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federal register

Wednesday
July 21, 1982

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Environmental Protection Agency

Banks, Banking
Federal Reserve System

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Surface Mining Reclamation and Enforcement Office

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Presidential Documents

Title 3—

The President

Proclamation 4953 of July 19, 1982

Captive Nations Week, 1982

By the President of the United States of America

A Proclamation

During the past year, we have witnessed another tragic demonstration of the failure of tyranny to compete with the principles of freedom. The imposition of martial law in Poland on December 13, 1981, served as a bitter reminder that the quest for freedom and self-determination can only be restrained by force. It clearly demonstrated the moral bankruptcy of a system which has been unable to earn the support of its population after more than 35 years in power.

The same repression imposed on the Polish people is evidenced in various ways in other captive nations dominated by foreign military power and an alien Marxist-Leninist ideology. The brutal suppression of sovereignty in Afghanistan and the bondage of the captive peoples of Eastern Europe continue. Among the oppressed we must also count the peoples of many nationalities within the Soviet Union itself; they are victims of long decades of repression.

Twenty-three years ago, by a joint resolution approved July 17, 1959, (73 Stat. 212), the Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

This week offers Americans an opportunity to honor our Nation's founders whose wisdom and commitment to self-determination and liberty have guided this country for more than 200 years. Let us once again reaffirm our faith that the aspiration for freedom will ultimately prevail over the rule of force and coercion which denies human rights to so many other parts of the world today.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning July 18, 1982, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals which unite us and inspire others.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-19875
Filed 7-20-82; 10:18 am]
Billing code 3195-01-M

Rules and Regulations

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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 923

[Cherry Reg. 22]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation continues minimum grade, size, container and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. Such action is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

EFFECTIVE DATE: Effective on and after July 21, 1982.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Washington sweet cherry crop and would not substantially affect costs for the directly regulated handlers.

An interim rule was published in the **Federal Register** (47 FR 23684) on June 1, 1982, which specified grade, size, container, and pack requirements applicable to shipments of Washington State sweet cherries. That rule provided an opportunity to file comments through July 1, 1982. No comments were received. This final rule contains the same requirements as specified in the interim rule. The rule is effective on and after July 21, 1982.

The Washington cherry regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Under the terms of the regulations, grade, size, container and pack requirements would be effective on and after July 21, 1982. Although the regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season and consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modifications, suspension, or termination of regulation of shipments of Washington sweet cherries would tend to effectuate the declared policy of the Act.

The three most important sweet cherry producing States in the U.S. are Washington, Oregon and California; of these three, Washington has been the leading State every year since 1970. Production for fresh use in California in 1981 was 24,000 tons, in Oregon was 6,600 tons, and in Washington was 29,300 tons. The Washington sweet cherry crop is primarily utilized as fresh.

The minimum grade and size requirements are designed to enhance the image of Washington sweet cherries and thereby improve sales and returns to growers. The shipment of low quality fruit disrupts orderly marketing because low quality fruit undermines buyer confidence in the quality of fruit sold in the markets. The grade and size requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging and to assure satisfactory arrival condition of fruit in the markets.

Based on current and anticipated market conditions, the Washington Cherry Marketing Committee finds that the regulations recommended will maximize benefits to producers and consumers by providing for good quality fruit and stable market conditions. Most Washington Sweet cherry sales are consummated by telephone with the buyer not seeing the fruit as it is initially purchased. Hence, establishment of acceptable quality and container standards are important in successfully marketing the crop. These requirements are essentially the same as those in effect in prior years except that beginning with the 1982 marketing season, additional containers are authorized for use in shipping sweet cherries.

It is found that it is impracticable and contrary to the public interest to postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and that good cause exists for making these regulatory provisions effective as specified in that: (1) an interim rule was published in the **Federal Register** (47 FR 23684) and no comments were received during the period provided; (2) the requirements of this final rule are the same as those currently in effect; and (3) the requirements will not require any additional preparation by handlers which cannot be effective by the date hereof.

List of Subjects in 7 CFR Part 923

Marketing Agreements and Orders, Cherries, Washington.

Therefore, a new § 923.322 is added under a new subpart heading *Grade,*

Size, Container and Pack Regulation to read as follows:

§ 923.322 Cherry Regulation 22.

(a) On and after July 21, 1982, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided,* That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and paragraph (a)(3) of this section.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* On and after July 21, 1982, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of loose packed (jumble-filled) cherries in any container shall be 12 pounds or 20 pounds, or greater. The net weight of face-packed cherries in any container shall be 15 pounds.

(2) Subject to the provisions of paragraphs (b)(2) (i) and (ii) of this section, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

TABLE

Column 1, row count/row size	Column 2, diameter (inches)
9	$^{72}/_{64}$
10	$^{66}/_{64}$
11	$^{60}/_{64}$

(2) When containers of cherries are marked with a minimum diameter of $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{48}/_{64}$ inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

(d) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½ inch inside width container or comparable number of cherries when packed loose in a container.

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

Dated: July 16, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-19646 Filed 7-20-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plan

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of effectiveness.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this notice to announce the effectiveness of its final rule, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)) ("final rule") implementing the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), which was added to FUA by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35. Section 808 of FUA and ERA's implementing rules require certain electric utilities which have used and intend to continue to use natural gas as a primary energy source to submit conservation plans to DOE.

EFFECTIVE DATE: The final rule shall be effective as of July 21, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Fuels Conservation Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-073F, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-1251

Henry K. Garson, Assistant General Counsel for Coal Regulations (GC-14), Office of the General Counsel, Department of Energy, Room 6B-178,

1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2967

SUPPLEMENTARY INFORMATION: ERA's final rule under section 808 of FUA, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)), sets forth the procedures for submission of conservation plans to DOE and establishes the substantive requirements for such plans. The purpose of this notice is to announce the immediate effectiveness of that final rule.

Issued in Washington, D.C., on July 12, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-19725 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0412; Reg. Q]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711) or Beverly A. Belcamino, Attorney (202/452–3623).

SUPPLEMENTARY INFORMATION: On June 28, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas major disaster areas. The Board regards the President's action as recognition by the Federal Government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about June 8, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 28, 1982, and will remain in effect until 12 midnight, December 28, 1982.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Federal Reserve System; Foreign Banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated townships of Kansas directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, July 16, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19766 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors and Disability Insurance Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final Rules.

SUMMARY: The Department of Health and Human Services is revising its regulations to provide that, in certain cases, a disabled person who has medicially recovered will not have his or her disability benefits terminated if he or she is participating in an approved vocational rehabilitation program under a State plan approved under Title I of the Rehabilitation Act of 1973. These revisions implement the change made by section 301 of the Social Security Disability Amendments of 1980, Pub. L. 96–265, and apply to disabled workers, persons disabled before age 22, and disabled widow(er)s under title II and disabled persons under title XVI, whose disabilities did not end before December 1, 1980. The changes provide for continuation of payment of cash benefits after disability ceases within the meaning of the Social Security Act (the Act), although some residual functional limitation remains, to those persons who are enrolled in a vocational rehabilitation (VR) program and who were not, at the beginning of the program, expected to medically recover before the scheduled completion date of the program.

EFFECTIVE DATE: These rules will be effective July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594–7337.

SUPPLEMENTARY INFORMATION: The Social Security Disability Amendments of 1980 change the title II and title XVI disability programs regarding payment of benefits to persons who recover medically while engaged in a program of vocational rehabilitation (VR). Section 301 of the amendments provides that disability benefits under title II or title XVI shall not be terminated or suspended because the physical or mental impairment on which the person's entitlement is based has or may have ceased if (1) the person is participating in an approved VR program under a State plan approved under Title I of the Rehabilitation Act of 1973 and (2) the Commissioner of Social Security has determined that completion of the program, or its continuation for a specified period, will significantly increase the likelihood that the person will be permanently removed from the diability rolls. An approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973 (an appropriate program) is one that meets the requirements and specifications of 45 CFR 1361.2 and 1361.39. These sections describe the general requirements for a State to be eligible for grants under title I of the Rehabilitation Act, and the specifications for an individualized written rehabilitation program.

Background

Prior to passage of the Social Security Disability Amendments of 1980, persons who were participating in a VR program were eligible for disability benefits only so long as they continued to meet the definition of disability for the title II and title XVI programs. Some of these people who no longer meet the definition of disability may still have some residual functional limitation from the impairment. Even in cases where continuation in a VR program might have substantially improved a person's chances of returning to productive employment permanently, his or her disability benefits were ended when he or she was no longer considered disabled within the meaning of the Act. As a result, some persons who no longer met the definition of disability but who still had some functional limitation were forced to discontinue participation in a VR program.

Regulatory Provisions

In order to obtain the public's views and comments before proceeding with these amendments, we published proposed rules along with a Notice of Proposed Rulemaking in the **Federal Register** on October 30, 1981 (46 FR 53684). Interested persons and organizations were invited to submit comments within 60 days of the date of publication of the notice. We have carefully considered all the comments we received pertaining to the proposed amendments and we respond to the issues raised by the comments later in this preamble.

These regulations apply to title II disability insurance benefits, disabled child's insurance benefits, disabled widow/widower's insurance benefits, and title XVI supplemental security income (SSI) benefits based on disability and reflect and implement Section 301 of Pub. L. 96–265, the Social Security Disability Amendments of 1980. These regulations do not apply to persons who are receiving title XVI benefits because of blindness. The language in Section 301 of the Social Security Disability Amendments of 1980 relating to the SSI program refers only to those aged, blind, or disabled individuals receiving benefit payments solely by reason of disability. The SSI program treats disabled and blind as two different and distinct categories. Each category has several provisions not in common with the other category.

The regulations provide that a person may continue to receive cash benefits after medical recovery if some residual functional limitation remains, he or she is participating in an appropriate VR program, and the Commissioner of Social Security has determined that completion of or continuation for a specified period of time in the program will significantly increase the likelihood that the person will not again have to return to the disability rolls. The regulations also provide that benefits to a person's spouse and children will continue while a person remains in the VR program and meets all other requirements for a continued payment of benefits. For purposes of establishing a disability "freeze" on the earnings records of disabled workers receiving title II disability benefits, the period of disability will end two months after disability ceases, as at present.

To effect these changes, we have changed the rules in §§ 404.316, 404.337, 404.352, 404.902, 404.1596, 404.1597, 416.1321, 416.1331, and 416.1402. We also have added a new § 416.1338 to show under what conditions an SSI recipient may continue to receive benefits if he or she is in an appropriate VR program. In §§ 404.902 and 416.1402, we provide that determinations as to whether a person's completion of or continuation for a specified period of time in a VR program will significantly increase the likelihood that he or she will not have to return to the disability benefit rolls (and thus whether benefits may be continued) are initial determinations and subject to administrative and judicial review. We also added a statement to § 416.1402 to show that determinations relating to a person's disability are also initial determinations. In §§ 404.1596 and 416.1321 we explain the circumstances under which we will not suspend a person's benefits if he or she is participating in an appropriate VR program. In §§ 404.1597 and 416.1331 we make clear that a person may appeal a determination that he or she is not disabled while continuing to receive benefits because of his or her continued participation in an appropriate VR program, or that he or she is not entitled to receive benefits even though continuing to participate in an appropriate VR program.

The changes we have made stress throughout that a person must have begun participating in the VR program before his or her disability ended and reflect the intent of Congress that in most cases medical cessation of disability will result in the termination of benefits.

Further, the regulations expressly limit the provisions to those persons who were not expected, at the beginning of the program, to recover medically before the end of the program. The Conference Report (House of Representatives Report No. 96–944, 96th Congress, Second Session) makes clear that the provisions are expected to be so limited. It states on page 52:

> It is the intent of the provision to consider only those exceptional cases where the disabled beneficiary is not expected at the beginning of the program to recover medically before the end of the program, but he or she does recover and is no longer considered disabled within the meaning of the Social Security Act, although some residual functional limitation still remains.

Comments on Notice of Proposed Rulemaking

Interested parties were given 60 days to submit comments on the proposed rules. We received comments from two sources—both advocacy groups.

Comment: Both writers objected to the requirement that, for disability payments to be continued after medical recovery, a person must not have been expected to recover medically before the scheduled completion date of the VR program. (Sections 404.316(c)(1)(iv), 404.337(c)(1)(iv), 404.352(c)(1)(iv), 404.1596(c)(4)(iv), 416.1321(d)(4), and 416.1338(a)(4).)

Both of the writers emphasize that vocational rehabilitation agencies primarily serve people who are expected to recover, and assert that by excluding those who are expected to recover from continued benefits under this rule, we are arbitrarily excluding the population that the law is intended to benefit. They point out that the statutory language does not specifically limit the provisions of section 301 (of Pub. L. 96–265) to those not expected, at the beginning of the program, to recover medically before the scheduled completion date of the program.

Response: In the preamble of the Notice of Proposed Rulemaking, we quoted the Conference Report, House of Representatives, Report No. 96–944 to explain this requirement. The law requires that the Commissioner of Social Security must determine whether the completion or continuation of the vocational rehabilitation program will increase the likelihood that the person will be permanently removed from the disability rolls. As the term "likelihood" refers to a degree of expectation, we looked to the legislative history for guidance in applying it to recovery cases. The conference report reconciled a difference between House and Senate versions of this law by affirming the responsibility of the Commissioner of Social Security to make "likelihood" determinations. The report then made the statement of intent on which we based the requirement to which the

commenters object. We believe that Congress intended that the Commissioner follow its expression of intent when making determinations of eligibility for continued payment of benefits under this provision. Not all persons who are expected to recover are excluded by the rule; only those who are expected to recover before their scheduled completion date of the vocational rehabilitation program.

Comment: One of the writers believes that the requirement that a person not be expected to recover medically before the expected completion date of his or her VR program will require SSA to conduct a separate prognostic medical review at the beginning of a VR program, in addition to those review made on initial application for benefits and as a result of periodic diaries.

Response: We do not intend to conduct a separate prognostic medical review of a person's medical condition when he or she begins a VR program to determine if that person can be expected to recover before the program will be completed. We believe that the evidence that will already be in a person's file at that time will be enough to permit us to make a determination of when a person may reasonably be expected to recover. We see no reason to change our existing procedures which provide for scheduling reexaminations on the basis of the person's medical condition and the judgement of the physician member of the State agency disability determination team. We believe the expectation of recovery to which the conference report referred is that which is obtained from medical evidence submitted or solicited following a person's initial application for benefits, as well as that obtained through periodic reexaminations based on the person's medical condition.

Comment: One of the writers pointed out that some persons who are expected to recover medically do not, in fact, recover.

Response: We agree that some persons do not recover as expected. However, this provision applies only to those persons who do recover. It has no effect on those who do not recover. Their benefits would normally be continued because they are still disabled whether or not they participate in a VR program.

Comment: Both writers objected to the provision that payments will be stopped if a person stops participating in his or her VR program "for any reason". The writers point out that persons may stop their participation for reasons beyond their control. (Sections 404.316(c)(2)(ii), 404.337(c)(2)(ii), 404.352(c)(2)(ii), and 416.1338(b)(2).)

Response: We agree that this can occur. We base our rule on the unqualified requirement in the law that the person must be participating in order to be eligible for continued payments. We interpret "participation" as referring to the person's status as an active client of the State vocational rehabilitation agency. Our procedures require information about the person's client status. Unforeseen interruptions, such as lags in the appropriation of funds or unavoidable personal responsibilities, would not require termination of payments if the State agency certifies that the person is an active client and services are continuing. If the person is not an active client, however, we will not consider the reasons for the nonparticipation and will terminate payments under this provision. However, we did revise sections 404.316(c)(2), 404.337(c)(2), 404.352(c)(2), 404.1586(f)(2), and 416.1338(b) to clarify that nonparticipation will not be a basis for stopping benefits with a month earlier than the second month after the month a person's disability ends.

Comment: One of the writers objected to the provision in the proposed regulations permitting us to stop benefits with the month that *we* determine that participation in the program will no longer significantly increase the likelihood that the person will be permanently removed from the disability benefit rolls. The writer is concerned that the decision-maker will make arbitrary decisions without consultation with the claimant or the vocational rehabilitation counselor. (Sections 404.316(c)(2)(iii), 404.337(c)(2)(iii), 404.352(c)(2)(iii), and 416.1338(b)(3).)

Response: The decision we will make under this provision is identical to the decision we make when we determine that a person's completion or continuation in a VR program will significantly increase the likelihood that the person will not have to return to the disability benefit rolls. (Sections 404.316(c)(1)(vi), 404.337(c)(1)(vi), 404.352(c)(1)(vi), and 416.1338(a)(6).)

This is because, although there may be a change in the vocational rehabilitation program it must continue to meet the same criteria. Our procedures call for a review of the program's criteria if we learn from the vocational rehabilitation agency that there is a significant change in the program objective. All available information will be reviewed to determine whether or not the objective of increasing the likelihood that a person will not have to return to the disability benefit rolls is still being met.

Additional Changes

We added a new paragraph (f) to § 404.1586 to show that a statutorily blind person receiving title II disability benefits who no longer meets the definition of blindness may continue to receive those benefits if he or she is in an appropriate VR program. This change was inadvertently omitted from the proposed rules.

