies and procedures in the executive branch. With the advice of appropriate interested persons and organizations and of the executive departments and agencies concerned, he makes all basic policy, procedural, and eligibility decisions for the program.

(b) *Eligibility Committees.* A National Eligibility Committee shall consist of a chairman and such other members selected by the Director as he deems necessary, who shall serve at the pleasure of the Director. Local elibility shall be determined by the local Federal Coordinating Committees. The National Eligibility Committee is responsible for recommending to the Director:

(1) Eligibility determinations on national voluntary agencies;

(2) Modification of eligibility standards and requirements as needed; and

(3) Any other matters as requested by the Director.

§ 950.203 Program Administration.

(a) *Federal Agency Heads.* The head of each executive department and agency is responsible for:

(1) Seeing that voluntary fund-raising within the department or agency is conducted in accordance with the policies and procedures prescribed by this Part;

(2) Designating a top-level representative as Fund-Raising Program Coordinator to work with the Director as necessary in the administration of the fund-raising program within the agency;

(3) Assuring full participation and cooperation from his installations in local fund-raising campaigns;

(4) Assuring that the policy of voluntary giving and clear employee choice is upheld during the fund-raising campaign; and

(5) Providing a mechanism to look into employee complaints of undue pressure and coercion in Federal fund-raising. Agencies shall provide procedures and assign responsibilities for the investigation of such complaints. Personnel offices shall be responsible for informing employees of the proper orgnization channels for pursuing such complaints.

(b) *Fund-Raising Program Coordinators.* The responsibilities of agency Fund-raising Program Coordinators are to:

(1) Cooperate with the Director, the local Federal Coordinating Committee and the Principal Combined Fund Organization in the development and operation of the program;

(2) Maintain direct liasion with the Office of the Director in the Administration of the program;

(3) Publicize program requirements throughout the department or agency;

(4) Answer inquiries about the program from officials and employees and from external sources; and

(5) Investigate and arrange for any necessary corrective action on complaints that allege violation of fund-raising program requirements within the agency.

§ 950.205 Program coordination.

The Director coordinates the agencies' administration of the fund-raising program and maintains liaison with voluntary agencies.

§ 950.207 Local voluntary agency representatives.

Federated and national voluntary agencies provide their State and local representatives with policy and procedural guidance on the Federal program. The local representatives are responsible for furnishing educational materials, speakers, and campaign supplies as may be required and appropriate to the Federal program.

§ 950.209 Local Federal agency heads.

The head of the Federal department or agency provides the heads of the local Federal offices and installations with copies of the Federal fund-raising regulations. The local agency heads are responsible for:

(a) Cooperating with representatives of the local Federal Coordinating Committee, the Principal Combined Fund Organization and with the local Federal officials in organizing local Federal campaigns;

(b) Undertaking official campaigns within their offices or installations and providing active and vigorous support with equal emphasis for each authorized campaign;

(c) Assuring that personal solicitations on the job are organized and conducted in accordance with the procedures set in these regulations; and

(d) Ensuring that authorized campaigns are kept within reasonable administrative limits of official time and expense.

§ 950.211 Local Federal coordinating committees.

(a) When there are a number of Federal agency offices and installations in the same local area, some interagency coordination is necessary in order to achieve effective community-wide campaigns and to improve general understanding and compliance with the fund-raising program. The Director assigns the responsibility for local coordination to existing organizations of Federal agency heads whenever possible and to special committees where needed. The local Federal Coordinating Committee is authorized to make all decisions within the provisions and policies established in this Part on all aspects of the local campaign, including eligibility and the supervision of the local community campaign and the Principal Combined Fund Organization. Such decisions may be appealed, however, to the Director.

(b) *Authorized Local Federal Coordinating Committee.* Coordinating responsibility is assigned by the Director to one of the following organizations:

(1) Federal Executive Boards. The boards exist in principal cities of the United States for the purpose of improving interagency coordination. They are composed of local Federal agency heads who have been designated as Board members by the heads of their departments and agencies under Presidential authority.

(2) Federal Executive Associations and Business Associations, self-organized associations of local Federal officials, and the Department of Defense National Policy Coordinating Committee

(3) Fund-Raising Program Coordinating Committees. These committees are established in communities where there is no Federal Coordinating Committee in existence. Leadership in organizing such a committee is the responsibility of the head of the local Federal installation that has the largest number of civilian and uniformed services personnel. Local Federal agency heads or their designated representatives serve on the committee and determine all organizational arrangements.

(c) *Employee union representation.* In order to ensure employee participation in the planning and conduct of the CFC, employee representatives from the principal employee unions of local Federal installations should be invited to serve in whatever organization exercises local coordinating responsibilities.

(d) *Fund-raising responsibilities.* Within the limits of the policies, procedures, and arrangements made nationally, the fund-raising responsibilities of local Federal Coordinating Committees are to:

(1) Facilitate local campaign arrangements. The Federal Coordinating Committee (i) names a high-level chairman for the authorized Federal campaigns, (ii) provides lists of Federal activities and their personnel strength, (iii) cooperates on interagency briefing sessions and kick-off meetings, and (iv) supports appropriate publicity measures needed to assure campaign success.

(2) Administer program requirements. The Coordinating Committee is responsible for organizing the local Combined Federal Campaign, supervising the activities of the Principal Combined Fund Organization, and acting upon any problems relating to a voluntary agency's noncompliance with the policies and procedures of the Federal fund-raising program.

(3) Develop understanding of campaign program policies, procedures and voluntary agency programs. The local Federal Coordinating Committee serves as the central medium for communicating program, policies and procedures of the Campaign and for understanding the organizations employees are being asked to support and how employees can obtain services they may need from these organizations.

(e) *Principal Combined Fund Organization.* The local Federal Coordinating Committee will supervise a local Principal Combined Fund organization. The Principal Combined Fund Organization will raise money from Federal employees and administer the local campaign, under the direction of the local Federal Coordinating Committee.

(f) *Communication and Resolution Procedures Through the Director, Office of Personnel Management.* Each local Federal agency head will receive fund-raising directions through his agency channels and will raise questions that pertain to fund-raising activities within his agency by the same means. However, the local Federal Coordinating Committee refers unresolved local fund-raising questions or problems that are common to seveal Federal agencies directly to the Director. The Director communicates directly with the chairman of the local Federal Coordinating Group for information about the local fund-raising situation.

§ 950.213 Avoidance of conflicts of interest.

Any Federal employee who serves on the Eligibility Committee, a local Federal Coordinating Committee, or as a Federal agency fund-raising program coordinator must not participate in any decision situations where, because of membership on the board or other affiliation with a voluntary agency, there could be or appear to be a conflict of interest.

Subpart C—Campaign Arrangements for Voluntary Agencies

§ 950.301 Types of voluntary agencies.

Voluntary agencies are private, self-governing organizations financed primarily by contributions from the public. Some are national in scope, with a national organization that provides services at localities through State or local chapters or affiliates. Others are primarily local, both in form of organization and extent of services.

§ 950.303 Types of fund-raising methods.

(a) The methods used by voluntary agencies in public fund-raising will be either federated or independent. A national *federated* group must meet the same eligibility criteria as a national agency, and have at least 10 local agencies in at least 200 local combined campaigns. In federated campaigns, local voluntary agencies join contractually into a single organization for fund-raising purposes. A local United Way, united fund, community chest, or other local federated group will be considered and supported as a single agency. Local chapters or affiliates of national agencies can form local federations or be admitted as additional participating members of national federated groups.

(b) An *independent* campaign is one conducted by a local or national voluntary agency through its own fund-raising organization. National agencies may conduct independent campaigns or participate in a federation.

§ 950.305 Considerations in making Federal arrangements.

(a) *On-the-Job-Solicitation.* In order to have only *one-the-job solicitation,* i.e., a Combined Federal Campaign, independent appeals must be combined into a single joint campaign of eligible health and welfare organizations in conformance with the policies and procedures prescribed in this Part.