We deleted the proposed paragraph (a) of § 416.1331 (Termination of your disability or blindness payments), which would have stated that we will find that a person's disability ends with the month in which he or she no longer meets the requirements for disability or blindness. Upon our own further review of § 416.1331 we realized that the discussion in the proposed paragraph (a) is not necessary in this section (which discusses payments) since this is already covered in Subpart I.

We also added a phrase to §§ 404.1596(c)(4), 404.1597 and 416.1321(d) and to the heading of § 416.1338(a) to clearly indicate that the provision for continued payment of benefits applies only to disability cases in which payments would otherwise be stopped because of medical recovery.

Other changes that were also made by the Social Security Disability Amendments of 1980, i.e., the provision extending the length of time during which a disability beneficiary may test his or her ability to work, will affect some of the provisions changed by these regulations. Those changes will be published with notice of proposed rulemaking in the near future.

Executive Order 12291

The costs associated with individuals enrolled in vocational rehabilitation programs are minimal. Specifically, total costs in FY 1981 were less than $200,000. Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major regulation and no regulatory impact analysis is required.

Paperwork Reduction Act

The additional data we need to determine a person's eligibility under the provisions of these regulations will normally have to be obtained from the State VR agency. The form which States will be asked to use to report this information, Form SSA–4290, Vocational Rehabilitation "301" Program Development, has been approved by OMB (OMB No. 0960–0282).

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities

because these rules affect only individuals. Therefore, a regulatory flexibility analysis required under Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not necessary.

These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance, Social Security Administration.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: May 19, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: July 6, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD AGE SURVIVORS AND DISABILITY INSURANCE (1950-)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

1. The authority citation for Subpart D of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 216, 223, 225, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 94 Stat. 449, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 425, 428, and 1302; and 5 U.S.C. Appendix.

2. Section 404.316 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 404.316 When entitlement to disability benefits begins and ends.

* * * * *

(b) Your disability benefits end with the earliest of these months: (1) the month before the month of your death; (2) the month before the month you become 65 years old; or (3) the second month after the month your disability ends, unless continued subject to paragraph (c) of this section.

(c)(1) Your benefits, and those of your dependents, may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

Example: While under a disability from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

3. Section 404.337 is amended by revising paragraph (b)(3) and adding a new paragraph (c) to read as follows:

§ 404.337 When widow's and widower's benefits begin and end.

* * * * *

(b) * * *

(3) If your widow's or widower's benefit is based upon a disability, the second month after the month you recover from your disability, subject to the exception in paragraph (c) of this section. You may remain eligible for payment of benefits if you become 65 years old before you recovered from your disability and you met the other requirements for widow's or widower's benefits.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(i) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

4. Section 404.352 is amended by revising paragraph (b)(1) and adding a new paragraph (c) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) Your entitlement to benefits ends with the month before the month in which one of the following events first occurs:

(1) You become 18 years old, unless you are disabled or a full-time student. If you become 18 years old and you are disabled, your entitlement ends, subject to the exception in paragraph (c) of this section, with the second month following the month in which your disability ends. If you become 18 years old and you are a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 22. If you become age 22 in a month in which you are a full-time student and you have not completed the requirements for, or received, a degree from a 4-year college or university, your entitlement will end with the month in which the quarter or semester in which you are enrolled ends. If the school you are attending does not have a quarter or semester system, your benefits will end with the month you complete the course, or if earlier, the first day of the third month following the month in which you become 22 years old.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

6. Section 404.902 is amended by revising paragraphs (p) and (q) and by adding paragraph (r) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

* * * * *

(p) Who will act as your payee if we determine that representative payment will be made;

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period; and

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

Subpart P—Determining Disability and Blindness

7. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

8. Section 404.1586 is amended by adding a new paragraph (f) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

* * * * *

(f) *If you are in an appropriate vocational rehabilitation program.* (1) Your benefits, and those of your dependents, may be continued for months after November 1980 after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program, you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after your disability ends.

9. Section 404.1596 is amended by revising paragraph (c) to read as follows:

§ 404.1596 Circumstances under which we may suspend your benefits before we make a determination.

* * * * *

(c) *When we will not suspend your cash benefits.* We will not suspend your cash benefits if—

(1) The evidence in your file does not clearly show that you are not disabled;

(2) We have asked you to furnish additional information;

(3) You have become disabled by another impairment; or

(4) After November 1980, even though your impairment is no longer disabling, (i) you are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability, (ii) your disability did not end before December 1, 1980, (iii) you have some residual functional limitation from the impairment, (iv) at the time you began the program you were not expected to recover before the scheduled completion date of your program and (v) we have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

10. Section 404.1597 is revised to read as follows:

§ 404.1597 After we make a determination that your are not now disabled.

If we determine that you do not meet the disability requirements of the law, your benefits generally will stop. We will send you a formal written notice telling you why we believe you are not disabled and when your benefits should stop. If your spouse and children are receiving benefits on your Social Security number, we will also stop their benefits and tell them why. The notices will explain your right to reconsideration if you disagree with our determination. However, your benefits may continue after November 1980 even though your impairment is no longer disabling, if your disability did not end before December 1980, and you are particpating in an appropriate vocational rehabilitation program as described in § 404.1596 which you began before your disability ended. For benefits to continue you must have some residual functional limitation from the impairment and, at the time you began the program, you must not have been expected to recover medically before the scheduled completion date of your program. In addition, we must have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls. You may still appeal our determination that you are not disabled even though your benefits are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion or of continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart M—Suspensions and Terminations

1. The authority citation for Subpart M of Part 416 reads as follows:

Authority: Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477, (42 U.S.C. 1302, 1382–1382d, 1383), unless otherwise noted.

2. Section 416.1321 is amended by adding a new paragraph (d) to read as follows:

§ 416.1321 Suspensions; general.

* * * * *

(d) *Exception.* Even though conditions described in paragraph (a) of this section apply because your impairment is no longer disabling, we will not suspend your benefits if after November 1980; (1) You are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability; (2) Your disability did not end before December 1, 1980; (3) You have some residual functional limitation from the impairment; (4) At the time you began the program you were not expected to recover before the scheduled completion date of your program; and (5) We have determined that your completion of the program, or your continuation in the program for a specific period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

3. Section 416.1331 is revised to read as follows:

§ 416.1331 Termination of your disability or blindness payments.

(a) *General.* If you have ceased to be disabled or blind (see Subpart I of this Part), you are not age 65 or older and you do not qualify for the special benefits explained in § 416.261, the last month for which we can pay you benefits is the second month after the month in which your disability or blindness ceased, provided that you are otherwise eligible for benefits through such second month. (See § 416.1338 for an exception to this rule if after November 1980 you are participating in an appropriate vocational rehabilitation program.)

(b) After we make a determination that you are not now disabled. If we determine that you do not meet the disability requirements of the law, we will send you an advance written notice telling you why we believe you are not disabled and when your benefits should stop. The notice will explain your right to appeal if you disagree with our determination. You may may still appeal our determination that you are not now disabled even though your payments are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

4. A new section 416.1338 is added to read as follows:

§ 416.1338 If you are participating in a vocational rehabilitation program.

(a) When your benefits based on disability may be continued. Your benefits may be continued after your impairment is no longer disabling if—

(1) Your disability did not end before December 1980, the effective date of this provision of the law;

(2) You are participating in a program of vocational rehabilitation that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements of 45 CFR 1361.39 for a rehabilitation program;

(3) You began the program before your disability ended;

(4) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(5) You still have some residual functional limitations; and

(6) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that

you will not have to return to the disability benefit rolls.

Example: While disabled from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(b) *When your benefits will be stopped.* Your benefits generally will be stopped with the month—

(1) You complete the program;

(2) You stop participating in the program for any reason; or

(3) We determine that your continuing participation in the program will not significantly increase the likelihood that you may be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends, provided that you are otherwise eligible for benefits through such month.

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart N of Part 416 reads as follows:

Authority: Sections 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, 1383b).

6. Section 416.1402 is amended by revising paragraphs (h) and (i) and adding paragraphs (j) and (k), to read as follows:

§ 416.1402. Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

* * * * *

(h) Whether you are eligible for special SSI cash benefits under § 416.262;

(i) Whether you are eligible for special SSI eligibility status under § 416.265;

(j) Your disability; and

(k) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

[FR Doc. 82-19729 Filed 7-20-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 891

[Docket No. R-82-978]

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

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

ACTION: Notice of changed effective date.

SUMMARY: HUD is delaying, until October 1, 1982, the effective date of an interim rule amending the regulations governing allocation of housing assistance funds and review of applications for housing assistance by local governments and by HUD. This action is being taken for three reasons:

(1) To avoid possible confusion by HUD field offices and local governments as to which regulations apply;

(2) Because pending legislation is likely to make the interim rule unnecessary for the current fiscal year; and

(3) Because of the limited time remaining in the current fiscal year in which to make fund allocations under the new rules.

EFFECTIVE DATE: The effective date for the interim rule is changed from July 26, 1982 to October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Coyle, Office of Policy and Budget, Room 9220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone (202) 755-6454. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 3, 1982, HUD published an interim rule in the **Federal Register** (FR Doc. 82-15001, published at 47 FR 24120), amending 24 CFR Part 891 to revise HUD's regulations governing allocation of housing assistance funds and local government and HUD review of applications for housing assistance. The interim rule provided for an effective date of July 26, 1982. Several factors have now made it necesary for HUD to delay the effective date until October 1, 1982:

1. Possible confusion on the part of HUD field offices and local governments as to which regulations are applicable to the review and approval of assisted housing applications during the period just before and after the July 26, effective date.

2. The expected approval of an Urgent Supplemental Appropriations Act during the current fiscal year, containing language which would permit assisted housing funds to be allocated without their being subject to the procedural requirements of Section 213(d) of the Housing and Community Development Act of 1974 and of Section 5(c)(3) of the United States Housing Act of 1937. (These statutory provisions were the basis for many of the revisions contained in the interim rule.)

3. The limited time remaining available before September 30, 1982, which imposes severe constraints on HUD's ability to allocate and reserve the remaining Fiscal Year 1982 housing assistance funds in strict accordance with all of the provisions of Subpart D of the Interim rule.

Accordingly, for these reasons, the effective date stated in the interim rule (FR Doc. 82-15001) is changed from July 26, 1982 to October 1, 1982.

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

Dated: July 16, 1982.

Philip Abrams,

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

[FR Doc. 82-19644 Filed 7-20-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 77

Preparation of a Membership Roll of the Pribilof Islands Aleut Communities of St. Paul and St. George

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is adding a new part to its regulations which establishes procedures to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George. The roll to be prepared will serve as a basis for a per capita distribution of a portion of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, telephone number (907) 271–3761.

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9); and 87 Stat. 466. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary–Indian Affairs by 209 DM 8.

Proposed rules for the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George were published for comment as 25 CFR Part 43d in the **Federal Register** on April 21, 1982 (47 FR 17072). On March 30, 1982, the Bureau of Indian Affairs published in 47 FR 13326 a final rule document redesignating numerous Parts compiled in Chapter I of Title 25 of the Code of Federal Regulations to realign the Subchapters under more uniform and precise headings in order to enable the public to locate subject matters more easily. To conform with the realignment, this rule to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George which was proposed as 25 CFR Part 43d has been redesignated and will be added to Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations as Part 77. The necessary changes have been made to the text of the regulations to conform with the redesignation. Thus, the section that appeared in the proposed regulations as § 43d.1 is being added to the Code of Federal Regulations as § 77.1, the section proposed as § 43d.2 is being added as § 77.2, etc., and any references contained in the text of the regulations to other Parts of Chapter I of Title 25 of the Code of Federal Regulations have been changed accordingly. (Any further references to the text of the regulations under this section will be made with the new Part designation.)

The roll to be prepared under the regulations in this Part will be used to distribute on a per capita basis a portion of the judgment funds awarded the Aleut Community of St Paul Island and the Aleut Community of St. George Island by the U.S. Court of Claims in a compromise settlement in Dockets 352 and 369–A originally filed with the Indian Claims Commission. Funds to satisfy the award were appropriated by Congress and a Plan for the use and distribution of the funds was prepared pursuant to the Judgment Funds Distribution Act of October 19, 1973 (87 Stat. 466), and became effective on June 22, 1980.

In order to provide actual notice of the preparation of the roll to as many potentially eligible participants as possible, the regulations provide for the Juneau Area Director to send notices to certain persons who applied for enrollment pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, Pub. L. 92–203, 85 Stat. 688, as amended and supplemented by the Act of January 2, 1976, Pub. L. 94–204, 89 Stat. 1145. The notice will advise them of the relevant procedures to be followed including the requirements for enrollment and the deadline for filing applications. In accordance with the regulations, persons who desire to be enrolled and who believe they meet the criteria for enrollment must, among other requirements, file or have filed for them completed application forms before the deadline specified in the regulations in order to be eligible to share in the judgment funds.

The period of commenting on the proposed rules to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George closed on May 21, 1982. Only one letter suggesting changes to the regulations was received from the public within the comment period. The commentor believed the proposed rule was not clear enough in stating that the preparation of the membership roll was strictly to serve as a basis for the per capita payments of a portion of the judgment funds awarded the Pribilof Islands by the U.S. Court of Claims. The commentor felt there was a danger that the rule might close and make final the membership roll of the communities. Consequently, the commentor suggested that the subject title of this Part be changed to read: "Preparation of a membership roll to serve as the basis for the distribution of Judgment Funds awarded to the Pribilof Islands Aleut Communities of St Paul and St George," and that in stating the purpose in the text of the regulations in § 77.2, "members" should be qualified as "certain members."

Careful consideration was given to the suggested changes. However, the changes were not adopted. The Bureau does not intend that the regulations in this Part create a final roll and we do not believe the regulations as they were proposed can be construed as having that effect. The compilation of a roll of members is already qualified in the purpose stated in § 77.2 as members eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369–A. We feel no further limitation or qualification is necessary and, in fact, might create some question as to what was meant or intended by the use of "certain members" since the Plan for the use and distribution of the fund refers to "all persons duly enrolled as members." Also, we believe the subject title of this Part is adequate and appropriate.

In anticipation of a planned reorganization within the Juneau Area Office jurisdiction, responsibility for the preparation of the roll has been changed from what was published in the proposed rules. The Director of the Juneau Area Office or Officer in Charge of any successor field office will be immediately responsible not only for approving the roll as was proposed, but also for the preparation of the roll. Thus, reference to the Superintendent, Anchorage Agency, Bureau of Indian Affairs, has been eliminated in the regulations and the responsibilities that had been assigned to the Superintendent will be the immediate responsibility of the Director. The Director will, however, be utilizing facilities and staff at the Enrollment Coordinating Office located in Anchorage, Alaska, in the preparation of the roll. Therefore, the requirement for the filing of applications contained in § 77.4(b), has been changed to provide that applications be filed with the Director *in care of* the Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, and must be received by the *Enrollment Coordinator* by the close of business on the deadline date specified. Accordingly, "Enrollment Coordinator"

and "Staff Officer" have been defined and added to the definitions contained in § 77.1. Also, in § 77.1, the definition of "Director" has been changed to include Officer in Charge of any successor field office and the definition of "Superintendent" has been deleted.

As a matter of correction certain other changes have been made to the regulations. In § 77.1 the definition of "Secretary" should read "the Secretary of the Interior *or* his/her authorized representative;" in § 77.4(a)(1) the spelling of the first corporation referred to should be "Tanadgusix;" in § 77.4(a)(2) the text should read "persons who qualify for enrollment under *paragraph* (a)(1) *of this section; or;"* in § 77.4(a)(3) it should state "either St. Paul *or* St. George Island;" and in § 77.12 it should read "including those *whose* appeals were sustained." In addition, to conform with Office of Federal Register document drafting requirements, the alphabetical paragraph designations of the definitions contained in § 77.1 have been eliminated.

The information collection requirement contained in § 77.4(b) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076–0019. Accordingly, § 77.3 in the text of the regulations has been changed to reflect approval of the information collection requirement.

The primary author of this document is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, telephone number (703) 235–8275.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

List of Subjects in 25 CFR Part 77

Indians—claims, Indians—enrollment.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by the addition of a new part to read as follows:

PART 77—PREPARATION OF A MEMBERSHIP ROLL OF THE PRIBILOF ISLANDS ALEUT COMMUNITIES OF ST. PAUL AND ST. GEORGE

Sec.

77.1 Definitions.
77.2 Purpose.
77.3 Information collection.
77.4 Qualifications for enrollment and the deadline for filing applications.
77.5 Notices.
77.6 Application forms.
77.7 Burden of proof.
77.8 Action by the Communities.
77.9 Action by the Director.
77.10 Appeals.
77.11 Decision of the Secretary on appeals.
77.12 Preparation of roll.
77.13 Certification and approval of the roll.
77.14 Special instructions.

Authority: 5 U.S.C. 301, 25 U.S.C. 2 and 9, and 87 Stat. 466.

§ 77.1 Definitions.

As used in these regulations:

"Adopted person" means a person whose natural parents' parental rights have been terminated by court order and given to others to exercise.

"ANCSA" means the Alaska Native Claims Settlement Act of December 18, 1971, Pub. L. 92–203, 85 Stat. 688, as amended and supplemented by the Act of January 2, 1976, Pub. L. 94–204, 89 Stat. 1145.

"Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or his/her authorized representative.

"Communities" means the Pribilof Islands Aleut Communities of St. Paul and St. George.

"Community Council" means the governing body of the Aleut Community of St. Paul Island or the governing body of the Aleut Community of St. George Island.

"Director" means the Area Director, Juneau Area office, Bureau of Indian Affairs or the Officer in Charge of any successor field office or his/her authorized representative acting under delegated authority.

"Enrollment Committee" means the committee for the Aleut Community of St. Paul Island or the Aleut Community of St. George Island appointed by the Community Councils to perform duties relating to the enrollment of members.

"Enrollment Coordinator" means the head of the Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, having the responsibility for coordinating all activities relating to enrollment pursuant to ANCSA.

"Living" means born on or prior to and living on June 22, 1980.

"Minor Children" means persons who are less than eighteen years of age on the date specified.

"Plan" means the plan for the use and distribution of Pribilof Islands judgment funds awarded in Docket 352 and 369–A before the U.S. Court of Claims, prepared pursuant to the Act of October 19, 1973, Pub. L. 93–134, 87 Stat. 466 and effective June 22, 1980.

"St. George Tanaq" means the village corporation created pursuant to ANCSA, comprised of those Alaska Natives who were determined eligible and whose Permanent Residence as of April 1, 1970, for the purposes of ANCSA, was St. George, Alaska.

"Secretary" means the Secretary of the Interior or his/her authorized representative.

"Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Director, or other person who files an application for enrollment on behalf of another person.

"Staff Officer" means the Enrollment Coordinator or other person authorized to prepare the roll pursaunt to the Plan.

"Tanadgusix" means the village corporation created pursuant to ANCSA, comprised of those Alaska Natives who were determined eligible and whose Permanent Residence as of April 1, 1970, for the purposes of ANCSA, was St. Paul, Alaska.

§ 77.2 Purpose.

The regulations in this part are to govern the compilation of a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369–A.

§ 77.3 Information collection.

The information collection requirement contained in § 77.4(b) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076–0019. The information will be collected in order to prepare a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George living on June 22, 1980. The information will be used to determine the eligibility of each applicant for enrollment. The obligation to respond is voluntary, but is a requirement in order to be eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims.

§ 77.4 Qualifications for enrollment and the deadline for filing applications.

The roll shall contain the names of persons living on June 22, 1980, who meet the following requirements:

(a) They are of Aleut descent; *and:*

(1) They resided on St. Paul or St. George Island on June 22, 1980; *Provided,* That, any person of Aleut descent enrolled to Tanadgusix Corporation or St. George Tanaq Corporation shall be presumed to have resided in the Communities, and all persons of Aleut descent who were

absent from the Communities for purposes of their own education, service in the United States armed forces, or personal health shall also be presumed to have resided in the Communities on June 22, 1980; *or*

(2) They were minor children on June 22, 1980, of persons who qualify for enrollment under paragraph (a)(1) of this section; *or*

(3) They were born on either St. Paul or St. George Island on or before December 31, 1946; *and*

(b) They file or have filed on their behalf an application with the Director, c/o Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510. Application forms must be received by the Enrollment Coordinator no later than close of business on February 16, 1983. Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the requirements for enrollment. If the filing deadline falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the deadline will be the next working day thereafter.

§ 77.5 Notices.

(a) The Director shall mail a notice to each person who applied for enrollment under ANCSA at the last address of record and whose application on which his/her determination of eligibility was based indicated that he/she was of Aleut descent.

(b) The notice shall advise of the preparation of a membership roll pursuant to the Plan and the relevant procedures to be followed including the requirements for enrollment, and the need to file or have filed on their behalf a completed application form before the deadline specified in § 77.4(b) in order to be eligible to share in the distribution of judgment funds. The notice shall also state how and where application forms may be obtained as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 77.6 Application forms.

(a) Application forms to be filed by or for applicants for enrollment will be furnished by the Director, or other designated persons, upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom forms are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(b) Among other information, each application form shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of forms furnished interested individuals.

(c) Application forms may be filed by sponsors on behalf of other persons.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, he/she shall promptly notify the Director of any change in address, giving appropriate identification of the application, otherwise the mailing address as stated on the form shall be acceptable as the proper address for all purposes under the regulations in this part.

(e) Criminal penalties of a $10,000 fine or five (5) years in prison, or both, are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

§ 77.7 Burden of proof.

The burden of proof of eligibility for enrollment rests upon the applicant. Documentary evidence such as birth certificates, death certificates, baptismal records, adoption records, copies of probate findings, affidavits, medical records, Armed Forces service records, or other records acceptable to the Secretary, must be used to support claims for enrollment. Records of the Bureau of Indian Affairs or other U.S. Government Agencies may also be used to establish eligibility.

§ 77.8 Action by the Communities.

The Director shall submit copies of all applications received to the appropriate Enrollment Committee for review and determination; except that, in cases of adopted persons where the Bureau of Indian Affairs has assured confidentiality in order to obtain the information necessary to determine the eligibility for enrollment of the individual, such confidential information will not be released to the Communities, but the Director shall certify as to the eligibility for membership of such applicant to the Communities. The appropriate Enrollment Committee shall review all applications and make their decision in writing stating the reason(s) for approval or rejection of the applicant for membership in the Communities. The Community Council, by resolution, will make the final decision for the Communities. If the Community Council's decision reverses the Enrollment Committee's decision, the reason(s) for approval or rejection of the applicant for membership in the Communities must be stated in writing. The application shall then be returned to the Director with the decision and any additional evidence used in determining eligibility for membership in the Communities. Approval of the applicant for membership in the Communities by the Community Council does not insure eligibility to share in the distribution of judgment funds.

§ 77.9 Action by the Director.

(a) The Director shall consider each application, all documentation, and the Community Council's decision. The Director shall accept the decision of the Community Council unless the decision is clearly erroneous. If the Director overrules the Community Council's decision, he/she shall notify the Community Council of his/her actions and the reasons therefor. The determination of the Director shall only affect the applicant's eligibility to share in the distribution of the judgment funds.

(b) Upon determining an applicant's eligibility, the Director shall notify the applicant or sponsor, as applicable, in writing of his/her decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the Director decides the applicant is not eligible, he/she shall notify the applicant or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for rejection and of the right to appeal to the Secretary. If correspondence is sent out of the United States, it may be necessary to use registered mail. If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved. If a certified or registered notice is returned as "Unclaimed" the Director shall remail the notice by regular mail together with an acknowledgement of receipt form to be completed by the addressee and returned to the Director. If the acknowledgement of receipt is not returned, computation of the appeal period shall begin on the date the notice was remailed. Certified or registered notices returned for any reason other than "Unclaimed" need not be remailed.

(c) A notice of rejection is considered to have been made on the date:

(1) Of delivery indicated on the return receipt,

(2) Of acknowledgement of receipt,

(3) Of personal delivery, or

(4) Of the return by the post office of an undelivered certified or registered letter.

(d) In all cases where an applicant is represented by an attorney, such attorney will be recognized as fully controlling the case on behalf of his/her client and service on the attorney of any document relating to the application shall be considered to be service on the applicant he/she represents. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(e) To avoid hardship or gross injustice, the Director may waive technical deficiencies in applications or other submissions. Failure to file by a deadline does not constitute a technical deficiency.

§ 77.10 Appeals.

Appeals from rejected applicants must be in writing and must be filed pursuant to Part 62 of this subchapter, a copy of which shall be furnished with each notice of rejection.

§ 77.11 Decision of the Secretary on appeals.

The decision of the Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given to the applicant or sponsor. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 77.12 Preparation of roll.

The staff officer shall prepare a minimum of five (5) copies of the roll of those persons determined to be eligible for enrollment, including those whose appeals were sustained. In addition to other information which may be shown, the complete roll shall contain for each person an identification number, full name, address, sex, date of birth, date of death (if applicable), and the authority for enrollment.

§ 77.13 Certification and approval of the roll.

A certificate shall be attached to the roll by the staff officer certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 77.14 Special instructions.

To facilitate the work of the Director the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

June 25, 1982.

[FR Doc. 82-19685 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-02-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Removal of One of the Conditions of Approval of the Virginia 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 946 by removing one of the conditions of approval (condition "k") of the Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Virginia has submitted provisions to the Office of Surface Mining (OSM) which satisfy the condition of the Secretary's approval of December 15, 1981 (46 FR 61088–61115).

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Secretary of the Interior has determined that the modification of the Virginia program satisfies condition "k" of the Secretary's approval by 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. Accordingly, the Secretary of the Interior has removed condition "k" from his approval of the Virginia program.

Part 946 of 30 CFR Chapter VII is being amended to implement this decision:

EFFECTIVE DATE: The removal of the condition of the approval is effective July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the Commonwealth of Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69977–70000). Virginia resubmitted its proposed regulatory program on August 13, 1981, and after a subsequent review, the Secretary approved the program subject to the correction of nineteen minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1981, **Federal Register** (46 FR 61088–61115).

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 a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register** (46 FR 61088–61115).

One of the minor conditions of approval imposed by the Secretary was condition "k," which required 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 January 28, 1982, Virginia submitted a revised policy statement to satisfy condition "k" (Administrative Record No. VA 376). The revised policy statement grants authority to the field inspector to issue cessation orders for imminent danger or harm if he/she is unable to consult with the supervisor, enforcement manager or assistant enforcement manager by radio or telephone.

OSM published a notice in the **Federal Register** on April 26, 1982, announcing receipt of the amendment and inviting public comment on whether the proposed program amendment corrected the deficiency (47 FR 17827–17829). The public comment period ended May 26, 1982. A public hearing scheduled for May 12, 1982, was not held because no one expressed a desire to present testimony. On May 11, 1982, OSM published a notice in the **Federal Register** to cancel the public hearing (47 FR 20152–20153).

Public disclosure of comments by Federal agencies was made on July 7, 1982, in the **Federal Register** (47 FR 29571).

Secretary's Findings

Pursuant to 30 CFR 732.17 the Secretary finds that the amendment

submitted by Virginia on January 28, 1982, corrects condition "k" of his conditional approval of December 15, 1981.

The revised policy statement clearly grants authority to the field inspectors to issue cessation orders for imminent danger or harm if they are unable to consult with the supervisor, enforcement manager or assistant enforcement manager by radio or telephone consistent with 30 CFR 843.11.

Public Comments

Although public comments were requested, no substantive comments were received.

Additional Determinations

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

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 taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

On December 8, 1981, the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Virginia permanent program. The amended regulatory provision approved in this document is not an aspect of the Virginia permanent program which relates to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151-1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*)

Indexing Requirements

List of Subjects in 30 CFR Part 946

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

Therefore, Part 946 of 30 CFR Chapter VII is amended as set forth herein.

Dated: July 13, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 946—VIRGINIA

Part 946 of Title 30 is amended as follows:

1. Section 946.10 is revised to read as follows:

§ 946.10 State regulatory program approval.

The Virginia State Program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on August 13, 1981, and clarified in a meeting with OSM on September 21 and 22, 1981, and in a letter to the Director of the Office of Surface Mining on October 15, 1981, was conditionally approved, effective December 15, 1981. Beginning on that date, the Department of Conservation and Economic Development, Division of Mined Land Reclamation was deemed the regulatory authority in Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on [date of publication] the program also includes the program amendment submitted on January 28, 1982. Copies of the conditionally approved program, as amended, are available for review at:

Virginia Division of Mined Land Reclamation, Drawer U, 630 Powell Avenue, Big Stone Gap, Virginia 24219

Virginia Department of Conservation and Economic Development, 1100 State Office Building, Richmond, Virginia 23219

Office of Surface Mining, Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C.

2. Section 946.11 is amended by removing and reserving paragraph (k).

§ 946.11 Conditions of State regulatory program approval.

* * * * *

(k) [Reserved]

* * * * *

[FR Doc. 82-19645 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2541, 1E2547/R457; PH-FRL 2172-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Inorganic Bromides Resulting From Soil Treatment With Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only), asparagus, and lettuce. This regulation to establish a maximum permissible level for residues of the inorganic bromides in or on the commodities was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 2, 1982 (47 FR 23955) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions 1E2541 and 1E2547 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Oregon, and Washington (PP 1E2541) and California (PP 1E2547).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proposed the establishment of tolerances for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only, PP 1E2541) and asparagus and lettuce, (PP 1E2547) at 200

parts per million (ppm). The petitions were later amended to propose tolerances at 300 ppm in or on each of the commodities.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

Based on the information considered by the Agency, it is concluded that the establishment of these tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

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

Dated: July 8, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.199 is revised to read as follows:

§ 180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propargyl bromide; tolerances for residues.

Tolerances are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. No tolerances are established for chloropicrin since it has been established that no residue of this substance remains in the raw agricultural commodity.

Commodities	Parts per million
Asparagus	300
Broccoli	25
Cauliflower	25
Eggplants	60
Lettuce	300
Muskmelons	40
Onions (dry bulb)	300
Peppers	25
Pineapples	25
Strawberries	25
Tomatoes	40

[FR Doc. 82-19484 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1756, 6E1800, 8E2103, 9E2137/R 455; PH-FRL 2172-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methyl parathion in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested by the Interregional Research Project (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section (TS-767C), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of a proposed rule published in the **Federal Register** of May 26, 1982 (47 FR 22981) which announced that the Interregional Research Project No. 4 (IR-4) New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide and food additive petitions (PP 6E1756, 6E1762, and FAP 6H5128) to EPA. Pesticide petition 6E1756, submitted on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Florida, and New Jersey, requested that the Administrator propose that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) and its methyl homolog in or on the raw agricultural commodity parsley at 1 part per million (ppm). This petition was later amended to limit the proposed tolerance to the methyl homolog of parathion.

IR-4 submitted petitions 6E1762 and 6H5128 on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California, requesting that the Administrator propose the establishment of a tolerance for residues of the insecticide parathion and its methyl homolog in fish at 0.2 ppm (6E1762) resulting from application of the insecticide to waters of Clear Lake, California, for the control of the Clear Lake gnat, Chaoborus astictopus Dyar and Shannon, in programs conducted by the Lake County, California, Mosquito Abatement District and in potable water derived from the Clear Lake region with a tolerance limitation of 0.01 ppm (6H5128). These petitions were later amended to propose tolerances for residues of methyl parathion only. However, at this time, the tolerances proposed in 6E1762 and 6H1528 are not being reproposed pending further scientific review.

IR-4 has also submitted pesticide petitions 6E1800, 8E2103, and 9E2137 to EPA on behalf of the Agricultural Experiment Stations of Idaho and Washington (6E1800); Arizona, Oklahoma, and Texas (8E2103); and New York (9E2137). Those petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide parathion or its methyl homolog in or on the raw agricultural commodities lentils at 1ppm (6E1800); guar beans at 0.2 ppm (8E2103); and birdsfoot trefoil forage at 1.25 ppm and birdsfoot trefoil hay at 5.0 ppm (9E2137). These petitions were later amended to limit the proposed tolerances to the methyl homolog of parathion.

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking. Contrary to a statement in the notice of proposed rule, the Agency has no immediate plans to reevaluate existing tolerances for parathion.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the

notice of proposed rulemaking (47 FR 22981, May 26, 1982).

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before August 20, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.121 is revised to read as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

(a) Tolerances are established for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa (fresh)	1.25
Alfalfa hay	5
Almonds	0.1(N)
Almond hulls	3
Apples	1
Apricots	1
Artichokes	1
Avocados	1
Barley	1
Beans	1
Beet greens (alone)	1
Beets (with or without tops)	1
Beets, sugar	0.1(N)
Beets, sugar (tops)	0.1(N)
Blackberries	1
Blueberries (huckleberries)	1
Boysenberries	1
Broccoli	1
Brussels sprouts	1
Cabbage	1
Carrots	1
Cauliflower	1
Celery	1
Cherries	1
Citrus fruits	1
Clover	1
Collards	1
Corn	1
Corn, forage	1
Cottonseed	0.75
Cranberries	1
Cucumbers	1
Currants	1
Dates	1
Dewberries	1
Eggplants	1
Endive (escarole)	1
Figs	1
Filberts	0.1(N)
Garlic	1
Gooseberries	1
Grapes	1
Grass (forage)	1
Guavas	1
Hops	1
Kale	1
Kohlrabi	1
Lettuce	1
Loganberries	1
Mangoes	1
Melons	1
Mustard greens	1
Mustard seed	0.2
Nectarines	1
Oats	1
Okra	1
Olives	1
Onions	1
Parsnips (with or without tops)	1
Parsnip greens (alone)	1
Peaches	1
Peanuts	1
Pears	1
Peas	1
Peas, forage	1
Pecans	0.1(N)
Peppers	1
Pineapples	1
Plums (fresh prunes)	1
Potatoes	0.1(N)
Pumpkins	1
Quinces	1
Radishes (with or without tops)	1
Radish, tops	1
Rape seed	0.2
Raspberries	1
Rice	1
Ruthabagas (with or without tops)	1
Rutabaga tops	1
Safflower seed	0.1(N)
Sorghum	0.1(N)
Sorghum fodder	3
Sorghum forage	3
Soybeans	0.1
Soybean hay	1
Spinach	1
Squash	1
Strawberries	1
Summer squash	1
Sugarcane	0.1(N)
Sugarcane fodder	0.1(N)
Sugarcane forage	0.1(N)
Sunflower seed	0.2
Sweet potatoes	0.1(N)
Swiss chard	1
Tomatoes	1
Turnips (with or without tops)	1
Turnips greens	1
Vetch	1
Walnuts	0.1(N)
Wheat	1
Youngberries	1

(b) Tolerances are established for residues of the insecticide *O,O*-dimethyl-*O*-*p*-nitrophenyl thiophosphate (the methyl homolog of parathion) in or on the following raw agricultural commodities:

Commodities	Parts per million
Birdsfoot trefoil forage	1.25
Birdsfoot trefoil hay	5
Guar beans	0.2
Lentils	1
Parsley	1

[FR Doc. 82-19485 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1812/R453; PH FRL 2172-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity avocados. This regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of May 26, 1982 (47 FR 22980) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1812 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section

408(e) of the Federal Food, Drug, and Cosmetic Act, establish a tolerance for the combined residues of the fungicide benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazole carbamate) and its metabolite containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity avocados at 3 ppm. This represents an increase in the existing tolerance level of 1 ppm for avocados.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 22980, May 26, 1982).