(b) *Campaign Arrangements Established Nationally.* Basic campaign

arrangements are established by the Director. Local Federal agency heads are not authorized to vary from the established arrangements except to the extent that local variations are expressly provided for in this Part.

(c) *Number of Solicitations.* Not more than one solicitation on the job will be made at any location annually on behalf of voluntary health, welfare, or international service agencies, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Responsible Conduct.* In the event a national voluntary agency fails to adhere to the eligibility requirements or to the policies and procedures of the Federal program, solicitation privileges may be withdrawn by the Director at any time after due notice to the agency and opportunity for consultation.

§ 950.307 Definition of terms used in Federal arrangements.

(a) *Domestic Area.* The 50 United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

(b) *Overseas Area.* All other points in the world where Federal employees or members of the uniformed services are stationed.

(c) *Recognized National Voluntary Agency.* An agency that has been declared eligible by the Director for participation in campaigns in the Federal establishment.

(d) *National Voluntary Agency "Supported Primarily through United Ways, United Funds, and Community Chests."* An agency that generally solicits within the Federal establishment as a participating member of United Ways, united funds, community chests, or other local federated groups that are members in good standing or, or are recognized by, United Way of America.

(e) *Federated Community.* A federated community is a geographical location within the domestic area where a federated fund-raising program exists. In a federated community, recognized national voluntary agencies can join a federated campaign group or participate individually. However, voluntary agencies "supported primarily through United Way, united funds, and community chests" are authorized to solicit on-the-job in a federated community only as participating members of the local United Way, fund, or chest.

§ 950.309 Federated and overseas campaigns.

(a) *Authorized Federated Groups.* (1) United Way of America and any local United Way, united fund, community chest, or other local federated group that is a member in good standing of, or is recognized by, United Way of America and that meets the eligibility requirements in these regulations is authorized on-the-job solicitation privileges in its local campaign area on behalf of any of its member agencies that also meet these requirements. Certifications as to the eligibility requirements on behalf of local United Ways, united funds, and community chests and each member agency will be made by United Way of America to the Director.

(2) The American Red Cross, the National Health Agencies, the International Service Agencies, the National Service Agencies and such other groups which shall meet the eligibility standards under this Part, as determined by the Director, shall be authorized on-the-job solicitation privileges on behalf of their member agencies that also meet all requirements of this Part. Certification for each subunit that they meet such requirements will be made to the Director.

(3) If a member agency does not meet the eligibility requirements, it shall not be permitted to solicit contributions from Federal personnel in the local area. Failure by a member agency to meet the requirements will disqualify the federated group from soliciting contributions, unless after notice to the group of intent to cancel, corrective action is taken to the satisfaction of the Director. If appropriate corrective action is not taken, the Director may disqualify the federated group.

(b) *Local Federated Agencies.* To be eligible for participation in the Federal fund-raising program, the local federated group must be broadly representative in its board and committee membership of the community and must be making bona fide efforts to meet community needs. Requirements for participation in a local federated group must be in writing, available to the public, reasonable, and applied fairly and uniformly to all local agencies requesting participation. Procedures must be provided by the federated group for at least one review of any decision denying participation requested by a local agency. The review must be conducted by a committee or group within the federated organization that did not participate in the original decision. A written statement of the reasons for denial must be provided to the applicant agency. Where a local chapter or affiliate of a national agency, precluded from independent participation in the Federal fund-raising program because the agency is not approved for participation, such chapter or affiliate may request the Director, after securing a report by the Federated group, to determine that the reasons for its non-approval are not "arbitrary and capricious."

(c) *"Causes" Not Federated.* Solicitation for a health or other "cause," e.g., for "Mental Health" or "Heart Disease," without identification of the specific voluntary agency for which the funds are sought, is not authorized. All funds collected from Federal personnel must be allocated only to specific voluntary agencies.

(d) *Designation of Federated Area.* The recognition of a local Federal Coordinating Committee by the Director designates that community as a recognized local campaign site. Two or more authorized local Federal Coordinating Committees are authorized to develop coordinated solicitations best suited to the needs of their localities.

(e) *Overseas Campaign.*—(1) *DoD Overseas Combined Federal Campaign.*

(i) A Combined Federal Campaign is authorized for all Department of Defense activities in the overseas areas during a six-week period in the fall. Agencies that may participate in the Overseas Combined Federal Campaign will consist of: The American Red Cross; the United States Organization; those national health agencies recognized for campaigns in the domestic area (the Federal Service Campaign for the National Health Agencies); and those international service agencies recognized for campaigns in the domestic area, plus any national or federated agency recognized for overseas campaigns; any of which is eligible to be Principal Combined Fund Organization.

(ii) Contributors to the DoD Overseas Combined Federal Campaign are required to designate their gifts to one or more of the eligible agencies or the Principal Combined Fund Organization. The Principal Combined Fund Organization for the overseas campaign shall pay the amounts collected directly to the designated agencies, less the processing fee, if any, approved in advance of the campaign by the Federal official in the overseas area responsible for the local campaign arrangements.

(2) *Local Voluntary Agency Campaigns.* The heads of overseas offices and installations may, at their discretion, permit the solicitation of their military and civilian personnel for local voluntary agencies. Such campaigns will be conducted in accordance with the basic policies and procedures of the Federal program and at times which do not conflict with the DoD Overseas Combined Federal

Campaign period. The eligibility standards in Subpart D will be used as guidelines in determining the eligibility of local voluntary agencies. Federal leadership in organizing such campaigns will be assumed by the head of the overseas Federal establishment that has the largest number of U.S. personnel in the campaign area.

(3) *Optional Participation by Certain Civilian Agencies.* Federal civilian departments and agencies that have traditionally considered their overseas personnel as members of the National Capital Area for fund-raising purposes may continue this practice.

§ 950.311 Off-the-job solicitation at places of employment.

Voluntary agencies that are not recognized for the on-the-job program may be authorized off-the-job solicitation privileges at places of Federal employment under the conditions specified. Dual solicitation is not authorized, so this privilege cannot be made available to any voluntary agency that is included in the on-the-job program.

(a) *Family Quarters on Military Installations.* Voluntary agencies may be permitted to solicit at private residences or at similiar on-post family public quarters in unrestricted areas of military installations at the discretion of the local commander. However, such solicitation may not be conducted by military or civilian personnel in their official capacity during duty or non-duty hours, nor may such solicitation be conducted as an official command-sponsored project. This restriction is not intended to prohibit or to discourage military and civilian personnel from participating as private citizens in voluntary agency activities during their off-duty hours.

(b) *Public Entrances of Federal Buildings and Installations.* Voluntary agencies that engage in limited or specialized methods of solicitation—for example, the use of "poppies" or other smiliar tokens by veterans organizations—may be permitted to solicit at entrances or in concourses or lobbies of Federal buildings or installations normally open to the general public. The heads of the Federal agencies occupying the building or installation may authorize this privilege for no more than two (2) business days, if he believes this will not disrupt the functioning of the agency and if this also is approved by the building manager, if not an agency employee, regarding the functioning of the building. The agreement with the local representatives of the voluntary agency will specify the authorized locations, the number of solicitors that may be used, and any other necessary arrangements.

Subpart D—Eligibility Requirements for National Voluntary Agencies

§ 950.401 Purpose

These eligibility requirements are established to ensure that:

(a) Only responsible and worthy voluntary agencies are permitted to solicit on the job in Federal installations;

(b) The funds contributed by Federal personnel will be used effectively and for the announced purposes of the soliciting agencies; and

(c) All recognized national voluntary agencies meet requirements of Executive Order 12353 of March 23, 1982.

§ 950.403 General requirements for National agencies.

(a) *Type of Agency.* Only nonprofit, tax-exempt, charitable organizations, supported by voluntary contributions from the general public and providing direct and substantial services to persons for health and welfare and other appropriate national voluntary services, are eligible for approval. All such services must be consistent with the policies of the United States Government.

(b) *Integrity of Operations.* Only voluntary agencies having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Funds contributed to such organizations by Federal personnel must be effectively used for the announced purposes of the agency.