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before August 20, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.294 is amended by increasing the current tolerance level for the raw agricultural commodity avocados to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
Avocados	3

* * * * *

[FR Doc. 82-19486 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2493/R456; PH-FRL 2173-1]

Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity filberts was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 378, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 716-B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 2, 1982 (47 FR 23957), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2493 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Oregon.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts at 0.2 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 23957, June 2, 1982).

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: July 9, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.379 is amended by revising the chemical name to reflect "(1-methylethyl)" and adding and alphabetically inserting the raw agricultural commodity filberts to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl methyl 4-chloro-alpha-(1-methyl-ethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Filberts	0.2
* * * * *	

[FR Doc. 82-19638 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 435

[WH-FRL 2121-2]

Oil and Gas Extraction, Point Source Category; Suspension of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of regulations and request for comments.

SUMMARY: EPA is suspending the applicability of "best practicable control technology currently available (BPT)" effluent limitation guidelines regulations for the onshore subcategory of the oil and gas extraction point source category as they apply to facilities located onshore engaged in the production, field exploration, drilling, well completion and well treatment in this industry in existence on April 13, 1979 or thereafter which would have been considered "coastal" as defined in Section 435.41 of the October 13, 1976 Interim Final regulations (41 FR 44943) for this industry. This action is in response to the Court's decision in *American Petroleum* v. *EPA*, 661 F. 2d 340 (5th cir., 1981). In addition, EPA is suspending the applicability of these regulations as to wells located in the Santa Maria Basin of California.

EPA also will reexamine the question of whether or not to establish different effluent limitation guidelines for marginal gas wells.

DATES: The suspension of these regulations as to facilities in existence on April 13, 1979 or thereafter, which are located on land and which would have been considered "coastal" and allowed to discharge under EPA's October 13, 1976 interim final regulations for the oil and gas extraction point source category, is effective as of November 13, 1981, the date of the Court's decision requiring today's action. The suspension of the regulation as to facilities located in the Santa Maria Basin of California is effective August 20, 1982. Comments must be submitted on or before September 20, 1982.

ADDRESS: Comments should be sent to Ron Kirby, Effluent Guidelines Division (WH-552), Washington, D.C. 20460. Attention; EGD Docket Clerk, Oil and Gas Extraction Industry, (WH-552).

The supporting information and all comments received will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ron Kirby, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or call (202) 472-9075.

SUPPLEMENTARY INFORMATION:

A. Court Opinion

On April 13, 1979 (44 *FR* 22069) EPA promulgated certain "best practicable control technology currently available (BPT)" effluent limitation guidelines for the oil and gas extraction point source category, 40 CFR Part 435, under the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.* In *American Petroleum Institute v. EPA*, 661 F.2d. 340 (1981), the Fifth Circuit Court of Appeals remanded the Agency's recategorization from the coastal subcategory to the onshore subcategory of certain wells located on land within Texas and Louisiana. The Agency's Interim Final Regulations' definition of "coastal" only applied to wells within those two States. An effect of this recategorization was that these wells which had been allowed to discharge under the interim final regulations (40 CFR 435.41, 41 FR 44943, October 13, 1976), could no longer discharge (40 CFR 435.30, 44 FR 22069, April 13, 1979). The Court held that EPA had not adequately analyzed the costs of this regulatory change. Accordingly, EPA is suspending the applicability of 40 CFR 435.30 to these wells. EPA is also suspending the applicability of the regulations to any wells which came into existence after issuance of the 1979 Final Regulations so as to treat all wells in this area the same. Permit conditions will be determined on a case-by-case basis.

The wells affected by this portion of the Court order are those facilities located landward from the inner boundary of the territorial seas and bounded on the inland side by the line defined by the inner boundary of the territorial seas eastward of the point defined by 89°45′ W. Longitude and 29°46′ N. Latitude and continuing as follows west of that point:

Direction to west longitude	Direction to north latitude
West, 89°48′	North, 29°50′.
West, 90°12′	North, 30°06′.
West, 90°20′	South, 29°35′.
West, 90°35′	South, 29°30′.
West, 90°43′	South, 29°25′.
West, 90°57′	North, 29°32′.
West, 91°02′	North, 29°40′.
West, 91°14′	South, 29°32′.
West, 91°27′	North, 29°37′.
West, 91°33′	North, 29°46′.
West, 91°46′	North, 29°50′.
West, 91°50′	North, 29°55′.
West, 91°56′	South, 29°50′.
West, 92°10′	South, 29°44′.
West, 92°55′	North, 29°46′.
West, 93°15′	North, 30°14′.
West, 93°49′	South 30°07′.
West, 94°03′	South, 30°03′.
West, 94°10′	South, 30°00′.
West, 94°20′	South, 29°53′.
West, 95°00′	South, 29°35′.
West, 95°13′	South, 29°28′.
East, 95°08′	South, 29°15′.
West, 95°11′	South, 29°08′.
West, 95°22′	South, 28°56′.
West, 95°30′	South, 28°55′.
West, 95°33′	South, 28°49′.
West, 95°40′	South, 28°47′.
West, 96°42′	South, 28°41′.
East, 96°40′	South, 28°28′.
West, 96°54′	South, 28°20′.
West, 97°03′	South, 28°13′.
West, 97°15′	South, 27°58′.
West, 97°40′	South, 27°45′.
West, 97°46′	South, 27°28′.
West, 97°51′	South, 27°22′.
East, 97°46′	South, 27°14′.
East, 97°30′	South, 26°30′.
East, 97°26′	South, 26°11′.

East to 97°19′ W. Longitude and Southward to the U.S.—Mexican border.

In addition, the Court directed EPA to reexamine the problems of marginal gas wells and consider treating them similarly to the way the Agency treats stripper oil wells. The Agency has created a separate subcategory for stripper oil wells but has not established nationally applicable effluent limitations.

EPA is considering the effects of the Court remand of the Agency's recategorization from the coastal subcategory to the onshore subcategory of certain wells located on land within Texas and Louisiana, and the Court's directive to reexamine the problems of marginal gas wells and consider adding them to the guidelines for stripper oil wells. The Agency invites comment from the public on the issues raised by the Court remand.

EPA is examining the following issues regarding wells in Texas and Louisiana:

- The number of wells located on land that currently discharge to saline, fresh or brackish waters;
- The wastewater characteristics and amounts of the produced waters discharged from these sources;
- The cost of achieving zero discharge and how that cost is related to well characteristics such as size of well, location, production, geologic conditions, depth and other factors;

- The environmental impacts arising from produced waters discharged which may not be compatible with the receiving streams in terms of salinity, chemical composition, temperature, or pH.

The Agency specifically invites comments from the public on the above issues.

The Agency is reexamining the following issues regarding marginal gas wells:

- The appropriate definition of "stripper gas wells". A possible definition the Agency is considering is the one used by the Department of Energy (DOE) which defines such wells as those producing less than 60 thousand cubic feet (mcf) of natural gas per day;
- The number of marginal gas wells in existence which would be considered stripper under the DOE definition of stripper gas wells;
- The wastewater characteristics and amounts of produced waters discharged from marginal gas wells;
- The environmental impacts arising from produced waters discharged which may not be compatible with the receiving streams in terms of salinity, chemical composition, temperature or pH;
- The costs involved in achieving zero discharge from marginal gas wells and how zero discharge would affect production.

EPA will consider data produced both by the Agency and by various outside groups pertaining to these issues. One study that EPA is considering using as a source of information for the above questions is the "Analysis of the Economic Impact of EPA Proposal to Exclude from the Coastal Subcategory discharges from wells located on land but Discharging into Coastal Waters (March 1978) and Addendum I (April 1978) by J. Gruy and Associates, Inc." ("Gruy Report").

EPA specifically invites comments from the public on the above issues.

B. Wells in Santa Maria Basin

EPA has recently received technical information that reinjection of produced waters by wells in the Santa Maria Basin of California to achieve the no discharge standard of the BPT onshore subcategory regulations (40 CFR 435.30) may no longer be appropriate. The Santa Maria Basin consists of the following oil fields: Barham Ranch; Careaga Canyon; Casmalia; Cat Canyon East; Cat Canyon West; Four Deer; Gato Ridge; Guadalupe; Jesus Maria; Lompoc; Los Alamos; Olivera Canyon; Orcutt; Santa Maria Valley; Tinaquaic and Zaca. These oil fields are the ones listed as being included in the Santa Maria District by the Joint Committee on Nomenclature of the American Association of Petroleum Geologists and the Conservation Committee of California Oil Producers consulting with the California Division of Oil and Gas Representatives.

The injected water follows a subsurface fracture, displaces the oil in adjacent wells and has substantially reduced production capacity in the Santa Maria Basin. In addition, there is evidence to suggest that the requirement of continuing the practice of injection into existing disposal zones at current or expanded levels may cause groundwater contamination because of the area's special geological features. The high injection pressure at the wellhead has caused the reservoir pressures to exceed the formation fracture pressure. This could cause the movement of injection fluids into fresh water aquifers through existing fault planes and fractures as a result of injection pressure. Also, the possibility of developing new disposal wells in other zones at greater depths is severely limited because of the geological features. The porosity, permeability and reservoir capacity of other zones are considered unfavorable to dispose of injection fluids economically and safely. On the basis of this new information, EPA is suspending the applicability of § 435.30 to wells located in the Santa Maria Basin. Permit conditions will be established on a case-by-case basis.

C. Promulgation Without Notice and Comment; OMB Review

Because this regulation is in direct response to the Court's opinion and otherwise responds to pressing issues raised by the public pertaining to public health and loss of domestic oil production, the Administrator has determined that there is good cause to promulgate this regulation without prior opportunity for notice and comment pursuant to Section 553(b) of the Administrative Procedure Act.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it imposes no new obligations. This notice was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

List of Subjects in 40 CFR Part 435

Oil and gas exploration, Water pollution control, Waste treatment and disposal.

Dated: July 13, 1982.

Anne M. Gorsuch,

Administrator.

PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

40 CFR 435.30 is amended by adding the following sentence as follows:

Subpart C—Onshore Subcategory

§ 435.30 Applicability; description of the onshore subcategory

* * * *Provided, however,* That the applicability of this subpart to (a) facilities in existence on April 13, 1979 or thereafter engaged in the production, field exploration, drilling, well completion and well treatment in the oil and gas extraction industry which are located on land and which would have been considered "coastal" as defined under the interim final regulations for this industry (40 CFR 435.41, 41 FR 44942, October 13, 1976) or which are (b) located in the Santa Maria Basin of California is suspended.

Authority: (Sections 301, 304(b) and 501 of the Clean Water Act as amended, 33 U.S.C. 1251 *et seq.).*

[FR Doc. 82-19666 Filed 7-19-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 94 and 100

[Gen. Docket No. 80-603; FCC 82-285]

Development of Regulatory Policy in Regard to Direct Broadcast Satellites for the Period Following the 1983 Regional Administrative Radio Conference

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: The Federal Communications Commission (FCC) finds authorization of Direct Broadcast Satellite (DBS) systems in the public interest and establishes rules for their operation in the interim period before the 1983 Regional Administrative Radio Conference. The FCC also allocates spectrum for a DBS service and sets forth a method of accommodating terrestrial microwave licensees now occupying the frequencies allocated to DBS. The action was taken in order to make possible the introduction of DBS service in the United States. The action is intended to allow licensing and construction of DBS systems to proceed and to cause a minimum of disruption to terrestrial microwave systems.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Florence Setzer or Bruce Franca, 653–5940

SUPPLEMENTARY INFORMATION: As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared a Final Regulatory Flexibility Analysis of the expected effect of these rules on small entities. The analysis is set forth in Appendix D of the *Report and Order.*

List of Subjects

47 CFR Part 2

Frequency allocations.

47 CFR Part 94

Operational-fixed microwave.

47 CFR Part 100

Direct broadcast satellites.

Report and Order

Adopted: June 23, 1982.
Released: July 14, 1982.

I. Introduction

1. On June 1, 1981, the Commission issued a *Notice of Proposed Policy Statement and Rulemaking* (*Notice*), 86 FCC 2d 719, to consider proposed policies and rules to govern the authorization of direct broadcast satellite (DBS) service prior to the 1983 Regional Administrative Radio Conference (RARC–83).[1] After full consideration of the comments filed in this proceeding, we have concluded that such interim DBS authorizations would serve the public interest. Therefore, we propose to authorize DBS services, on an experimental basis, subject to the policies and rules set forth in this *Report and Order.*

II. Background

2. The Commission began consideration of domestic policies for DBS with a *Notice of Inquiry,* 45 FR 72719 (November 3, 1980), released October 29, 1980 in General Docket 80–603.[2] The *Notice of Inquiry* requested comment on two staff reports dealing with DBS, one dealing with technical characteristics of and the other with appropriate regulatory policies.[3] The *Notice of Inquiry* also requested comment on questions dealing with permanent regulatory policies and questions dealing with regulatory policies and questions dealing with regulatory policies for the interim period prior to the 1983 RARC. Separate comment and reply periods were established for each set of questions.

3. On December 17, 1980, the Commission received an application from Satellite Television Corporation (STC) requesting authority to begin construction of satellites for a satellite-to-home video broadcasting system. The Commission placed STC's application in the docket file and invited public comment on the application.

4. After consideration of the comments and replies in response to the questions dealing with interim regulatory policies, and in response to STC's application, the Commission, on June 1, 1981, released the *Notice,* which set forth the proposed policies and conditions to govern the authorization of interim DBS services. At the same time, the Commission accepted STC's application (File No. DBS–81–01) for filing and established a 45-day cutoff period for the submission of other applications to be considered in conjunction with STC's application. Thirteen additional applications were received during this period.

5. On October 28, 1981, the Commission released a *Public Notice,* FCC 81–507, announcing that the applications submitted by the following parties were acceptable for filing: CBS, Inc. (File No. DBS–81–02); Direct Broadcast Satellite Corporation (File No. DBS–81–03); Focus Broadcast Satellite Company (File No. DBS–81–04);[4] Graphic Scanning Corporation (File No. DBS–81–05); RCA American Communications, Inc. (File No. DBS–81–06); United States Satellite Broadcasting Company (File No. DBS–81–07); Video Satellite Systems, Inc. (File No. DBS–81–08); and Western Union Telegraph Company (File No. DBS–81–09).[5]

6. Numerous comments and replies were filed in reponse to the *Notice.* Appendix A contains a list of the commenters. Because authorization of first generation DBS systems may have some effect on permanent regulatory policies, we have also taken into account, where appropriate, the comments filed in response to the questions concerning permanent regulatory policies in the *Notice of Inquiry.* Appendix B contains a list of those who submitted comments concerning permanent policies. Summaries of the comments filed in response to the *Notice* and the comments relating to permanent regulatory policies filed in response to the *Notice of Inquiry* are available on request. A Final Regulatory Flexibility Analysis is contained in Appendix E.

III. The Public Interest in Authorizing DBS Systems

7. In the *Notice* we pointed out that authorization of DBS systems, even on an experimental basis, might have lasting implications, and that as a consequence we found it advisable to make a preliminary determination that the public interest would be served by the establishment of these services on a regular or permanent basis.[6] The thirteen additional applications to provide DBS service we have received since the adoption of the *Notice* reinforce our belief that authorization of DBS systems in the 12 GHz band is likely to have a major and permanent effect on the use of the band, and that before proceeding we should examine carefully the possible effects of the

[1] Direct broadcast satellite (DBS) service is a radiocommunication service in which signals from earth are retransmitted by high power, geostationary satellites for direct reception by small, inexpensive earth terminals. We use the terms DBS and broadcasting-satellite service (BSS) in this item. Generally, we use the term DBS when discussing domestic policy matters and BSS with regard to frequency allocation matters, in particular with reference to the Table of Frequency Allocations. For the purposes of this document, the terms can generally be regarded as synonymous.

[2] The Commission is conducting a parallel DBS proceeding, General Docket 80–398, concerning Commission preparations for a scheduled 1983 Region 2 Administrative Radio Conference for the planning of the 12 GHz broadcasting satellite service. The results of this proceeding will serve as the basis for Commission coordination with the National Telecommunications and Information Administration (NTIA) and the Department of State in the formulation of United States proposals and positions for that conference. The Commission has released three *Notices of Inquiry* and established an Advisory Committee to aid in these preparatory efforts.

[3] Bruno Pattan, *Technical Aspects Related to Direct Broadcast Satellite Systems* (Federal Communications Commission, Office of Science and Technology, September 1980); and Florence O. Setzer, Bruce A. Franca, and Nina W. Cornell, *Policies for Regulation of Direct Broadcast Satellites* (Federal Communications Commission, Office of Plans and Policy, October 1980).

[4] Only the portion proposing use of the Advanced Westar satellite was accepted.

[5] On August 5, 1981, STC filed a petition requesting that the Commission rule on the acceptability of certain DBS applications. In response to STC's petition, the Commission released a *Memorandum Opinion and Order,* 88 FCC 2d 100, on November 3, 1981, finding that a number of interim DBS applications were incomplete and unacceptable for filing. In a subsequent *Memorandum Opinion and Order,* 89 FCC 2d 177, released March 1, 1982, the Commission reaffirmed this decision and rejected several petitions for reconsideration. An appeal of these decisions is pending. *National Christian Network, Inc.* v. *FCC,* No. 82–1345 (D.C. Cir., appeal filed March 31, 1982).

[6] Such a procedure is consistent with the procedures set forth in §§ 5.253(e) and 74.103(d) of the Commission's rules, which deal with experimental authorizations. Section 5.253(e), for instance, states that "frequencies will not be assigned for the development of a service for which no frequencies have been allocated until the Commission has made a preliminary determination that the public interest, convenience, and necessity would be served by the establishment of the service."

service to determine whether its authorization would serve the public interest. Accordingly, we have carefully studied the record in this proceeding concerning the effects of authorization of DBS systems. We continue to believe that the benefits of authorizing DBS service will outweigh the costs, and that DBS service could constitute a valuable use of the 12 GHz band. Therefore, we believe that authorization of DBS systems in the 12.2–12.7 GHz band would serve the public interest.

8. Many commenters state that the record does not support our preliminary determination that authorization of DBS systems would serve the public interest.[7] Most of these state either that DBS would not provide the benefits claimed for it or that the Commission has not fully considered the costs of authorizing the service. They claim that the benefits to the public would not justify the use of the spectrum and orbital slots.

9. In criticizing our discussion of the benefits of DBS, others state that the only benefits of DBS service not provided by other systems would be service to rural areas, and that this benefit would justify no more than spot beams to serve those areas. Some commenters state that the rural population is to a small to justify the cost of a DBS system, and that the Commission has not established that rual viewers either want or could afford DBS service. Some commenters state that there are better ways of providing the services that DBS would provide, even in rural areas. Some commenters state that DBS as we propose to authorize it would duplicate services already available, either by providing similar programming or by transmitting standard 525-line television signals rather than high definition television (HDTV). Some state that the Commission has not assessed the value of alternative broadcasting-satellite services, such as HDTV and non-video uses.

10. The costs of DBS service about which commenters express greatest concern are those to terrestrial microwave users and to local broadcasters and the services they provide to the public. Several commenters state that they are not opposed to DBS in principle, but that it should not be authorized at the expense of the terrestrial users. Some commenters oppose authorization of DBS prior to the 1983 RARC.

11. Other commenters, however, support the Commission's preliminary public interest finding.[8] STC, for instance, states that DBS has a unique capability to provide video services to rural and remote areas that are underserved by existing television services; that it will offer the public several new channels of television programming, thus increasing competition and diversity; that it may introduce new video services, such as high definition television; and that it will further the national objectives of maintaining U.S. preeminence in satellite communications and enhancing the prospects for economic growth.

Benefits of DBS Service

12. We have examined the record and have concluded that DBS has the potential to provide extremely valuable services to the American people. The possible benefits of the service include the provision of improved service to remote areas, additional channels of service throughout the country, programming offering more variety and that is better suited to viewers' tastes, technically innovative services, and expanded non-entertainment service.

13. *Service to remote areas.* Signals from DBS satellites could be received with essentially the same signal quality in all geographic areas. Reception would be as good in the most isolated rural area as in any urban area. NTIA has estimated that in 1973 nearly 5 million people lived in areas where they could receive no over-the-air television signals at all.[9] Even in 1981, according to Nielsen, roughly 11 million people received 3 or fewer channels.[10] DBS will give these households access for the first time to a level of television service taken for granted in the rest of the nation. For isolated households, satellite technology appears to offer the only new source of television service (with the possible exception of low power television and video cassette and disc equipment) likely to be practical in the foreseeable future. Thus, the statutory goal of providing equitable distribution of service throughout the nation, *see* 47 U.S.C. 307(b), will be furthered by authorizing DBS service, which holds unique promise of meeting the programming needs of remote, underserved households.

14. We also have evidence that for viewers with little or no television service additional channels of service have enormous value. One study estimates that viewers would be willing to spend over 5 percent of their income for three channels of network television rather than have no television service at all; those with three channels available would still spend over 0.75 percent of their income for a fourth network channel.[11] The addition of another competitor in rural markets could also stimulate competition in programming and advertising.

15. *Additional channels of service throughout the country.* DBS would also make available more channels of television programming throughout the country. Preparations for the 1983 RARC lead us to believe that spectrum space is likely to be available for thirty to forty channels nationwide for the foreseeable future, and for many more in the long run. The total benefits of DBS service may in fact be even greater in urban than in rural areas because of the larger number of people who would receive additional service. In most urban areas all available VHF and most available UHF channels are in use. That there is great unmet demand for television channels in urban areas is suggested by the high prices for which television stations are sold in these areas.[12] These prices, and the success of cable and STV in urban areas already receiving many over-the-air signals, suggest that viewers continue to place considerable value on additional television signals even when many signals are already available, and that the public will benefit from the availability of additional channels.

16. *Programming better suited to viewers' tastes.* With a large number of channels of programming available to viewers, we expect that broadcasters' incentives in selecting programming will

[7] These commenters include the Aerospace and Flight Test Radio Coordinating Council (AFTRCC); the American Newspaper Publishers Association (ANPA); the American Petroleum Institute, Central Committee on Telecommunications (API); the Association of American Railroads (AAR); the Association for Higher Education of North Texas (AHE); the Association of Maximum Service Telecasters (MST); Forward Communications Corporation *et al.* (Licensees); Mr. Jeff Green; National Broadcasting Company, Inc. (NBC); the Oklahoma Regents for Higher Education (Oklahoma Regents); the United Church of Christ (UCC); and the Utilities Telecommunications Council (UTC).

[8] These include Citizens Communications Center, *et al.* (Citizens); Direct Broadcast Satellite Corporation, Inc. (DBSC); Mr. Douglas A. Lemke; the Pop Network, Inc. (the Pop Network); STC; and United States Satellite Broadcasting, Inc. (USSB).

[9] Institute for Telecommunications Sciences, National Telecommunications and Information Administration, U.S. Department of Commerce. Estimates based on the computer program "Television Coverage Maps," using predicted Grade B contours and 1970 Census population densities.

[10] Estimated from *1982 Nielsen Report on Television.*

[11] Roger G. Noll, Merton J. Peck, and John J. McGowan, *Economic Aspects of Television Regulation* (Washington, D.C.: The Brookings Institution, 1973), p. 288.

[12] For instance, station WCVB–TV in Boston, Channel 5, recently sold for $220 million. New York Times, May 22, 1982. The excess of the sale price over the value of land and equipment reflects the purchaser's evaluation of the value of the use of the spectrum.

change. They will have more incentive to tailor their programming to small audiences with specialized tastes rather than to a least-common-denominator mass audience. The narrowcasting that we see in radio and that is beginning to occur in cable television may be carried much further, with the result that a much wider variety of programming may be available. If so, viewers will benefit greatly from having access to programming that comes closer to meeting their individual tastes. Thus, we expect that an abundance of channels will, by changing the underlying structure of broadcasters' incentives, provide substantially greater benefits to viewers than the simple number of channels would indicate.[13]

17. The availability of pay services should also improve the responsiveness of programming to viewers' tastes because it may give small groups of viewers with intense interests an opportunity to pay to receive programming that could not be presented profitably by advertiser-supported stations. A nationwide service that can tap small, geographically-dispersed audiences also makes possible more specialized programming.

18. In addition, the amount and quality of programming available now appears to be limited both by the small number of outlets where programs can be shown and by the limited advertising revenues available to support program production.[14] If, however, subscription programming becomes widely available, and if many new outlets begin competing for audiences and advertising revenues, we would expect to see a major growth in the funds spent on program production and more and better programming as a conseqence.

19. *Innovative services.* Many of the experimental DBS applications we have received propose innovative services, such as high definition television (HDTV), stereophonic sound, teletext, and dual-language sound tracks. Allocation of an additional band of spectrum for video program distribution will make introduction of these new services relatively easy. The flexible regulatory and spectrum allocation provisions we propose would allow authorization of any of these services.

20. *Non-entertainment service.* DBS has a wide variety of potential uses other than entertainment programming, including educational programming, transmission of medical data, and the like. While we have not proposed reserving channels for such purposes, we would certainly allow them, and we would expect them to be provided if sufficient demand exists.

Conclusions

21. We believe that authorization of DBS service would not only make possible more channels of television service throughout the country, but could result in a major qualitative improvement in the service available and in the responsiveness of television to viewers' preferences. As a consequence, its potential benefits to the American people would be very great. We have also examined the possible disadvantages of authorization of DBS systems and we have concluded that they are outweighed by the benefits the new service would confer. As discussed below, we believe that there is little likelihood that by authorizing DBS service immediately, rather than delaying until after RARC–83, we will narrow our options at the RARC or foreclose any regulatory policies or rules we might later wish to adopt. We also believe that the benefits of making service available in the near future provide a compelling argument for proceeding expeditiously to authorize the service. We further believe that any adverse effect DBS service may have on local broadcast service will be outweighed by the beneficial new services described above. Finally, we believe that our proposal for accommodation of the terrestrial microwave users in the 12 GHz band will limit the costs of dislocation caused by introduction of DBS service to an acceptable level and will encourage efficient spectrum utilization. Accordingly, we find that authorization of interim DBS systems would serve the public interest.

IV. Interim DBS Authorizations

22. In the *Notice* we proposed to establish rules for DBS for the interim period prior to the 1983 RARC, and to consider and process applications to provide DBS service, even though we recognized that the outcome of the RARC might affect the rules that we could or would wish to impose domestically. We noted that because of the long lead times required for satellite construction, delaying the granting of construction permits until after the RARC would probably mean that no DBS systems would go into operation until the end of this decade. We pointed out that by starting the authorization process now, under interim rules, we would permit implementation of the service several years earlier than if we waited until the outcome of the RARC were known and permanent rules were subsequently established. We also noted that authorization of interim DBS systems would provide valuable experience that would allow us to make better-informed judgments concerning permanent regulations.

23. Some commenters assert that the authorization of DBS systems prior to the 1983 RARC will restrict the United States' negotiating flexibility at the RARC or will predetermine our permanent policies and regulations.[15] For these reasons, these parties argue that no interim DBS authorizations should be granted. Other commenters believe that the Commission should grant interim authorizations.[16] Several of these commenters state that interim authorizations are likely to enhance the United States' negotiating position and will not affect the development of permanent regulations.

24. As stated in the *Notice*, we believe that our approval of one or more DBS applications would not adversely affect the United States' negotiating posture at the 1983 RARC. The 1977 and 1979 World Administrative Radio Conferences (WARC–77 and WARC–79) anticipated that Region 2 countries might wish to implement interim DBS systems, and their Final Acts expressly permit interim authorizations. To date, the United States' preparations for RARC have emphasized the desirability of a high degree of flexibility in planning for the broadcasting-satellite service, and we will examine interim DBS applications carefully to ensure that technical proposals are consistent with our negotiating position. *See Notice*, paras. 64–75. Indeed, we believe that the existence of definite DBS proposals may assist in formulating realistic United States requirements, and that the U.S. delegation to the Conference will be better able to present cogent arguments for the accommodation of United States needs if they can present immediate and demonstrable needs rather than vague conjectures as to possible requirements.

25. We also recognize that the Final Acts of RARC–83 will constitute an International treaty which is subject to full ratification procedures. Therefore, the spectrum allocations and the rules for licensing set forth in this *Report and Order* will be subject to revision based

[13] For a discussion of the effects of the number of channels on broadcasters' program choices, see Bruce M. Owen, Jack H. Beebe, and Willard G. Manning, Jr., *Television Economics* (Lexington, Mass.: Lexington Books, D.C. Heath and Company, (1974), pp. 49–90

[14] Noll, Peck, and McGowan, *Economic Aspects of Television Regulation*, p. 30.

[15] *See* comments submitted by American Broadcasting Companies, Inc. (ABC), Licensees; National Association Broadcasters (NAB); and NBC.

[16] *See* comments submitted by Citizens, DBSC, General Electric Company (GE), USSB, and STC.

upon the outcome of RARC–83. In particular, we recognize the possibility that the final outcome of the RARC may result in the United States being awarded less of the spectrum-orbit resource than is required by the applications we grant. All DBS applicants are on notice, however, that their systems must conform to the outcome of the RARC, and that if insufficient spectrum or orbital positions are available for all the systems they may face comparative hearings at some time after the RARC. Alternatively, we may choose to assign applicants fewer frequencies or somewhat different orbital positions than they request. We will not, in fact, assign frequencies or orbital positions until the outcome of the Conference is known.

26. We also believe that the interim policies and rules we have adopted herein provide the Commission with sufficient flexibility to permit almost any permanent regulatory policies to be imposed at a later date. To ensure that we maintain our future flexibility, we have attempted to impose as few rules as possible on interim DBS systems. In addition, we will require that all operators of interim DBS systems come into compliance with any permanent regulations that are implemented later.

27. Accordingly, we believe that the authorization of interim DBS systems will not adversely affect our negotiating position at the 1983 RARC or limit our ability to establish whatever permanent policies we wish in the future. Interim authorizations will allow the public to receive the benefits of DBS service at the earliest possible time, and thus will advance the statutory objective of facilitating the introduction of new communications services. *See* 47 U.S.C. 303(g). They will also provide information of great value to the Commission in setting permanent spectrum allocation and regulatory policies. Since we see no serious disadvantage to interim authorizations, and we continue to believe that early introduction of DBS systems would provide great benefit to American viewers, we continue to believe that interim authorizations would serve the public interest.

V. Effects on Local Broadcasting

28. In the *Notice* the Commission examined the relationship between DBS systems and the existing terrestrial broadcasting service. We concluded that the Communications Act permits authorization of nonlocal broadcast services. We also concluded that authorization of a DBS service would not be inconsistent with our traditional commitment to encouraging locally-oriented service to particular communities. We noted that our policy has been to "consider economic harm to broadcasters in authorizing a new service only if there is a convincing showing that a signficant loss in income to the broadcaster would occur, that the amount of public service programming would decline as a result, and that the loss would not be offset by programming offered by the applicant." [17] We found that the available evidence indicated that a DBS system would be likely to have a negligible effect on the audiences, revenues, and public service programming of local broadcasters. The comments we have received, both those in response to the *Notice* and those concerning permanent policies, present no arguments or evidence that would cause us to doubt that conclusion or to alter our view of our legal authority to authorize DBS systems.

Legal Authority To Authorize Nonlocal Service

29. Some of the commenters continue to question the Commission's legal authority to authorize a nonlocal broadcasting service. [18] They base their contentions on the language and legislative history of Section 307(b) of the Communications Act, which provides that:

> [I]n considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

47 U.S.C. 307(b). These commenters assert that the above language prohibits the Commission from authorizing DBS systems because these systems would be nonlocal in character, would bypass existing local stations, and would not provide broadcasting outlets to local communities.

30. Other commenters assert that Section 307(b) does not require local assignment of frequencies, but only equitable distribution of service. [19] They assert that the Commission has wide discretion to determine the means of providing broadcast services, in particular to delineate service areas, and that nothing in the language or history of the Communications Act prohibits the establishment of broadcast facilities with nonlocal service areas. Some state that, even granting *arguendo* that the statute reflects a preference for local assignments, the requirement to provide local services does not prohibit the Commission from supplementing it with other forms of service. [20] Thus, the principle of localism is compatible with the goal of expanding the range of available services. One commenter, the Joint Council on Educational Telecommunications (JCET), asserts that DBS would provide the most equitable means of distributing television service, since it would make it possible to provide the same service to all geographic areas of the country. [21]

31. As fully discussed in the *Notice*, we believe the Commission clearly has the authority to authorize nonlocal broadcast services. Nothing in the comments filed in this proceeding has led us to alter that conclusion. [22] The Commission has broad discretion to select the means by which it will implement the statutory directive to "provide a fair, efficient, and equitable distribution of radio service" across the nation. *See* 47 U.S.C. 307(b); *See also FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940); *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943). Thus, the policy of localism underlying Commission radio and television regulation "was adopted by Commission choice, not by statutory command." [23] Moreover, we continue to believe that our obligation "to encourage the larger and more effective use of radio," 47 U.S.C. 303(g), requires that we fully utilize the satellite technology offered by DBS to improve services to underserved areas of the nation. Accordingly, we reject the claim of those commenters who contend that, merely because DBS is a nonlocal broadcast service, the Act prohibits its authorization.