(c) *National Scope.* The voluntary agency must demonstrate that:

(1) It is organized on a national scale with a national association that is representative of its constituent parts and that, through its board of directors, exercises close supervision over the operations and fund-raising policies of any local chapters or affiliates.

(2) It has earned good will and acceptability throughout the United States, particularly in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.

(3) National scope, that is, scale, goodwill, and acceptability, must be demonstrated by:

(i) When a voluntary agency provides a service in all or most of the States, or in several foreign countries, or in several parts of one large foreign nation;

(ii) When contributor support comes from all or most parts of the Nation;

(iii) By the extent of public support and the number and the geographical spread of contributors;

(iv) By the national character of any public campaign, which may be shown by a large number (c. 75) of local chapters or affiliates or representatives which promote such a campaign;

(v) By the reputation of the organization nationally; and

(vi) By the proportionate effect of the organization's participation in CFC on total income.

(d) *Type of Campaign.* Approval will be granted only for fund-raising campaigns in support of current operations. Capital fund campaigns are not authorized.

§ 950.405 Specific requirements.

(a) *Eligibility.* To be eligible for approval by the Director for participation in the Combined Federal Campaign, the national agency must meet the specific requirements that it be one:

(1) That is either a health or welfare, or other appropriate voluntary agency, as defined in section 950.101 of this Part;

(2) That is voluntary and broadly supported by the public, meaning (i) that it is organized as a not-for-profit corporation or association under the laws of the United States, a State, a territory, or the District of Columbia; (ii) that it is classified as tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954, as amended; and, (iii) that with the exception of agencies whose revenues are affected by unusual or emergency circumstances, as determined by the director, it has received at least 50 percent of its revenues from nongovernmental sources or at least 20 percent of its revenues from direct and/or indirect contributions in the year immediately preceding any year in which it seeks to participate in the Combined Federal Campaign (recently founded organizations participating in the CFC before this Part became effective will have three (3) years to comply with the 50 percent/20 percent requirement);

(3) That is directed by an active board of directors, a majority of whose members serve without compensation; that adopts and employs the *Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations;* that prepares and makes available to the general public an annual financial report prepared in accordance with the *Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and certified by an independent certified public accountant; that provides for an annual external audit by an independent certified public accountant;

(4) That can demonstrate to the director, if its fund-raising and administrative expense is in excess of 25 percent of total support and revenue, that its actual expense for those purposes is reasonable under all the circumstances in its case;

(5) That ensures that its publicity and promotional activities are based upon its actual program and operations, are truthful and nondeceptive, and include all material facts; and

(6) That has a direct and substantial presence in the local campaign community, which presence shall be demonstrated to the Director or local Federal Coordinating Committee documenting that the services are known to and accessible to Federal employees in the local community; examples of direct and substantial services are: providing local services, personal counseling (if by telephone with a local phone number), local disease prevention programs or inoculations, screening for detection of problems or need for services or referrals, treatments (of illnesses, poverty, and handicaps), and local educational or informational services; as a general rule employees in the solicitation area, or their families, should be able to receive services from a particular voluntary agency, within a reasonable distance from the employment stations; however, international organizations that provide health and welfare services overseas, which meet the eligibility criteria except for the direct and substantial present criterion, shall be eligible to solicit funds from Federal personnel.

(b) *Fund-Raising Practice.* The voluntary agency's publicity and promotional activities must assure protection against unauthorized use of agency contributor's lists; must permit no payment of commissions, kickbacks, finders fees, percentages, bonuses, or overrides for fund-raising; and must permit no general telephone solicitation of the public.

(c) *Reports.*— (1) *Annual Report.* The voluntary agency must prepare an annual report to the general public that includes a full description of the agency's activities and accomplishments and the names of chief administrative personnel.

(2) *Combined Reports.* Organizations which represent more than one subunit must prepare a combined annual financial report to the general public in accordance with the *Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations.* The combined report shall include all income and expenditures for the national operations and all chapters, committees, affiliates, or satellites.

(3) *Source of Funds and Costs Report.* The voluntary agency must file a special report with the Director that discloses on a consolidated basis the agency's (including chapters and affiliates) sources of funds, fund-raising expense, and use of net funds in its most recent fiscal year.

§ 950.407 Application requirements.

(a) *Federated Groups.* Federated Groups, i.e., the American Red Cross, United Ways and local community chests or united funds that are members in good standing of or are recognized by United Way of America, the National Health Agencies, the International Service Agencies, the National Service Agencies, and such other federations which shall be recognized under Subpart C, do not need to apply separately as National Agencies. For purposes of this Part, the American Red Cross and its chapters are recognized as operating an accounting and financial system in substantial compliance with the *Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and certification to this effect by local chapters is not required.

(b) *National Agencies.* In order to be considered for solicitation privileges in domestic or overseas campaigns in the Federal service, each national voluntary agency must file an application annually. National voluntary agencies that have already been approved for fund-raising privileges in the Federal service are not required to submit the information requested in paragraphs (f)(1), (2), (3), (4), and (8) of this section, except where there has been a substantial or significant change in these items; for example, a change in purpose of the organization or a decline in chapter coverage or activity. They are required to furnish information in paragraphs (f)(5), (6), (7), (9), (10), (11), and (12) of this section.

(c) *Time and Place of Filing.* Applications must be filed with the Office of the Director, U.S. Office of Personnel Management, Washington, DC 20415. Applicants are urged to file as early as possible in each calendar year.

(d) *National Eligibility.* The Director, with the assistance of a National Eligibility Committee of government officials, employee organization leaders and private citizens, uses the information filed with the agency's application and derived from other responsible sources to make his decision on an agency's eligibility. The National Eligibility Committee shall consider the applications fairly, hold meetings and hearings as appropriate, and make recommendations to the Director. National eligibility shall only give a presumption of local eligibility, which must also meet the requirements of § 950.501. Where a local chapter of an eligible national agency is denied participation in a local campaign, it may appeal to the Director, whose decision shall be final.

(e) *Notice of Decision.* Applicants for national eligibility are to be notified of the decisions as soon as possible after filing. If dissatisfied with the Director's decision, the applicants may requres a review of the decision by the Director. The second decision will be final, subject to appropriate judicial review or legislative action.

(f) *Form and Content of Application.* Applications shall be filed in the following form and will include the information documents, and data specified:

(1) Corporate name and fiscal year;

(2) Origin, purpose, and structure of organization, including information to show that the voluntary agency meet the general and specific requirements of this Subpart;

(3) A list of chapters, affiliates, or representatives in alphabetical order by State; and under the State, a list of cities with chapter, affilitate, or representative by names and addresses;

(4) Demonstration of the good will and acceptability of the organization throughout the United States;

(5) Outline of the program, particularly the nature of the direct services to persons provided by the agency and under what paragraph (a)(3) of § 950.101 the application is made. Furnish written assurance of compliance with all requirements of § 950.101(a)(2) and §§ 950.403 through 950.405;

(6) Description of board of directors' administrative activity in past year and list current board members' names, addresses, and businesses or professions;

(7) Certification by an independent certified public accountant of compliance with an acceptable financial system and adoption of the Uniform Standards;

(8) Statement of compliance with all factors in the section on fund-raising practice.

(9) Copy of latest annual report;

(10) Copy of latest financial report prepared in accordance with the *Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and provide certification by an independent certified public accountant that the

report was prepared in conformity with the Standards;

(11) Copy of latest external audit by an independent certified public accountant; and

(12) A special report to the Director, consistent with the reporting requirements of the Standards. The report must include the agency's sources of funds, expenditures by program service, and supporting services with fund-raising and other expenditures listed separately. The report must cover the most recent fiscal year and represent a consolidated statement of national and affiliate income and expenditures.

The amount of contributions received from United Ways, united funds or community chests, from Federal service campaigns, and the total from all other sources, especially transfers, dues, or other funds from affiliated organizations, must be separately identified and shown. All entries must be reported in dollar and percent of total contribution. The report must be furnished in accordance with the format shown in the appendix to this Subpart.

(g) The Director shall be authorized to investigate facts and circumstances on issues relating to eligibility raised under this Part.