Impact on Local Broadcasting

32. Many commenters continue to assert that competition from DBS systems would reduce the audiences and revenues of local broadcasters, which would cause them to reduce the amount or quality of locally-produced programming or public service programming they would provide. [24]

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[17] *Notice*, paragraph 50.

[18] These include ABC, NAB, and the Licensees.

[19] *See* comments of DBSC, STC, and Citizens.

[20] These include the Pop Network; Citizens; and the International Union, UAW (UAW).

[21] *See* JCET's comments on permanent policies.

[22] *Notice*, paragraph 46.

[23] *Notice*, paragraph 47. See also Thomas L. Schuessler, *The Effect of the Federal Communications Commission's Spectrum Management Policies upon the Number of Television Networks*, FCC Network Inquiry Special Staff, December 15, 1979, pp. 40–50.

[24] *See* comments of the Corporation for Public Broadcasting (CPB) and NAB, and comments on permanent policies of the ABC, CBS, and NBC Network Affiliates Organization (Affiliates); the ABC Television Affiliates Association (ABC Affiliates); and Fisher Broadcasting, Inc. (Fisher).

Some argue that advertiser-supported DBS systems would compete directly with terrestrial broadcasters for audiences and advertising revenues, and that subscription DBS systems would affect advertiser-supported stations by bidding against them for premium programming. According to these commenters, this would increase the price and reduce the quality of programming available to advertiser-supported and public television stations, and would reduce the quality of free programming. They also contend that subscription systems would attract viewers away from existing broadcasters, and that because the audiences that pay systems attract would probably be more affluent than average, the effect on advertising revenues and on the fund-raising ability of public television stations would be much greater than indicated by the numbers of subscribers. One commenter asserts that competition with DBS systems would have the most serious adverse effect on the audiences and revenues of STV stations, and that STV stations' free programming would be lost if they went off the air. Another states that DBS systems might destroy all terrestrial network and local service. In addition, NAB and CPB argue that programming provided by DBS systems could not address local needs and would not fully replace local programming that might be lost.

33. Several commenters who are concerned about the effects of DBS on local broadcasting merely state that these effects are unknown.[25] They argue that the Commission should not authorize DBS systems until it has evidence that local broadcasting will not be harmed or unless it takes action to protect local broadcasting.

34. On the other hand, other commenters, DBSC and STC, emphasize that the Commission should only consider harm to local or public service programming, and should not be swayed by potential economic harm to local broadcasters. One commenter, JCET, states that if DBS systems compete with local broadcasters, the market should determine which delivery method succeeds. Some commenters point out that the burden lies with existing licensees to demonstrate that authorization of a new service would cause a net reduction in service to the public, and that, in the case of DBS, this burden has not been met. Several commenters claim either that authorization of DBS service would have little effect or that there is no evidence of an effect on broadcasters or their local or public service programming.[26] These commenters point out that a DBS service would not use the same frequencies as terrestrial broadcasters, so that introduction of DBS systems would not necessitate a reduction in the channels available for terrestrial broadcasting. They state that pay DBS services would not compete with advertiser-supported broadcasters for advertising revenues. These commenters also cite evidence that audience diversion from terrestrial broadcasters to DBS systems would at most be minor. One commenter, USSB, asserts that its system would pose no threat to local broadcasters, and in fact would foster local programming by affording it a nationwide audience.[27] Another commenter, STC, states that the additional resources that DBS systems would devote to programming would increase the amount and quality of programming available through syndication to local stations, and would also increase the quality of network programming through increased competition. STC states that any adverse effect of a DBS system on local service would be negligible and would be greatly outweighed by the unique services provided by DBS and by the stimulus to program production it would provide.[28]

35. One commenter, NAB, questions the *Notice's* interpretation of studies cited as evidence that DBS would have no adverse effect on programming available to the public. NAB states that the report prepared by Kalba Bowen Associates (Kalba Bowen Report) for NAB does not support the contention that BDS would have little effect on broadcasters.[29] It states that the report asserts only that the short term effect would not be great and that the long-term effect would be less than that of cable. NAB points out that the report deals only with subscription DBS services, and says nothing about the effect of advertiser-supported DBS systems. NAB notes that the report does predict a major effect of DBS systems on single-channel STV and MDS systems. NAB also points out that the Kalba-Bowen report is not an econometric study.

36. NAB also criticizes the Commission's reliance on a study by Arthur D. Little, Inc. (A.D. Little Study), which estimates that a three-channel pay DBS system would have a negligible effect on local broadcasters.[30] NAB states that the study may contain large statistical errors. NAB further states that the study relates only to pay services, and that advertiser-supported DBS services would compete directly with conventional free television. NAB also states that the study is based on data from single-channel pay cable systems, and that multiple-Channel DBS systems might be more attractive to consumers and might have greater penetration. NAB further points out that the study uses 1979 data, and that penetration levels of other pay services have increased since 1979. NAB states that the A.D. Little Study indicates that DBS would have a major effect on STV stations, and that if these stations went dark, their free services would disappear.

37. STC, on the other hand, points out that the A.D. Little Study predicts that a DBS system would cause less than a third of the audience diversion estimated for cable in earlier studies, and that the Commission found that effect to pose no danger to existing stations. STC also states that several of the assumptions of the A.D. Little model may cause it to overestimate the effect of DBS systems on existing broadcasters. First, the 16 percent penetration rate for DBS used in the estimates assumes no competition from other pay services, while in much of the country DBS systems would face competition from cable, STV, and MDS. Next, STC states that the data in the A.D. Little Study pertain only to parts of the day when pay television was being transmitted, and audience diversion would probably be lower over the whole day. Third, according to STC, stating the impact on audiences of exisiting broadcasters in terms of shares rather than ratings also overstates the impact of the new service, since it does not allow for the possibility of increases in total viewing. Fourth, the A.D. Little Study also assumes that all non-pay viewing is of local market, conventional broadcasting, though in fact much is of distant signals and other basic cable services. Finally, STC asserts that the reduction of conventional broadcasters'

[25] *See* comments of the Licensees and UCC, and comments on permanent policies of the State Board of Education of the State of Georgia (Georgia State).

[26] *See* comments of Citizens, DBSC, STC, and the Pop Network; and comments on permanent policies of the National Black Media Coalition (NBMC); Oak Communications, Inc. (Oak); STC; and UAW.

[27] USSB's local affiliates could provide programming to the DBS system through a nationwide system of uplinks. *See* USSB's comments on permanent policies.

[28] *See* STC's comments on permanent policies.

[29] Berge Ayvasian, Melville Blake, and David Cantor, "Direct Broadcast Satellites: Preliminary Assessment of Prospects and Policy Issues," Kalba Bowen Associates, September 22, 1980.

[30] Satellite Television Corporation, *Application*, vol. 5: *Pay Television Services via Direct Broadcast Satellite: Demand and Impact in the 1980's*, by Arthur D. Little, Inc., May 1980.

audiences caused by DBS systems would be much less than the number of DBS subscribers because pay television households continue to watch a large amount of free television, and watch more total hours than households without pay television.

Discussion

38. The Commission is required to consider the economic effect of a new service on existing broadcasters only if there is strong evidence that a significant net reduction in service to the public will result.[31] The Commission cannot reject a new service solely because its entry will reduce the revenues or profits of existing licensees. As the Court stated in the *Sanders Brothers* case,

> Plainly it is not the purpose of the Act to protect a licensee against competition but to protect the public. Congress intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public. 309 U.S. at 475.

39. We have no hard evidence that DBS systems will have a critically adverse effect on existing broadcast service. As we have noted, the Kalba-Bowen Report contains no quantitative estimates. Although the study predicts that DBS may have a significant effect on STV, it concludes that, at most, the long-term effect of subscription DBS systems on broadcasters would be less than the effect of cable, which is not so substantial as to justify Commission intervention. *See Malrite TV of New York* v. *FCC*, 652 F.2d 1140 (2d Cir. 1981), *cert. denied*, 102 S.Ct. 1002 (1982).

40. The A.D. Little Study, which provides some quantitative evidence, suggests that a three-channel subscription DBS service would have a negligible effect on conventional terrestrial broadcasters or the services they provide to the public. As NAB has pointed out, however, the A.D. Little Study may contain large statistical errors. As STC points out, the study may overstate the effects of DBS on existing broadcasters because it assumes that DBS would face no competition from other pay services, because it uses shares rather than ratings, and because it assumes that all non-pay viewing is of local market, conventional broadcasting.[32] On the other hand, the study may underestimate the effect of DBS because it assumes that all DBS programming would be offered on a subscription basis and because it is based on data from single-channel pay systems, when multiple-channel systems might be more attractive to viewers.[33] In addition, the study does not deal with the effects of multiple DBS systems or with the cumulative effect of DBS and other video delivery methods. The fact that nine DBS applications already are on file with the Commission suggests that a number of DBS systems could come into being. Multiple systems, each with several channels, could be expected to provide a more attractive service at a lower price per channel and to have a greater effect on existing broadcasters than a single system. Nevertheless, we cannot predict how many DBS systems will actually go into operation in the foreseeable future, and we have too little experience with markets having large numbers of video channels to predict viewers' response to the availability of additional channels in such markets.

41. As to DBS' effects on existing subscription services, both the A.D. Little Study and Kalba-Bowen Study predict that DBS would have a considerable effect on the audiences of STV and MDS stations. The A.D. Little Study estimates that if both a three-channel DBS service and an STV or MDS service were priced at $20 per month, the STV or MDS system's audience share would be reduced from the current 5 percent to between 1 and 3 percent. A recent study, however, shows that STV and MDS systems provide strong competition for cable.[34] We would expect that STV and MDS systems already in operation when a DBS system was initiated might fare similarly. We know of no evidence concerning the effects of DBS systems specificially on noncommercial stations.

42. From the foregoing, it seems apparent that little firm evidence exists concerning probable effects of DBS on the audiences and revenues of local broadcast stations. The record developed in this proceeding does not support a finding that DBS is likely to have a substantial adverse impact on local services. We conclude that neither the comments nor any other evidence we have seen has shown that DBS systems would have so detrimental an effect on existing service as to justify our choosing not to authorize the service on an experimental basis.

43. In addition to DBS' possible effect on the audiences of local broadcasters, commenters have suggested that DBS systems could have a large impact, either favorable or unfavorable, on the programming available to local stations. On the one hand, DBS operators could bid against conventional broadcasters for the best programming, thereby raising the price of programming for local stations and reducing the availability of good-quality non-subscription programming to their viewers. On the other hand, if additional resources are devoted to programming because of increased demand for programming to fill the additional channels that become available, and, in addition, there is an increase in the number of subscription services, the supply of programming available to local stations through syndication could increase. Whether this occurs depends to a large extent on whether program production can be easily expanded. If the supply of programming does not expand readily in response to increased demand, then in the short run the price of programs will rise and some programming may be bid away from conventional stations. On the other hand, if production resources are available but the amount of programming now being produced is limited by the number of outlets where it can be shown, then increases in the number of outlets and the infusion of additional funds should stimulate the production of more programming. In our view, the latter represents a more plausible description of the nature of the

[31] *See FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940); *Carroll Broadcasting Co.* v. *FCC*, 258 F.2d 440 (D.C. Cir. 1958).

[32] See paragraph 37 above.

[33] We believe, however, that some of the commenters' arguments relating to the validity of the A.D. Little Study are not well founded. For instance, NAB asserts that the study's conclusions may not be sound because penetration levels of other pay services have increased since 1979. The study, however, merely estimated a behavoiral relationship, using 1979 data, showing households' choices given their characteristics and the options they have available. Therefore, assuming that viewers' preferences remain unchanged, the estimated relationship will remain valid. We note that the study's final estimates of demand for DBS services use the most conservative possible assumption, which is that DBS systems would face no competition at all from other pay services.

In addition, the fact that the study's estimates were based upon parts of the day when pay TV was being broadcast does not, in our view, affect its conclusions. There is no reason to believe that if the same services were available, all day viewers' choices among the various services would differ during different parts of the day. We also question the usefulness of the evidence that pay cable households view more total hours of television, and more hours or advertiser-supported television, than other television households. Households that watch more television than average may value television more highly, and consequently may have been more likely to subscribe to pay cable systems. Thus the greater television viewing of cable subscribers may merely reflect the composition of the group and may not be an effect of cable on viewers' behavior.

[34] *See Television Digest with Consumer Electronics*, Vol. 22, No. 19, May 10, 1982, p. 9.

program production industry.[35] The evidence regarding this question is not definitive; for that reason, however, we believe that claims regarding DBS' possible adverse effects on supply of programming to conventional broadcasters must be deemed speculative.

44. We believe that we should not refuse to authorize a potentially valuable new service solely on the basis of speculative allegations concerning possible reductions in service from other sources. *See Connecticut Committee Against Pay TV* v. *FCC*, 301 F.2d 835 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 816 (1962). As discussed above, the evidence concerning the effects of DBS on local broadcasters is at best inconclusive. The record does not show that DBS systems will affect local broadcasters to a critical extent. In contrast to the speculative nature of the claims of injury to conventional broadcasting and subscription service, the benefits that DBS could provide appear quite certain. We noted above that DBS systems could provide the first television service in some geographic areas, and could offer an increase in the number of channels and the variety of programming throughout the country. DBS systems might also offer services not previously available, such as high-definition television, stereophonic sound, or dual-language sound tracks, more readily than terrestrial program sources. The evidence we cited indicates that American viewers would find such an increase in the availability of television service extremely valuable. Thus, even if DBS systems were likely to affect the availability of programming from other sources, we believe that their potential benefits are sufficiently great to outweigh some loss of other programming. In particular, our mandate to provide an equitable distribution of service requires that we weigh very heavily the capability of DBS to provide service to underserved regions. Finally, we note that DBS will be initiated as an experimental service. Should critically adverse effects occur despite our expectations, so that the overall public interest is harmed as a result of the introduction of DBS service, we can take appropriate action at the time to ensure that the public interest is protected. In these circumstances, therefore, we conclude that initiation of the service should be permitted.

[35] Owen, Beebe, and Manning's discussion of the program production industry concludes that the supply of inputs into program production is fairly elastic. *Television Economics*, pp. 19–31.

VI. Spectrum Allocation and Sharing Issues

45. In the *Notice*, the Commission proposed that downlink operations for DBS systems be authorized in the 12.2–12.7 GHz band. To ensure that interference from terrestrial fixed service (FS) operations now using that band would not prevent reception of DBS signals, we proposed that when frequencies were assigned to DBS systems in accordance with RARC–83, and DBS satellites were in operation, terrestrial licensees in the 12 GHz band would be required to make whatever adjustments in technical parameters or assigned frequencies were necessary to prevent harmful interference to operating DBS systems.[36] The *Notice* indicated that terrestrial users would be subject to reassignment within the 12 GHz or other appropriate bands. The *Notice* also proposed that the 17.3–17.8 GHz band would be used for DBS uplinks. The Commission stated that taking such action immediately would allow us to consider DBS applications pending the outcome of RARC–83 with some assurance that sufficient spectrum would be available for DBS operations, and would ensure that existing terrestrial licensees would be afforded a sufficient period of time to prepare for a possible transition to other bands.

46. The Commission recognized that considerable costs would be associated with removal of terrestrial 12 GHz operations to higher bands. While the Commission did solicit comments on who should bear these costs, the rules proposed in the *Notice* stated that the terrestrial users would bear the entire cost of relocation. The *Notice* did, however, indicate an alternative that would lessen the cost to terrestrial users. This alternative involves setting a period of time, sufficiently long to allow normal replacement of equipment to occur, during which existing terrestrial services and DBS would be considered co-equal. Thus, existing terrestrial systems would not be required to provide protection to DBS systems during the specified period of time. Under this arrangement, if a DBS operator desired to provide service in the environment of existing terrestrial stations, he would have to accommodate those operations. Such accommodations could be accomplished through agreements with terrestrial station operators or through the development of receiving equipment capable of providing acceptable service in the fixed service environment. In many areas, however, reception of DBS signals would be impossible because of interference from terrestrial users. As discussed below, we now believe that the option of allowing a transition period with coequal status for DBS and FS would provide a more equitable and efficient solution, and that it would allow introduction of DBS service while minimizing the cost to the existing terrestrial users.

[36] Studies indicate that the terrestrial microwave operations are likely to cause interference to the DBS home receiver, while DBS transmission will probably cause little or no interference to the terrestrial microwave users. See for instance Hiroshi Akima, "Sharing of the Band 12.2–12.7 GHz Between the Broadcasting-Satellite and Fixed Services," (Boulder, Colorado: Institute for Telecommunications Sciences, January 1980).