§ 950.409 Public announcement of recognized agencies and assigned periods.

Early in the calendar year the Director will announce the names of all national voluntary agencies eligible for participation in the Federal fund-raising program for the ensuing campaign year.

BILLING CODE 6325-01-M

APPENDIX A TO SUBPART D

(Agency)

SOURCE OF FUNDS AND COSTS REPORT

(for the year ending . . . . .)

Support from the Public:	Amount	Percent of Income
Received Directly:	$ . . .	. . . .
Contributions	. . .	. . . .
Special Events (less related expenses of $____)	$ . . .	. . . .
Subtotal	. . .	. . . .
Received Indirectly:		
United Ways, Funds and/or Community Chests	. . .	. . . .
Federal Service Campaigns	. . .	. . . .
Other Contributions	. . .	. . . .
Subtotal	. . .	. . . .
Total Support from the Public	. . .	. . . .
Miscellaneous Revenue:		
Government Grants (including grants-in-kind)	. . .	. . . .
Service Fees, Literature Sales, etc.	. . .	. . . .
Gain from the Sale of Products	. . .	. . . .
Memberships	. . .	. . . .
Investment Income	. . .	. . . .
Other Income	. . .	. . . .
Total Miscellaneous Revenue	. . .	. . . .
TOTAL SUPPORT AND REVENUE	. . .	100

Expenditures:	Amount	Percent of expenditure
Program Services:		
(Category)	. . .	. . . . .
(Category)	. . .	. . . . .
(Category)	. . .	. . . . .
(Category)	. . .	. . . . .
Subtotal	. . .	. . . . .
Supporting Services:		
Management and General	. . .	. . . . .
Fund Raising	. . .	. . . . .
Subtotal	. . .	. . . . .
TOTAL EXPENDITURES	. . .	100
EXCESS OF REVENUE OVER EXPENDITURES	$	

BILLING CODE 6325-01-C

Subpart E—The Local Combined Federal Campaign

§ 950.501 Authorized local voluntary agencies.

A local voluntary agency shall meet the same criteria as a national voluntary agency, except national scope, but shall be evaluated under these criteria by the local Federal Coordinating Committee recognized by the Director for that Community. After one year from the effective date of this Part, only local groups affiliated with a federated or other eligible national voluntary agency, as determined by the local Federal Coordinating Committee or the Director, upon appeal, are eligible to participate in the local campaign.

§ 950.503 Participation in Federal campaigns by local independent agencies.

(a) Arrangements will be established by each local Federal Coordinating Committee to evaluate local voluntary agencies which seek to solicit separately from the local federated group. These procedures will require eligible local voluntary agencies to preregister with the local Federal Coordinating Committee to participate in that year's Combined Federal Campaign. Arrangements will be made by the Central Receipt and Accounting Point to distribute contributions to authorized agencies after appropriate adjustments are made for "shrinkage" and approved administrative costs.

(b) *Application procedures.* In order to be eligible for participation in the Combined Federal Campaign, local agenices must submit an application for registration in the CFC to the local Federal Coordinating Committee. Applications may be submitted jointly for member agencies in federated groups. The Federal Coordinating Committee is responsible for reviewing and taking action on the applications based on eligibility requirements in this Part, especially those of Subpart D. The Local Federal Coordinating Committee may request a qualified screening organization to assist in the processing and review of applications against the eligibility requirements and in recommending approval or denial of the application, but the local Federal Coordinating Committee must make the actual decisions. If the Federal Coordinating Committee determines that eligibility requirements are not met, reasons for that determination will be provided to the agency within 60 days of the receipt of the application.

§ 950.505 Responsibility of local Federal Coordinating Committees.

Each Federal Coordinating Committee is required to organize a Combined Federal Campaign in the local area for which it has fund-raising responsibility. The heads of executive departments and agencies will request their local officials to cooperate fully with the decisions of the Federal Coordinating Committee in all aspects of CFC arrangements. The Federal Coordinating Committee makes all final decisions on the local campaign, subject to appeal to the Director.

§ 950.507 Local CFC plan.

(a) *CFC as Uniform Fund-Raising Method.* The Combined Federal Campaign is the only authorized fund-raising method in all areas in the United States in which 200 or more Federal employees are located. All voluntary agencies wishing to participate in fund-raising within the Federal service must do so within the framework of a local Combined Federal Campaign.

(b) *Non-Participation.* In the event that any agency does not follow these regulations for participation in a local CFC, fund-raising privileges in local Federal establishments are forfeited during that fiscal year. Voluntary withdrawal will not prejudice eligibility for the next year's Campaign.

(c) *Red Cross Participation.* In local communities where the Red Cross is not a participating member of the local United Way, it will be regarded as a separate campaign organization in the combined campaign. Red Cross chapters have independent authority with respect to fund-raising policy, so responsibility for deciding on participation in CFC rests with the local chapter board of directors. As with the other national organizations, in the event local Red Cross chapters choose not to participate in CFC, they are not authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Exceptions in Areas of Less than 200 Federal Employees.* Where there are fewer than 200 Federal employees in the local campaign area, it may not be practicable to hold a Combined Federal Campaign. Therefore, in such areas local Federal officials are not required to arrange for a Combined Federal Campaign. However, if they believe it would be desirable from the standpoint of the local community or the Federal Government to have such a campaign, they may contact the Director to arrange a Combined Federal Campaign regardless of the number of employees involved.

§ 950.509 Organizing the local campaign: The principal combined fund organization.

The Local Federal Coordinating Committee shall organize the local community campaign. It will appoint a campaign chairman who will carry out campaign duties in conformance with the policies and procedures prescribed in this Part. From among the federations approved for participation in the local CFC, the Federal Coordinating Committee shall select a Principal Combined Fund Organization to conduct the campaign and to serve as fiscal agent. In doing so the Federal Coordinating Committee shall select whichever applicant organization it finds to be the local federated group in the CFC geographic area that provides through one specific, annual public solicitation for funds the greatest support for charitable agencies that depend on public subscriptions for support; and that, in the judgement of the Federal Coordinating Committee, can most effectively provide the necessary campaign services and administrative support for a successful Campaign.

(a) In deciding whether an organization is the Principal Combined Fund Organization in the CFC geographic area, the Federal Coordinating Committee will consider:

(1) The number of local charitable agencies or affiliates in the CFC geographic area that rely on the applicant organization for financial support and that meet the prescribed eligibility criteria for participation in the CFC;

(2) The number of dollars raised by the applicant organization in the CFC geographic area during its last completed annual public solicitation for funds;

(3) The percentage of such dollars disbursed to the charitable agencies; and

(4) The local capacity of the applicant organization to provide the necessary campaign services and administrative support (including operation of the Central Receipt and Accounting Point) to the local Federal Coordinating Committee for a successful Federal campaign in conformance with the policies and procedures prescribed in this Part.

(b) An organization seeking to be designated the Principal Combined Fund Organization in a CFC area shall submit its application for such designation to the local Federal Coordinating Committee for approval. All such

applicants must pledge to fairly and equitably manage the campaign; to consider advice from, be responsible to reasonable requests for information from, and to consult with other agencies; and to be subject to the decisions and supervision of the local Federal Coordinating Committee and the Director. Upon submission of a complaint by a local Federal Coordinating Committee or a Federated or national voluntary agency, the Director may revoke the designation as a Principal Combined Fund Organization, if in his discretion, he finds these pledges are not fulfilled.

(c) Applications shall include the following:

(1) The names of the voluntary agencies in the area that rely on the applicant organization for financial support and that meet the eligibility criteria set in this Part;

(2) The boundaries of the area covered by the public donation solicitation of the applicant organization;

(3) The number of dollars raised in the CFC geographic area by the applicant during its last completed annual public solicitation for funds;

(4) The percentage of such dollars disbursed to the charitable agencies;

(5) Agreement to transmit contributions, as designated by Federal employees, to charitable organizations approved for participation and listing in the local CFC (minus only the approved fee for administrative cost reimbursement and approved "shrinkage" factor);

(6) Certification that it, and its participating member organizations, are in compliance with all applicable eligibility requirements specifed in this Part for participation in the CFC;

(7) Fee proposed to be charged by the applicant organization for reimbursement for fund-raising and administrative costs;

(8) Statement that the applicant organization does, or does not, regularly maintain as an intregral part of its charitable activities a local volunteer evaluation and allocation committee; and

(9) Statement that the applicant organization is organized to provide the necessary campaign services and support to the local Federal Coordinating Committee for a successful Federal campaign in conformance with the policies and procedures prescribed in this Part.

(d) Member agencies of federations and other agencies certified for listing and receipt of designations through the approved local or national admission process, shall be eligible to receive designations.

(e) The Principal Combined Fund Organization shall provide a form for the employee to indicate any amounts he may wish to designate to affiliated and non-affiliated beneficiaries. The Principal Combined Fund Organization shall pay the amount collected to the employee-designated beneficiary agency less the amount necessary to reimburse the Principal Combined Fund Organization for administrative expenses and a "shrinkage" factor approved by the local Federal Coordinating Committee and established on the basis of "shrinkage" experience in the local CFC.

(f) The fee charged for administrative cost reimbursement must be approved in advance by the local Federal Coordinating Committee and published in the campaign literature.

(g) All contributions not designated to specific agencies or specific federated agencies shall be deemed to have been designated to the Principal Combined Fund Organization. A statement of that fact shall be clearly stated on the face of each pledge card in red ink.

(h) The Principal Combined Fund Organization shall issue a report to the local Federal Coordinating Committee within a reasonable time following the campaign indicating the following information:

(1) Dollars raised,

(2) Number of contributors,

(3) Amounts designated to affiliated and non-affiliated agencies,

(4) Amount designated to the Principal Combined Fund Organization, and

(5) Costs of administering the campaign, including the Central Receipt and Accounting Point.

Provision must be made by the Principal Combined Fund Organization for the audit of CFC funds. If the CFC is over $100,000, an independent certified audit must be performed. Copies of the audits will be submitted to the appropriate local Federal officials and made available for inspection by participating agencies if desired.

(i) *CFC Committee.* Where necessary, the local Federal Coordinating Committee may designate a committee from among its principal members, called the CFC Committee, to give top leadership and direction to the planning, conduct and evaluation of the local combined campaign. The Federal Coordinating Committee, however, may not redelegate any final authority for the campaign to the CFC Committee. The Chairman of the Campaign need not be the Chairman of the organization designated as the local Federal Coordinating Committee.

(j) *Action Steps by the Local Federal Coordinating Committee Chairman.* The Chairman of the local Federal Coordinating Committee is authorized to establish a Local Joint Work Group of Federal representatives and representatives of the Principal Combined Fund Organization, when necessary, to assemble necessary information and data, plan the detailed campaign arrangements, identify policy issues, and prepare campaign materials. The work group should have a Federal chairman, other management and employee representatives as deemed advisable, and representatives from the Principal Combined Fund Organization. But all decisions are to be reported to the local Federal Coordinating Committee for formal approval.

(k) *Loaned Executive Program.* One or more loaned Federal executives may be used in a Combined Federal Campaign. The Loaned Executive Program was authorized by President Nixon in a memorandum to heads of departments and agencies dated March 3, 1971. A Loaned Executive may be detailed from his agency on a full or part-time basis, for a specific period of time, to conduct or assist in the operation of a Combined Federal Campaign. The employing agency will decide who will serve as a Loaned Executive, if anyone, and the length of the detail. Executives may not be loaned or assigned to any specific voluntary organization but only to the official Combined Federal Campaign group. When assigned to the CFC, the executive shall be placed on administrative leave.

§ 950.511 Basic local CFC ground rules.

(a) The arrangements outlined in §§ 950.511 through 950.525 constitute basic ground rules for the local Combined Federal Campaign. Certain local variations are permissible if specifically authorized in this Subpart. However, any modification of ground rules in specific instances must be requested by Federal Coordinating Committees from the Director. Modifications will be granted only in the most exceptional circumstances.

(b) The local Federal Coordinating Committee will approve the:

(1) *Campaign Name.* The name will be the Combined Federal Campaign. The title should include the year for which contributions are solicited and identification of the locality, as for example, 1981 San Antonio Area Combined Federal Campaign.

(2) *Campaign Period.* The solicitation period may be any period not in excess of six consecutive weeks between September 1 and November 30.

(3) *Campaign Area.* The exact geographical area to be covered by the combined campaign will be determined nationally, taking into account past practice and the feasible scope for a single, coordinated campaign. The jurisdiction of the organization named as the local Federal Coordinating Committee will set the basic area of the Campaign, based upon past practices. Any changes in campaign area must be approved by the Director.

§ 950.513 Contributions.

(a) The contributor's information leaflet will clearly state that the Federal employee is encouraged to direct his gift to specific agencies. A single form of pledge card and leaflet-brochure will be produced under standards set in this Part, and approved by the Director. The leaflet will explain that when such gifts are earmarked to a specific agency, the Principal Combined Fund Organization will remit such funds as collected, minus approved administrative costs, directly to that agency as collected; when the object of the gift is the Volunteer Evaluation and Allocation Committee, the gift is pooled by the Principal Combined Fund Organization with the gifts of others and allocated by that Organization, after local study, to meet the needs of that community. The leaflet will also clearly state that when the Federal employee decides not to designate, the gift will go to the Principal Combined Fund Organization for distribution.

(b) Several boxes will be provided on the pledge form so that the donor may indicate his choice, if any, of one or more of the agencies listed to receive all or part of his gift. A minimum of five boxes for such purposes will be shown on the face of and on all copies of the pledge card itself. Separate designation slips are not authorized under any circumstances. The pledge card must be so arranged that each Federal employee receives the pertinent CFC and agency information and the pledge card as a single package (e.g. inserted in a slot or pocket in the contributor's information leaflet).

(c) If contributions are designated to organizations not participating in the local CFC, they will not be accepted.

§ 950.515 Dollar goals.

(a) A dollar goal for the overall combined campaign is recommended. Generally, it provides a focus for group spirit and unity of purpose that contributes materially to success. By apportioning the goal equitably among the Federal offices and installations, each agency shares responsibility in the team effort and has a mark with which to gauge its progress.

(b) In developing the proposed goal, the local Federal Coordinating Committee should take into account past giving experience in local Federal campaigns, the needs and reasonable expectations of the voluntary agencies in the current campaign situation, and the probability of a substantial increase in the level of giving due to the single campaign and payroll payment plan. The objective should be to set a goal that is attainable, which can be exceeded in an enthusiastic and purposeful campaign.

(c) Dollar goas are not required. An alternative approach is to rely on "suggested giving" as the principal incentive. For example, the "goal" could be 75 percent participation at the suggested giving level.

§ 950.517 Suggested giving guides and voluntary giving.

(a) Suggested giving guides for individual contributions are authorized for local construction. Guides for cash giving or direct-payment pledges may be included, in terms of percent of annual income, number of hours' pay, or suggested size of gift in relation to various income levels. Guides may be printed in the contributor's leaflet or on the pledge form. It will be accompanied by a statement explaining that the guide is provided because employees often ask for one, but that the decision to give and the amount is up to each employee.

(b) Federal agencies are not authorized to furnish individual employee suggested giving guides based upon the employee's specific pay or grade; a guide of this kind is comparable to an individual quota or assessment which is prohibited.

(c) The contributor's leaflet or the pledge form must include the express statement that the employee has the privilege of making his gift confidentially in a sealed envelope which will be delivered unopened to the Combined Federal Campaign headquarters.

§ 950.519 Central receipt and accounting for contributions.

(a) The Principal Combined Fund Organization shall provide and administer the Central Receipt and Accounting Point, or it may arrange for an appropriate financial institution to provide such service on its behalf, under the direction of the local Federal Coordinating Committee. Any charges by such institution to provide the necessary services are the responsibility of the Principal Combined Fund Organization and should be included in the latter organization's administrative costs factor.