47. Many commenters argue that because the authorization of DBS systems in the 12 GHz band will have an adverse impact on operational-fixed microwave systems now operating in this band, no interim DBS rules should be adopted or DBS systems approved until the Commission has provided adequate replacement spectrum for terrestrial operations.[37] In this regard, some commenters state that higher bands (e.g., 18 and 23 GHz) are not adequate substitutes because equipment is not readily available for use in these bands, and because the propagation characteristics of the bands make them less attractive. Several commenters state that to accommodate DBS, terrestrial fixed operations should be permitted in the 11.7 to 12.2 GHz band.[38] Other commenters oppose such an expansion of terrestrial systems.[39]

48. Many commenters state that DBS operators should compensate terrestrial users for the costs of any relocation.[40]

[37] Such comments were received from AFTRCC; ANPA; API; AHE; AAR; the California Public-Safety Radio Association, Inc. (CPRA); The Harris Corporation, Farinon Electric Operations (Farinon); Manufacturers' Radio Frequency Advisory Committee (MRFAC); the New York Times Company, Walter E. Mattson, President (N.Y. Times); the Oklahoma Regents; the Public Service Satellite Consortium (PSSC); Rockwell International Corporation (Rockwell); Telecom Engineering, Inc. (Telecom); and UTC.

[38] ANPA states that the Commission should study the option of accommodating terrestrial operations in the 11.7–12.7 GHz band. AAR and UTC state that the 11.7–12.2 GHz band should be made available for terrestrial users. Rockwell states that terrestrial users should be allowed to share the 11.7–12.1 GHz band with fixed satellite services, and that the 12.1–12.3 GHz band and the 13.2–13.25 GHz band should be reserved for low-power, short-range terrestrial microwave users.

[39] See comments filed by Home Box Office, Inc. (HBO), Satellite Business Systems (SBS), and Southern Pacific Communications Company (SPCC).

[40] AHE, PSSC, STC and Telecom state that public service or non-profit users should be compensated. Others, including AFTRCC, ANPA, API, CPRA, Farinon, Citizens, MRFAC, the N.Y. Times, the Oklahoma Regents, Rockwell, and UTC state that all terrestrial users should be compensated.

Other commenters oppose such a requirement. For example, DBSC states in its comments that given the risks involved and the massive financial investment required of a DBS operator, it would be unfair and a misallocation of resources to require DBS operators to pay for relocation of terrestrial users. STC states that no legal or policy basis exists to shift to DBS operators the financial responsibility for costs incurred by those FS users that interfere with DBS reception, and that since it will be at least 1985 before any FS systems are required to make adjustments, normal depreciation of existing equipment will lessen significantly the impact of equipment replacement. STC does propose, however, that nonprofit public service organizations be reimbursed for the costs of adjusting their FS operations to make way for DBS systems. STC states that these costs should be shared on a pro rata basis by all DBS operators.

49. Some commenters indicate that an adequate period of time should be provided for existing terrestrial users to remain in the band before being required to relocate. API suggests that existing terrestrial licensees should be "grandfathered" for a period of at least ten years, or that DBS operators should compensate them for any relocation costs. PSSC suggests that the minimum grandfather period be five years from the start of DBS service in a geographic area.

50. A few commenters suggest that instead of being used for DBS, the 12.2 to 12.7 GHz band or portions of the band should be used by terrestrial broadcasters for high definition television. Some suggest using it to accommodate expected growth by the fixed satellite service.[41]

51. The comments concerning permanent regulatory policies submitted in response to the *Notice of Inquiry* in this proceeding contained views similar to those described above. Generally, terrestrial microwave interests were concerned that DBS would adversely affect their present operations. A number of the commenters discuss various solutions to the BSS–FS sharing issue. Some commenters believe that limited sharing between DBS and terrestrial fixed users may be possible.[42] Other commenters, such as NTIA and the Western Communications Research Institute, Inc. (WCRI), state that the broadcasting-satellite service (BSS) and the FS cannot reasonably co-exist on a co-channel basis in common geographical areas. NTIA also indicates that adjacent channel operation offers limited possibilities. Some commenters state that DBS systems should be responsible for any interference they receive from existing terrestrial users. Several commenters believe that DBS requires the entire 500 MHz band from 12.2 to 12.7 GHz, while other commenters indicate less spectrum is needed.[43] Some commenters propose sharing by band segmentation or frequency interleaving.[44] Some commenters propose that terrestrial microwave users be moved to higher frequency bands, such as 18 and 23 GHz.[45] A number of commenters propose that terrestrial users be permitted to operate in the 11.7–12.2 GHz band.[46] However, such expansion of terrestrial operations was opposed by certain fixed satellite service interests, such as GTE Satellite Corporation (GSAT), HBO, SBS, and SPCC.[47]

52. The American Telephone and Telegraph Company (AT&T) in its comments addresses allocation of frequencies for BSS uplinks, and points out that if the frequency band for BSS is greater than 400 MHz wide in the feeder range around 18 GHz, sharing with several services will be involved. AT&T states that the Commission should avoid service overlapped frequency planning (e.g., limit DBS operations to the 17.3–17.7 GHz band). AT&T states that BSS uplinks and fixed-satellite service (FSS) downlinks cannot be colocated, and that BSS feeder links may cause interference to the fixed service at 18 GHz.

53. Some commenters, such as the Affiliates, ABC, and NAB, propose that the 12 GHz band be used for a terrestrial high definition television (HDTV) service.[48] This proposal is opposed by NBMC and USSB. NBMC doubts that the Commission should encourage the use of scarce spectrum for the elite few who may be able to receive HDTV. USSB states that transmitting HDTV signals from terrestrial television stations is much less desirable than provision of the same service by satellite because of the limited coverage area of terrestrial systems.

AFTRCC Petition

54. On August 12, 1981, AFTRCC submitted a Petition for Expedited Relief (AFTRCC petition). The AFTRCC petition requests that the Commission (1) initiate and complete expeditiously a thorough examination of its policies governing the availability of the 12 GHz or other suitable alternative frequency bands for use in meeting the requests of operational fixed microwave systems, and (2) defer taking any action in Docket 80–603 (or related proceedings) with regard to the authorization of DBS services which could foreclose the use of the 12 GHz band for terrestrial microwave systems pending the completion of the proceeding referred to in (1) above. AFTRCC believes that before the Commission can reasonably determine whether the public interest would be served by authorizing a DBS service in the 12 GHz band, it must undertake a thorough analysis of the growing demand for 12 GHz terrestrial systems, and accommodate present and future terrestrial requirements in existing or new frequency allocations. AFTRCC states such analysis should include consideration of the following issues:

[41] *See* comments submitted by ABC, the Affiliates, MST, and HBO.

[42] For example, Farinon states that sharing probably is feasible if DBS systems are required to operate in the community reception mode, using a single large antenna to serve many households, in urban areas.

[43] For example, JCET proposes allocation of three-fourths of the band for DBS and one-fourth for terrestrial operations. HBO states that many of the present DBS applicants will not go forward with their proposals, and that 250 MHz will adequately support DBS operations. Hughes Aircraft Company (Hughes) and WCRI, on the other hand, believe that the full 500 MHz band is required.

[44] While NTIA offers frequency interleaving or channel overlapping as a possible sharing solution, it is concerned that with this approach adjacent channel interference may be severe in several areas. In addition, NTIA does not know whether there is sufficient unassigned or underutilized spectrum available to make this a viable sharing option.

[45] NTIA, while proposing such an option, indicates that immediate relocation of FS users is impractical for reasons of equipment availability. NTIA states that two to three years' lead time is needed by equipment manufacturers. NTIA asserts, however, that 18 GHz spectrum should be able to support most 12 GHz operations. NTIA states that 90 percent of the terrestrial microwave links are less than 20 miles in length, 71 percent are less than 10 miles, and 32 percent are two miles or less. NTIA believes that for short haul systems costs at 18 GHz would not be significantly greater than normal replacement costs at 12 GHz. For systems over 10 miles, however, NTIA states that the cost at 18 GHz could be triple the original investment at 12 GHz.

[46] For example, see comments submitted by AAR, API, Farinon, NTIA, UTC and WCRI.

[47] HBO states that while sharing FS and FSS sharing would require some constraints on the use of FSS, potential for sharing exists where the FSS could utilize large, sophisticated earth stations in relatively remote areas and shielded from FS interference. HBO proposes, however, that the 11.7–12.2 GHz band be allocated exclusively to FSS; that the 12.2–12.45 GHz band be allocated to FS and FSS on an equal basis; and that the 12.45–12.7 GHz band be allocated to DBS on a primary basis, with FS use permitted on a noninterference basis. SPCC, in its reply comments, opposes reallocation of terrestrial fixed services to the 11.7–12.2 GHz band, but states if such reallocation takes place, terrestrial fixed services should utilize the band on a secondary basis only.

[48] CBS recommends that DBS be used for the introduction of HDTV.

a. What communications requirements are now being met at 12 GHz, and what characteristics of the 12 GHz band are unique to fulfilling those requirements;

b. On what basis, if any, can terrestrial systems share the 12 GHz band with satellite services;

c. What other bands are available for use by the operational fixed services and how do the characteristics of these bands compare to the 12 GHz band in fulfilling operational-fixed applications;

d. What transitional period is necessary to assure that operational-fixed users, who are forced to migrate to new spectrum, will not be unreasonably impacted, operationally or economically.

AFTRCC also states that to the extent that the forecast demand of terrestrial users for spectrum cannot be met, the Commission must determine whether the public interest would be served by authorizing a DBS service at the expense of operational-fixed microwave interests.

55. A number of comments were received in support of the AFTRCC petition.[49] STC submitted comments in partial support of and partial opposition to the AFTRCC petition. STC states that it recognizes that private fixed microwave users perform a number of important public interest functions, and that FS needs raise a serious issue that merits careful attention. STC states, however, that the Commission clearly was correct in its preliminary conclusion that the licensing of interim DBS systems would serve the public interest, and that FS licensees should not be permitted to cause harmful interference to operating DBS systems. STC also believes that the needs of both DBS and FS operators can be accommodated (although at some cost to FS users). STC states that the separate FS proceeding should be initiated once interim DBS policies and rules are established, and believes that the proposed 12.2–12.7 GHz allocation to DBS and licensing of DBS systems are not issues to be considered in the FS proceeding. Further, STC states there is no basis whatever for the Commission to delay action on DBS applications, since the Commission will have ample time to complete the FS proceeding prior to the actual commencement of DBS service.

DBS Spectrum Allocation

56. As stated in the *Notice*, we believe that the concerns of the present operational-fixed microwave users deserve serious attention. We do not believe, however, that our concern for these terrestrial users should preclude the introduction of DBS service. We believe that the potential benefits of DBS justify some adjustments in other services. Furthermore, we believe that interim rules and policies can be established that permit DBS operation with minimal impact on existing 12 GHz terrestrial users.

57. *DBS Spectrum Requirements.* The Commission has accepted nine DBS applications for filing. The applications represent a wide variety of system designs, service offerings, and spectrum requirements. Over 35 new video channels would be provided if all of the proposed systems are implemented. The services proposed include subscription television, advertiser-supported television, and high definition television. A minimum of 500 MHz of orbit-spectrum resource would be required if these applications were granted and implemented as proposed.

58. The Commission also has on file three additional applications that may be acceptable for filing.[50] In addition, we expect that other DBS applications may be filed once the Commission establishes a second cut-off date. With regard to future demand, the FCC RARC–83 Advisory Committee estimates the U.S. requirements for DBS services to be 65 to 207 channels by the year 2000. Accordingly, in order for the Commission to meet the present and anticipated demand for DBS services, we believe that a spectrum allocation of 500 MHz for both the downlinks and uplinks is necessary. The requirements for DBS must be met in the 12 GHz band because it is the only band of spectrum allocated internationally to DBS for which technology will be available within the next several years. If DBS is to be made available in this decade, the 12 GHz band must be used.

59. We believe that allocating 500 MHz to DBS has several advantages: (1) The number of channels receivable by a home antenna is maximized, thereby making DBS service more viable by reducing the cost of home equipment (steerable or multiple antennas would not be needed); (2) competition would be increased by decreasing risks for later DBS suppliers; (3) greater technical and operational flexibility would be possible (e.g. HDTV may be more attractive); and (4) the use of future large space communication platforms would be more feasible. We also believe that such an allocation is necessary to ensure that sufficient spectrum is available to allow an "open skies" policy for DBS. In the *Notice*, we stated that our basic policy for DBS should be to maintain an open and flexible approach that will allow the business judgements of the individual applicants to shape the character of the services offered. We stated that such an open skies policy would encourage the submission of a wide variety of proposals and thereby achieve the full benefits of experimentation with this new service. At the same time, such a policy would permit all minimally qualified applicants to proceed. An open entry policy has proven extemely successful in the domestic satellite area, permitting early implementation of satellite services without the delays of protracted comparative hearings. We have therefore amended the Table of Frequency Allocations contained in Part 2 of our Rules to permit DBS downlink operations in the 12.2–12.7 GHz band and uplink operations in the 17.3–17.8 GHz band.

Accommodating FS Operations

60. *Present Use of the 12 GHz Band.* The Commission's rules currently provide for the use of the 12.2–12.7 GHz band by the fixed service only.[51] Part 94 of the rules provides for the use of operational-fixed stations in the band. The Private Radio Bureau's *Microwave Application Processing System* data base indicates that about 1900 links are currently licensed in the 12 GHz band.[52] These systems provide private, industrial, transportation, and safety (PITS) services and are used, for example, by local governments, banks, newspapers, railroads, utility companies, universities, and colleges. Part 23 of the Commission's rules also provides for the operation of international control stations in this band. The Commission's *Master Frequency File* indicates that as of March 1982, no facilities have been

[49] *See* comments by AAR, Farinon, Southern California Rapid Transit District and UTC submitted in response to the AFTRCC petition.

[50] These applications were filed by Advance, Inc., National Christian Network, and Satellite Development Trust. The Commission has stated that these applications, which appear to have been made substantially complete by amendments submitted after the cutoff date, will be considered with lower priority than those now accepted for filing.

[51] See also Gen. Docket 80–398, An Inquiry relating to preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunications Union for the planning of the Broadcast-Satellite Service in the 12 GHz band and the associated uplinks.

[52] Total number of links as of May 1982; the number has been growing at a rate of about 15 percent per year. For the purposes of this analysis, a radio link is defined as a one-way transmission on a single discrete frequency between a transmitter and a receiver. Thus, a two-way, point-to-point communications circuit requires two radio links, one for each direction of transmission.

licensed to operate in the 12.2–12.7 GHz band pursuant to Rule Part 23.

61. Based on the comments submitted in this proceeding and our investigations, we believe that most PITS users have chosen to use the 12 GHz band because of crowding at lower frequencies, because they require channel bandwidths greater than those available at lower frequencies, or because the Commission's rules prohibit their access to the lower frequency bands.[53]

While current fixed service use of the 12 GHz band is less than at 2 and 6 GHz, there is congestion at 12 GHz in several major urban areas.[54]

62. Generally, systems operating in the 12 GHz band can be divided into four categories: (1) One-way, very-short-haul video systems; (2) short-haul, multi-hop systems; (3) single- or multi-hop spur systems providing connection to long-haul backbone systems; and (4) long-haul, backbone systems. Our analysis of present 12 GHz users shows the following path length distribution:

Percent of links	Path length
10	1.0 km or less.
20	2.5 km or less.
30	4.0 km or less.
40	6.5 km or less.
50	9.0 km or less.
60	12.5 km or less.
70	16.0 km or less.
80	23.0 km or less.
90	35.0 km or less.
95	42.0 km or less.

The median path length of all the links is about 9 km, and the mean path length is also about 9 km. Based upon the above distribution and assuming that no intermediate links are employed, we estimate that 50 to 85 percent of the present links can be accommodated at 18 GHz or higher frequencies.[55] If we assume that where necessary an intermediate hop is employed, i.e., a single link is replaced by two links, the number of systems that can be accommodated increases to about 75 percent to 90 percent of the present users.

63. At the present time and for the foreseeable future equipment at the higher frequency bands will normally be more expensive than present 12 GHz equipment.[56] In addition, if an additional link were needed, significant cost increases would be involved, and in some instances site locations for additional links might not be available. Nevertheless, many fixed service users can be accommodated at the higher frequency bands.[57]

64. To accommodate those operations that cannot be supported at the higher frequency bands, we have tentatively identified other spectrum that could support existing 12 GHz FS users. This spectrum includes the 12.7–13.25 GHz band that is used by the broadcast-auxiliary service, the common carrier local television transmission service, and the cable television relay service (CARS).[58] Additionally, within the current FS bands, there is some opportunity for the implementation of wider channel bandwidths. For example, 20 MHz channels could be made available at 6525–6875 MHz for video, data, and high capacity FDM-voice tranmissions.