(b) The central accounting point will first tabulate all contributions designated to specified agencies on the pledge cards and then tabulate the contributions designated to the Principal Combined Fund Organization. The Central Point will use the final audited totals of these two categories of contributions to determine the ratio for allocation of aggregate "shrinkage." Thereafter, the shrinkage factor (percentage) will be applied by the Principal Combined Fund Organization to the distribution of funds to the voluntary agencies concerned together with the approved percentage for reimbursement of administrative costs.

Illustration:

		Percent
Dollar total of pledges received	$100,000.00	
(Designated to specific agencies	90,000.00)	(90)
(Designated to the Principal Combined Fund Organization	10,000.00)	(10)
Dollar total of pledges actually paid	95,000.00	(95)
(Shrinkage	[1] 5,000.00)	

[1] Shrinkage factor equals 5 percent (5,000 divided by 100,000 equals .5).

Under the above example, the distribution of funds designated by donors to specific agencies would be the amount pledged less the shrinkage factor (5%) and the approved percentage for reimbursement of administrative costs to the Principal Combined Fund Organization. Thus, of the $95,000 actually received by the Central Receipt and Accounting Point in payment of pledges, $85,500 would be payable to the agencies designated by donors; and $9,500, representing funds designated to the Principal Combined Fund Organization, would be payable to that Organization. The amounts payable to the specified voluntary agencies are subject to deduction of the approved percentage for reimbursement of administrative costs to the Principal Combined Fund Organization.

(c) Provision must be made by the Principal Combined Fund Organization for the audit of CFC funds. If the CFC is over $100,000, an independent audit must be performed. Copies of the audits must be submitted to appropriate local Federal officials and made available for inspection by any voluntary agency participating in the CFC.

(d) In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding is authorized for members of the uniformed services and civilian personnel at CFC locations. Local voluntary agencies may decide whether

or not to provide for direct payment of pledges; however, cash contributions must be permitted. Keyworker collection of installment pledges is not authorized.

§ 950.521 Campaign and publicity materials.

(a) Campaign and publicity materials will be developed in the local area under direction of the local Federal Coordinating Committee, and will be printed and supplied by the Principal Combined Fund Organization. All disputes over materials will be resolved by the local Federal Coordinating Committee, except that failure to follow this Part or other directive of the Director may be appealed to the Director. All publicity materials must have the approval of the local Federal Coordinating Committee before being used.

(b) Distribution of any bona fide educational material of the voluntary agencies or provisions of other services to employees at Federal establishments must be handled through the agency occupational health units, and not the CFC coordinators. While there is no intent to restrict the normal educational or service activities that voluntary agencies provide in Federal agencies, no special distribution of materials or services should be planned during the campaign or promotional efforts made to attract designations that would have the effect of giving undue publicity to a particular agency or category of agencies during the campaign period. Violation of this requirement by any voluntary agency may be grounds for the local Federal Coordinating Committee to disqualify the agency from further participation in the local CFC for that year after due notice and consultation with the agency concerned.

(c) A single Contributor's Information Leaflet, a one-part alphabetical list of participating agencies, and a single, joint Pledge Form and Payroll Withholding Authorization (the latter two to be placed in an insert slot in the former) are to be distributed by keyworkers to each potential contributor. The Pledge Form and Payroll Withholding Authorization must be one form. All CFC literature, keyworker solicitors, and materials released as a part of the campaign must inform employees of their right to make a choice, and will provide full information about the agencies and the Volunteer Evaluation and Allocation Committee process. Employees will be informed that while the Federal Government encourages its employees to make a choice, it does not mandate that they must choose.

(d) Campaign materials must constitute a simple and attractive package that has fund-raising appeal and essential working information. Treatment should focus on the combined campaign and homogeneous appeal without undue use of voluntary agency symbols or other distractions that compete for the contributor's attention. Extraneous instructions concerning the routing of forms, tallying contributions, etc., which are primarily for keyworkers, must be avoided.

(e) Specific campaign and publicity materials:

(1) Contributor's Leaflet.

(i) This will be the only informational material distributed to individual contributors. It will describe the CFC arrangement, explain the payroll deduction privilege, and will include the information required by § 950.513 of this Part. The leaflet will be constructed to contain a pocket or a slot to hold the CFC pledge card.

(ii) The leaflet will provide instructions as to how an employee may obtain more specific information about agencies participating in the campaign, their programs, and their finances. It will also inform employees of their right to pursue complaints of undue pressure or coercion in Federal fund-raising activities. The leaflet will advise civilian employees to consult with their personnel office and military personnel with their commanding officers to identify the organization handling such complaints in the agency.

(iii) A Privacy Act notice must be printed on the leaflet.

(2) Separate list of participating agencies.

(i) This brochure will list alphabetically each agency approved by the appropriate Federal officials for participation in the CFC with a brief statement of about 25 words on its programs. Opposite the name of each agency a number will be provided beginning with the number 101 so that contributors desiring to indicate a choice or agency or agencies to whom they wish their gift to be directed may insert such number or numbers in the designation boxes provided for that purpose on the pledge card.

(ii) The alphabetical listing of agencies will also include therein the following generic titles reflecting the categories of approved federated organizations: International Service Agencies, National Health Agencies, National Service Agencies, and the name of the local United Way, united fund, or community chest or other federated group participating in the CFC. These will be printed in heavier type than other listings so that contributors desiring to direct their gifts to one or more categories of federated agencies (rather than to an individual agency or agencies) may do so by inserting the category number or numbers in the designation boxes provided for that purpose on the pledge card.

(iii) Following the listing of the participating agencies a similar box for, and description of the functions of, the local Volunteer Evaluation and Allocation Committee will be provided. An illustration of the prescribed format is shown below:

BILLING CODE 6325-01-M

101 - (Name of agency)
(description in 25 words
or less of agency's programs)

102 - (Name of agency)
(description of programs)

103 - (Name of agency)
(description of programs)

=======

123 - International Service Agencies
(description of functions)

124 - (Name of agency)
(description of programs)

=======

155 - National Health Agencies
(description of functions)

156 - (Name of agency)
(description of programs)

======

170 - National Service Agencies
(description of functions)

171 - (Name of agency)
(description of programs)

======

195 - (United Way of _____)
(description of functions)

196 - (Name of agency)
(description of programs)

197 - (Name of agency)
(description of programs)

======

210 - Local Volunteer Evaluation and Allocation Committee
(description in 25 words or less of Committee's functions)

(3) Pledge Form and Payroll Withholding Authorization.

(i) When completed, this working form will go to the Central Receipt and Accounting Point for the local area. The format for the pledge card is set by the Director and is available from the Office of Personnel Management.

(ii) One copy of this form will be used as the Payroll Withholding Authorization. When completed, this copy will go to the contributor's payroll office. Since there are some 1,400 separate payroll offices serving Federal personnel, the withholding authorization must be in a standard format and bear adequate identification of the local campaign.

(iii) The name and mailing address of the local CFC Central Receipt and Accounting Point will be printed at the top of the form. The name must be the same as that for the campaign and include the year: for example, 1981 San Antonio Area Combined Federal Campaign.

(iv) The box entitled "Identification No." will be used for the contributor's Social Security Number, except in the case of agencies that have a separate payroll identification numbering system. There is no requirement to use this space and it should only be used when it aids in accounting or campaign management.

(f) Other campaign materials that are authorized, include:

(1) *Chairman's Guide.* For use of campaign chairmen in individual Federal installations;

(2) *Keyworker's Guide.* Instructions for keyworkers about CFC arrangements, solicitation methods and forwarding procedures;

(3) *Keyworker's Report Envelope.* With tally sheets (which may be printed on the envelope) on which the keyworker will list the names of contributors or the number of confidential envelopes enclosed;

(4) *Miscellaneous Campaign Items.* Contributor's receipts, window stickers, posters, progress charts, awards, etc.;

(5) *Publicity Items.* News stories and fillers for the local press and house organs, employee letters, speeches of campaign leaders, division chairmen, films, television and radio material supporting the campaign; and

(6) *Awards.* To recognize campaign achievements by Federal agencies, agency chairmen, etc. Awards should be identified as "Combined Federal Campaign" awards. The presentation of awards and plaques by individual voluntary agencies or categories of agencies for CFC accomplishments is not permitted.

§ 950.523 Payroll withholding.

The following policies and procedures are authorized for payroll withholding operations in accordance with Office of Personnel Management regulations in 5 CFR Part 550, Pay Administration.

(a) *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local Combined Federal Campaign organizations.

(b) *Allotters.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing agency determines the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(2) Members of the Uniformed Services are eligible, excluding those on only short-term assignment (less than 3 months). (The Department of Defense has modified its military pay allotment regulations to authorize allotments for CFC charitable contributions by service members.)

(c) *Authorization.* (1) Allotments will be wholly voluntary and will be based upon contributors' individual written authorizations.

(2) Authorization forms in standard format will be printed by the Principal Combined Fund Organization at each location. The forms and contributions are solicited.

(3) Completed authorization forms should be transmitted to the payroll offices as promptly as possible, preferably by December 15. However, if forms are received after that date they should be accepted and processed by payroll offices.

(d) *Duration.* Authorizations will be in the form of a term allotment for one full year—26, 24, or 12 pay periods depending upon the allotter's pay schedule—starting with the first pay period beginning in January and ending with the last pay period that begins in December. (The standardization of beginning and ending dates, except for individual discontinuances, is intended to simplify payroll operations and minimize costs.) However, the fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining to make the allotment practicable. Three months or more would be considered a reasonable period of time for which to accept an allotment.

(e) *Amount.* (1) Allotters will make a single allotment which is apportioned into equal amounts for deductions each pay period during the year.

(2) The minimum amount for allotment will be 50 cents biweekly or semi-montly, $1.00 monthly, with no restriction on size of increment above the minimum.

(3) No change of amount will be authorized during the term of an allotment.

(4) For the purpose of simplicity and economy in payroll operations, no deduction will be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment will be made in subsequent periods to make up for deductions missed.

(f) *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations to the Central Receipt Accounting Point at each location for which the payroll office has received allotment authorizations.

(2) The check will be accompanied by a statement identifying the agency and the number of employee deductions. There will be no listing of alloters inlcuded or of allotter discontinuances.

(g) *Discontinuance.* (1) Allotments will be discontinued automatically:

(i) On expiration of the one-year withholding period;

(ii) On death, retirement, or separation of allotter from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment will not be reinstated.

(h) *Transfer.* When an allotter moves to another organizational unit served by a different payroll office, whether in the same or a different department or agency, his allotment authorization will be transferred to the new payroll office, unless expressly revoked by the individual. If there is a delay in receiving the transferred authorization in the new payroll office, the allotter should be permitted to complete a new authorization for the remainder of the one-year withholding period, which will supersede and revoke his previous authorization.

(i) *Accounting.* (1) Federal payroll offices will oversee establishment of

individual allotment accounts, deductions each period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office will accept responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The Principal Combined Fund Organization is responsible for the accuracy of transmittal of contributions, as designated by Federal employees, to charitable organizations approved for particpation and lisitng in the local CFC (minus only the shrinkage factor and approved fee for administrative cost reimbursement) and for an independent audit when the CFC receipts exceed $100,000.

(3) Federated and national agencies, or their designated agents, will accept responsibilities for: (i) The accuracy of distribution among the agencies in the category covered of remittances from the Principal Combined Fund Organization representing contributions designated by contributors to such agencies; and (ii) arrangements for independent audit agreed upon by the participating agencies.

§ 950.525 National coordination and reporting.

(a) The Office for Regional Operations, U.S. Office of Personnel Management, is responsible under the Director for CFC arrangements.

(b) Newly established field coordinating committees are required to notify the Office for Regional Operations to report their campaign areas, their chairman's name and address, and the address of their Central Receipt and Accounting Point.

(c) All chairmen of field coordinating committees are required to furnish reports of campaign results to the Office of Regional Operations by January 15 of each year. A reporting format will be furnished to CFC locations prior to that date requesting information on the results of the campaign, including the following:

(1) Basic data (number solicited, number of contributors, total receipts, per capita gift);

(2) Payroll deductions (number authorizing, total pledged);

(3) Designations;

(4) Amount of undesignated receipts received by Principal Combined Fund Organization; and

(5) Narrative summary evaluation of CFC arrangement based upon campaign experience. A copy of the report will be furnished to the local Federal Coordinating Committee, the Principal Combined Fund Organization, and a copy will be made available for inspection by other participating voluntary agencies.

(d) All local activities will be coordinated with the national campaign under procedures issued by the Director through the Federal Personnel Manual system and a handbook of instructions (or other appropriate issuance) for use by participating voluntary organizations.

[FR Doc 82-12973 Filed 5-10-82; 11:35 am]
BILLING CODE 6325-01-M

Reader Aids

Federal Register

Vol. 47, No. 91

Tuesday, May 11, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18847-19110.....3
19111-19306.....4
19307-19496.....5
19497-19656.....6
19657-19960.....7
19961-20104.....10
20105-20284.....11

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12356 (*See* Order of May 7, 1982).....20105
Administrative Orders:
May 7, 1982.....20105
Proclamations:
4334 (Revoked in part by Proc. 4941).....19661
4534 (See 4938).....19307
4610 (Revoked in part by Proc. 4941).....19661
4663 (Revoked in part by Proc. 4941).....19661
4770 (Revoked in part by Proc. 4941).....19661
4887 (Revoked in part by Proc. 4940).....19657
4938.....19307
4939.....19509
4940.....19657
4941.....19661

5 CFR

Proposed Rules:
213.....20264
752.....20264
900.....20142
950.....20268

7 CFR

52.....20107
68.....19309
246.....20108
253.....19665
272.....19940
273.....19940
371.....19961
701.....20109
908.....19511
910.....19667
981.....19666
991.....18847
1006.....19313
1007.....19313
1011.....19313, 19667
1012.....19313
1700-1799.....19111
1701.....19671
1861.....19962
1872.....19962
1965.....19962
1980.....19112
Proposed Rules:
226.....20144
272.....19943
273.....19943
1033.....20146
1250.....20258

8 CFR

100.....19671

238.....20110
274.....19315
Proposed Rules:
214.....20147

9 CFR

Proposed Rules:
307.....19701
381.....19701

10 CFR

20.....19511
50.....19512
73.....19112
459.....19980
Proposed Rules:
Ch. II.....19304
Ch. III.....19304
Ch. X.....19304
10.....19703
11.....19703
25.....19703
34.....19152, 20149
50.....19543
95.....19703
205.....18907
430.....19369
600.....19154

12 CFR

204.....18847
208.....19320
550.....19115
563b.....19672
Proposed Rules:
Ch. III.....18908
341.....18910
545.....19711
555.....19711
556.....19154
561.....19711
570.....19711

13 CFR

305.....19982
306.....19982
307.....19982
308.....19982
Proposed Rules:
Ch. I.....19156
121.....18992

14 CFR

39.....18848, 19513, 19514, 19984-19988
71.....19515, 19516
91.....19989
97.....18849
297.....19683
315.....19688
380.....19690

Proposed Rules:
39.....20001
71.....19551–19554
399.....18913

15 CFR
385.....19516
904.....19990
931.....20110

16 CFR
13.....19990
Proposed Rules:
Ch. II.....19369

17 CFR
Proposed Rules:
210.....19719

18 CFR
1.....19014
1b.....19014
2.....19014
3.....19014
3a.....19014
3c.....19014
4.....19014
12.....19014
16.....19014
25.....19014
32.....19014
33.....19014
34.....19014
35.....19014
41.....19014
45.....19014
131.....19014
152.....19014
153.....19014
154.....19014
156.....19014
157.....19014
158.....19014
250.....19014
270.....19014
271.....19014
275.....19014
281.....19014
282.....19014
284.....19014
286.....19014
292.....19014
375.....19014
385.....19014
388.....19014
Proposed Rules:
154.....19157
271.....19157, 19719

19 CFR
6.....19517

20 CFR
410.....19116
Proposed Rules:
404.....19620

21 CFR
193.....19321
546.....20111
558.....20112
561.....19322
558.....19117–19120
Proposed Rules:
314.....19954
357.....19721
433.....19954
510.....19954

24 CFR
Ch. II.....20113
805.....19120
885.....20113
860.....19120
861.....19120
865.....19120
888.....19124
889.....19128
Proposed Rules:
200.....18914, 20149
203.....20149
204.....20149
209.....20149
211.....20149
215.....18914, 20149
221.....20149
228.....20149
235.....18914, 20149
236.....18914, 20149
812.....18914, 20149

29 CFR
2601.....19130
Proposed Rules:
Ch. XXVI.....19373
2645.....19376

30 CFR
925.....20116
948.....20119
Proposed Rules:
Ch. VII.....18920
779.....19076
783.....19076
785.....19076
823.....19076
935.....19721
938.....19721
944.....20002
946.....20152
950.....20002

32 CFR
92.....19322
199.....20122, 20123
706.....19517

33 CFR
80.....19518
93.....19518
94.....19518
95.....19518
96.....19518
100.....18851
110.....19519
165.....18851
Proposed Rules:
110.....19555

34 CFR
636.....18852
Proposed Rules:
668.....19288
690.....19288

36 CFR
Proposed Rules:
7.....19171

38 CFR
3.....19131
Proposed Rules:
3.....20004
21.....19380

39 CFR
775.....19991
Proposed Rules
111.....20006
3000.....19131

40 CFR
51.....20124
52.....18854–18860, 19133–19135, 19326–19380, 19520–19523, 19694, 19992–19994, 20124–20126
62.....20126
81.....18861, 19136, 19137 19526
123.....19698
180.....19335
264.....19995
265.....19995
761.....19526
Proposed Rules:
52.....19556, 19722, 20007
60.....19724
81.....18922
87.....20153
122.....19381, 19726
123.....19172, 19381, 19382, 19726
124.....19381, 19726
146.....19381, 19726
180.....19382
262.....20008

41 CFR
5–6.....18862
5A–72.....18862
5B–1.....18865
5B–2.....18865
5B–16.....18865
8–3.....18866
Proposed Rules:
Ch. 51.....20156
Ch. 9.....18923
101–41.....19556

42 CFR
110.....19336
Proposed Rules:
405.....20092
481.....20092

43 CFR
Public Land Orders:
6241.....19344
Proposed Rules:
Subtitle A.....20009
Subtitle B.....20009
23.....19066
1820.....19060
1860.....19060
2820.....20009
3600.....19066
3610.....19066
3620.....19066
3830.....19298

44 CFR
61.....19138
64.....18867, 19344
65.....18869
70.....18870–18879
80.....19347
81.....19347
82.....19347
83.....19347
84.....19347
Proposed Rules:
67.....19172–19187, 19383, 19556

45 CFR
205.....18879

46 CFR
Proposed Rules:
1.....18929
10.....18929
12.....18929
153.....20084
154.....20084
187.....18929

47 CFR
0.....20129
1.....19357
2.....18881, 19187, 19357
21.....19187
22.....19187
31.....19361
61.....18883
73.....18900–18902, 20130–20136
81.....18881, 19187
83.....18881
87.....19187
90.....19187, 19357, 19527
95.....19187, 19367
97.....19368
Proposed Rules:
Ch. I.....19726
2.....18932
21.....18932
73.....18934, 18936, 20156–20164
74.....18932
94.....18932
97.....20165

48 CFR
Proposed Rules:
8.....19193
32.....19193

49 CFR
1.....18903
178.....18904
571.....18904
1033.....19150
1034.....19700
1100.....18906
1249.....19150
Proposed Rules:
171.....19566
172.....19566

50 CFR
17.....19539, 19995
230.....20137
301.....19999
Proposed Rules:
651.....19151
652.....18939

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	

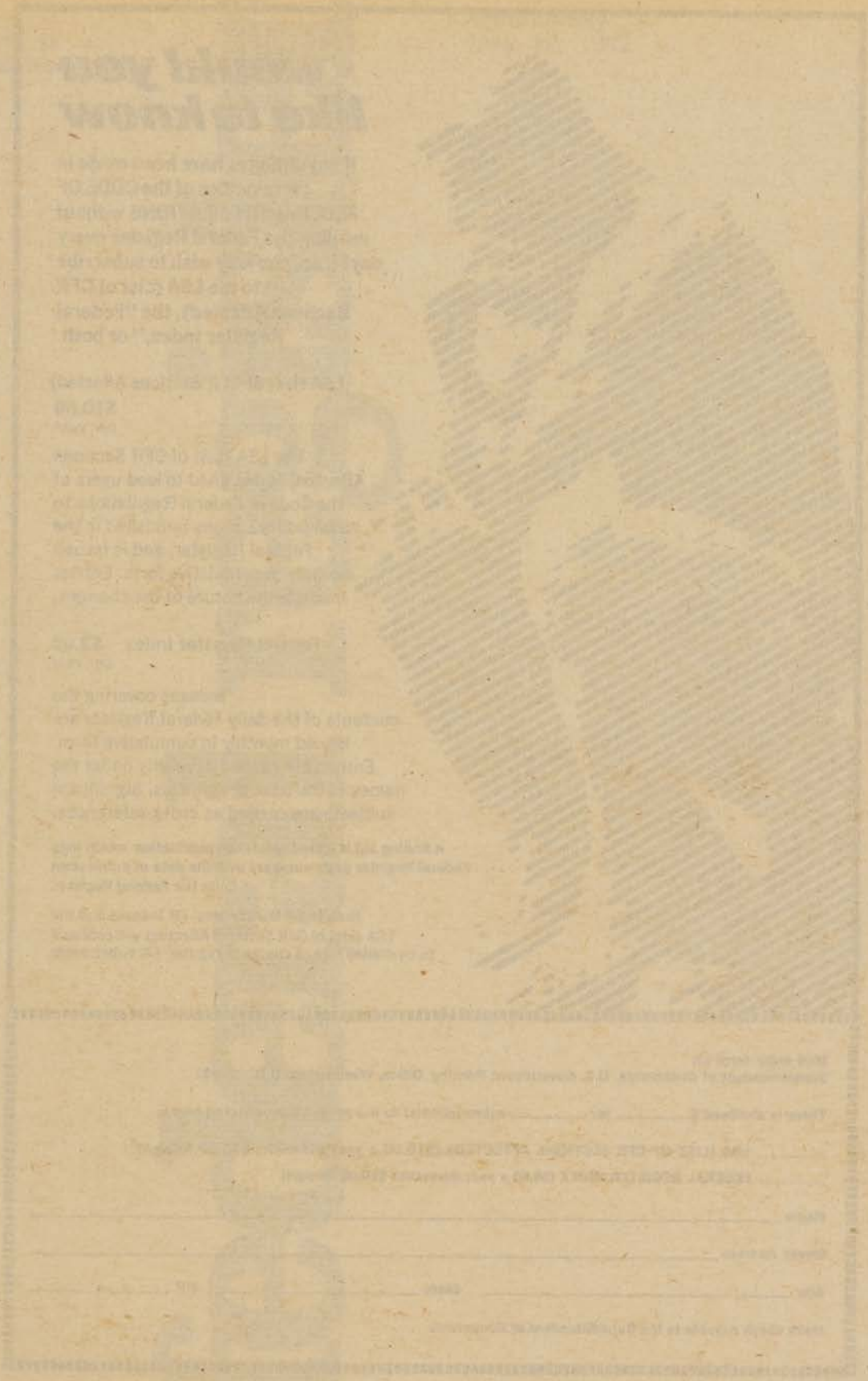
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

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 7, 1982**





would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index $8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... **LSA (LIST OF CFR SECTIONS AFFECTED) ($10.00 a year domestic; $12.50 foreign)**

..... **FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)**

Name _____

Street Address _____

City _____ **State** _____ **ZIP** _____

Make check payable to the Superintendent of Documents