65. To ensure that sufficient spectrum will be available for FS users in a timely manner, the Commission has instructed the staff to develop a *Notice of Proposed Rulemaking* (NPRM) for its consideration by December, 1982. As a major portion of this proposal, the Commission intends to include a considerable amount of sharing or pooling of microwave frequency spectrum between the broadcast-auxiliary, CARS, and FS users. The Commission will also consider the possibility of pooling non-common carrier (broadcast-auxiliary, CARS and FS) and common carrier microwave frequencies. We recognize, however, that this latter proposal requires additional study and may not prove feasible or desirable. The Commission will also investigate the possibility that all non-common carrier microwave licensing be centralized within the Commission. Among the other issues that will be addressed are (1) the need for minimum path length criteria for the use of each of the available bands, (2) bandwidth requirements and appropriate channeling plans for all bands, (3) feasibility of continued FS use of the 12.2–12.7 GHz band on a secondary basis, and (4) coordination and loading practices needed to ensure efficent use of the spectrum. It is our firm intention that a final *Report and Order* in such a proceeding will be acted upon within six weeks of the completion of the 1983 RARC. The 1983 RARC commences June 13, 1983 and will extend for five weeks, so we intend that Commission action on a final *Report and Order* allocating additional frequencies for displaced terrestrial licensees will occur no later than September 4, 1983. This does not imply, however, that Commission action on this *Report and Order* would necessarily wait for the completion of the RARC.

66. We believe that frequency coordinators would play a prominent role in this proposed plan because of the need for exclusive assignment of channels. Frequency coordinators would have the burden of selecting frequencies that meet the individual needs of users and the requirements of the Commission. For example, CARS licensees have a unique need for contiguous spectrum. Based on their knowledge of local conditions, frequency coordinators would help promote efficient spectrum use. Use of frequency coordinators would also reduce Commission workload and regulation by allowing applicants to use the services of frequency coordinating groups.

[53] Section 94.61 of the Commission's rules prohibits access to both the 1850–1990 MHz and 6525–6875 MHz bands by entities whose sole basis for eligibility is a commercial activity in the business radio service. Thus, if this class of user requires bandwidths in excess of 1.6 MHz, frequencies at 12 GHz and above must be used. Additionally, all users whose bandwidth requirements exceed 10 MHz must use frequencies at 12 GHz or above.

[54] Several of these (Boston, Cleveland, Dallas, Los Angeles) have been designated as congested areas by the Commission. FCC Public Notice, "Private Microwave Congested Areas," August 27, 1979.

[55] These values take into account the location of the link according to rain zone. The lower value is based on a typical installation using a transmitter presently type accepted in this band, and assumes a link quality objective of 99.995 percent (i.e., the link will be available for 99.995 percent of the average year, taking into account rain attenuation). The higher number assumes a modest gain in output power, which manufacturers should be able to achieve in the near future, and a design standard availability of 99.9 percent.

[56] As stated in the *Notice*, one equipment manufacturer estimates that the replacement cost of a typical redundant terminal facility (which consists of two transceivers, two antennas, one antenna tower, transmission lines, and other ancillary equipment) is about $75,000. Site acquistion may add a substantial amount of this figure. Cost of relocation of a facility to 18 GHz is estimated at about $88,000. The present total investment in 12 GHz equipment is about $270 million.

[57] In this regard, the Commission has initiated proceedings which will establish rules for the use of the bands above 12 GHz. For example, in Docket 79-337, the Commission recently adopted relaxed technical standards to promote the development of low-cost, low-power microwave equipment in the 22.0–23.6 GHz band. In adopting these standards, we indicated that our objective was "to stimulate the development of systems in the 22.0–23.6 GHz band, which is sparingly used, and to accommodate some of the existing and future operations which are now authorized in the 12.2–12.7 GHz band". In the *Further Notice of Proposed Rulemaking* in Docket 79–188, released September 2, 1981, the Commission proposed restructuring the 18 GHz band to accommodate private fixed operations, including some of those 12 GHz users who may be displaced due to the operation of DBS downlinks.

[58] The 11.7–12.2 GHz band may also be able to support some fixed service use on a secondary basis. Accordingly, we will investigate the possibility of sharing between the fixed service and the fixed-satellite service in this band. However, the difficulties and detrimental effects of such sharing have been recognized previously. *See* World Administrative Radio Conference, 70 FCC 2d 1193, 1250–1252 (1978).

67. To provide for the continued growth of FS operations, the Commission will continue to license terrestrial FS users in the 12.2–12.7 GHz band [59] as follows:

. (a) Terrestrial operations authorized prior to the issuance of the *Report and Order* discussed in paragraph 67 above will not be required to protect domestic DBS reception from interference for a period of five years from the date that *Report and Order* is issued. [60] Since it is the Commission's firm intention to issue the referenced *Report and Order* no later than September 4, 1983, the five-year period should expire no later than September 4, 1988. Subsequent to the expiration of this five-year period, it is the Commission's intent that such terrestrial operations operate on a strict non-interference basis and make any and all adjustments necessary to prevent interference to operating DBS systems.

(b) Terrestrial operations authorized after the issuance of the referenced *Report and Order* will be licensed on the condition that they not cause any harmful interference to DBS systems. It is the Commission's intent that such terrestrial operations operate on a strict non-interference basis and make any and all adjustments necessary to prevent interference to operating DBS systems. The issue of what constitutes harmful interference to DBS will be studied by the Commission and will be disposed of in the 1983 *Report and Order.*

(c) Notwithstanding any other conditions, no FS operation will be permitted to cause interference to DBS systems of other countries operating in accordance with the plan established at the 1983 RARC.

68. We believe that this solution addresses the concerns raised by the comments of the 12 GHz terrestrial users and the AFTRCC petition. The use of frequency bands adjacent to the 12.2–12.7 GHz band (i.e., 12.7–13.25 GHz and possibly 11.7–12.2 GHz) would substantially lower the costs of relocating the 12.2–12.7 GHz terrestrial licensees.[61] The 12.7–13.25 GHz band has propagation characteristics very similar to the adjacent 12.2–12.7 GHz band and as a consequence much of the present 12 GHz equipment could remain in use. For example, the costs of modifying transmitters, feed lines, site locations, and antennas would probably be significantly lower than would be the case for other bands. In addition, some 12 GHz users with long haul requirements may be able to relocate at 6 GHz, probably reducing the costs of their operations by reducing the number of links required. We also believe that there is sufficient spectrum at the higher frequencies (i.e., 18 GHz and above) to accommodate future FS, CARS and broadcast auxiliary users that require short distance radio links.

69. *Present Use of the 17 GHz Band.* In the *Notice,* we proposed to permit operation of feeder links for interim DBS systems, which are allocated as part of the fixed-satellite service, in the 17.3–17.8 GHz band. This allocation is consistent with existing international provisions. A new footnote (3794 H) to the allocations table adopted at WARC–79 states, "[t]he use of the band 17.3–18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service." Further, WARC–79 Resolution CH calls for planning the Region 2 BSS feeder links in a bandwidth equal to that provided for the downlinks. It has generally been the position of the United States that the lower portion of the 17.3–18.1 GHz band should be used for BSS uplinks.

70. The band 17.3–18.1 GHz is shared with the Government radiolocation service. Arrangements have been made, however, to reduce the allocation status of the Government radiolocation service to secondary and to restrict the power of radiolocation systems to ensure compatibility with BSS feeder links.

71. A few experimental licenses have been granted in the 17.3–17.7 and 17.7–17.8 GHz bands. Otherwise, according to the Commission's *Master Frequency File,* no non-Government facilities have been licensed to operate in the band segment 17.3–17.7 GHz, and only one six-hop system has been licensed in the band segment 17.7–17.8 GHz. Thus, in the near future we do not expect sharing between the services to pose a significant problem in these bands. We will, however, eventually develop and refine appropriate coordination procedures at 17.7–17.8 GHz similar to those used between the fixed-satellite service and the fixed service at 6 GHz. In addition, we intend to limit BSS feeder links from temporarily fixed stations (i.e, stations which can be moved from place to place) to frequencies below 17.7 GHz in order to avoid the sharing difficulties these operations pose.

Allocations for DBS and Terrestrial Operations

72. We believe that the spectrum allocation described here takes into account the needs of both terrestrial and DBS users. By permitting DBS downlink operations in the 12.2–12.7 GHz band and feeder link operations in the 17.3–17.8 GHz band, the Commission will be able to begin the processing of DBS applications, and the American public will be able to receive the benefits of DBS at the earliest possible date. At the same time, if existing terrestrial users can be provided access to an adjacent frequency band (i.e., 12.7–13.25 GHz), the cost of relocating these operations will be minimized. Further, pooling of microwave frequencies among FS, CARS and broadcast-auxiliary users would permit more efficient use of all microwave spectrum. Accordingly, we believe that this solution allows us to meet the needs of both DBS and operational-fixed microwave operations with the least disruption to either of them.

73. The allocations described here are consistent with past international and domestic actions. We note that WARC–79 included an international allocation to the broadcasting-satellite service in the 12.1–12.7 GHz band.[62] In addition, WARC–79 placed restrictions on the terrestrial services at 12 GHz, stating that "* * * existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in accordance with the broadcasting-satellite Plan to be prepared * * * and shall not impose restrictions on the elaboration of such a Plan * * *" [63] The Commission has also previously taken action to indicate to terrestrial microwave licensees operating in the 12 GHz band that some future adjustment

[59] This action may be revisited if the United States is not allotted the entire 12.2–12.7 GHz band. In any event, terrestrial users operating on those frequencies allotted to the United States for DBS at the 1983 RARC will be subject to these provisions.

[60] Thus, if a DBS operator desires to provide service during this period, he would have accommodated existing FS operations. Such accommodations could include agreements with the terrestrial station operators, adequate replacement of terrestrial equipment, or the development of DBS receiver equipment capable of providing acceptable service in the FS environment (e.g., community service in certain urban areas). In this regard, while we would not require DBS operations to pay the costs of relocating FS operations, we believe that DBS operators would have a strong incentive to compensate the FS users for the costs of moving to other frequency bands during this period.

[61] We estimate that the cost of changing frequencies to operate in an adjacent band would be about $2000. Of course, use of the 11.7–12.2 GHz bands by terrestrial stations would impose frequency coordination and other costs on earth stations in this band.

[62] The 1983 RARC will decide the division of the band 12.1–12.3 GHz, with the lower portion of the band being allocated to the fixed-satellite service and the upper portion being allocated to the fixed and broadcasting-satellite services. Our preliminary proposals envision placing the dividing line at 12.2 GHz.

[63] International FN 3787D.

might be necessary in their operations to accommodate the implementation of the broadcasting-satellite service. [64]

Use of the 12 GHz Band for Terrestrial HDTV Service

74. We noted above that some commenters propose reserving all or part of the 12.2–12.7 GHz band for terrestrial broadcast of HDTV. [65] We believe that the record does not justify reserving spectrum in the 12 GHz band for terrestrial HDTV operations at this time. We note that the 1983 RARC will plan the 12 GHz band for DBS operations and that the proposed U.S. requirement for DBS operations appears to be at least 500 MHz. In addition, a number of terrestrial microwave users are likely to continue to operate within the 12 GHz band for the next several years. Sharing between HDTV and these services appears unworkable, since terrestrial HDTV broadcasting would generally be incompatible with both DBS and terrestrial-fixed operations within the service area of the terrestrial broadcasting station. Accordingly, we choose not to allocate the 12 GHz band or any portion of it to terrestrial HDTV. As noted elsewhere, however, we would permit HDTV transmissions via DBS at 12 GHz.

Use of the 12 GHz Band for the Fixed-Satellite Service

75. In the *Notice* we pointed out that the Commission's Rules provided only for use of the 12.2–12.7 GHz band by the fixed service, even though an allocation also existed for the fixed-satellite service at 12.5–12.7 GHz. [66] The fixed-satellite allocation was specified for use in the Earth-to-space direction. The discussion within the *Notice* regarding use of the 12 GHz band concentrated on the issues raised by terrestrial fixed service operations because of their actual usage of the band. This situation is unchanged, and we do not anticipate that the allocation for the fixed-satellite service will be utilized. [67]

76. As we noted previously, a few commenters suggest that the 12.2–12.7 GHz band or portions of the band might be better used to accommodate expected growth by the fixed-satellite service. [68] In addition, the NAB, in its comments on permanent policies, submitted a report concerning the use of this band by the fixed-satellite service. [69] These parties were referring to use in the space-to-Earth direction. The issue of this usage by the fixed-satellite service is beyond the scope of this proceeding. Further, we do not believe that a case has been made to implement a fixed-satellite service allocation within the 12.2–12.7 GHz band at this time. We note that the Commission has proposed closer orbital spacing in the fixed-satellite service, and this would significantly increase the capacity that can be provided in the affected fixed-satellite bands. In addition, technological advances may make more efficient transponder usage possible in the near future. At the same time, the comments received both in this docket and in General Docket 80–398, the DBS applications submitted to the Commission, and the preliminary reports submitted from the Commission's Advisory Committee all lead us to predict a large demand for spectrum for DBS in the near term.

Use of FSS Frequencies for Interim DBS Systems

77. Two DBS applicants have proposed to use the Advanced Westar satellite and to operate on frequencies in the 12.1–12.2 GHz band. [70] In our *Memorandum Opinion and Order*, 88 FCC 2d 100, released November 3, 1981, we stated that such applications raise significant legal and policy issues. We also stated that "the use of the Advanced Westar satellite for DBS may pose significant technical problems related to sharing with the fixed-satellite services provided by Satellite Business Systems." These problems may be exacerbated by the Commission's consideration of reduced orbital spacings in the 11.7–12.2 GHz band [71] and the new group of pending applications. [72] We concluded, however, that the public should be afforded an opportunity to comment on these proposals, and that these issues should be addressed in the context of ruling on the merits of the applications. The issues will be considered without prejudice to any later determination we might reach, including dismissal or denial of the applications.

VII. Policies and Rules for Interim DBS Systems

Regulatory Policies

78. In the *Notice* we concluded that the public interest would best be served by utilizing a flexible regulatory approach for DBS systems during this interim experimental period. Thus, we proposed to impose minimal regulatory requirements consistent with statutory provisions and international agreements. We proposed not to require applicants to structure their proposals according to any particular regulatory model. We stated that such an approach would allow DBS operators to experiment with service offerings and methods of financing to find those that would be most beneficial to viewers. Further, this approach would allow the Commission to acquire better information about the behavior and structure of the industry in order to make better informed regulatory decisions. We also concluded that the market for video services that DBS systems will enter may be highly competitive, and that, as a consequence, "diversity of programming is likely to be available without Commission intervention, and individual operators will be constrained by competition to provide programming the public wants at prices reflecting production costs." [73] We pointed out, however, that we retained the right to impose further regulatory restrictions if experience showed them to be necessary.

79. Several commenters oppose our plan to impose minimal regulation on interim DBS systems. They assert that, by so doing, we are abdicating our responsibility to protect the public interest. [74] Some recommend that we impose some variant of the conventional regulatory structures. Others discuss specific regulations. Citizens, for instance, disagrees with our assessment of the competitiveness of the market and states that traditional multiple- and cross-ownership rules, EEO rules, comparative hearings for mutually exclusive applicants, and restrictions on trafficking are essential to ensure that DBS operators or lessees who function as broadcasters serve the public interest. Some commenters assert that the Commission must ensure that the right of viewers to suitable access to ideas and information is not infringed.

[64] Several months prior to WARC–79, the Commission began adding a note to this effect to all operational-fixed licenses issued in the 12.2 to 12.7 GHz band.

[65] *See* comments of Affiliates, ABC, and NAB.

[66] *Notice*, paragraph 30.

[67] The 1979 WARC deleted the international allocation at this band for the fixed-satellite service, Earth-to-space direction. After ratification of the WARC's Final Acts, the domestic allocation will very likely be deleted.

[68] *See* comments submitted by ABC, Affiliates, MST, and HBO.

[69] Paul I. Bortz, Jack T. Pottle, and James Hart, *Direct Broadcast Satellites: Service, Economic, and Market Factors*, prepared for the National Association of Broadcasters by Browne, Bortz, and Coddington, January 1981.

[70] See applications filed by Focus Broadcasting Company (File No. DBS–81–04) and Western Union Telegraph Company (File No. DBS–81–09).

[71] *See* Domestic Fixed Satellite Service, 88 FCC 2d 318 (1981).

[72] *See* Domestic Fixed Satellite Service, FCC 82–233, released May 20, 1982.

[73] *Notice*, paragraph 90.

[74] These included ABC, Citizens, UAW, and UCC.

They propose access requirements and other requirements to ensure responsiveness to viewer needs.

80. Other commenters support the Commission's proposal regulatory approach,[75] STC, for instance, states that minimal regulation of experimental DBS systems will facilitate the development of the service, maximize its benefits to the public, provide data and experience necessary for sound regulatory decisions, and permit flexibility to promulgate policies specially tailored to DBS. STC states that the proposed flexible regulatory policies will permit marketplace forces to identify the characteristics which will satisfy consumer needs and advance other public interest objectives. STC points out that the Commission's flexible interim policies will not preclude any course of action the Commission may decide to take at a later time. STC and DBSC also state that the Commission should postpone establishing certain regulatory policies for DBS until it has obtained operating experience on which to base its conclusions.

81. We remain convinced that it is in the public interest to impose a minimum of regulation during this experimental phase of DBS operation. We believe that this interim approach will best serve to encourage and facilitate the introduction of this new service, the likely nature of which we cannot predict with any certainty at this early stage. By imposing few regulatory restrictions we will allow operators the flexibility to experiment with service offerings to find those that the public needs and wants, and to experiment with technical and organizational characteristics. Imposing minimal regulation will also allow us to gather information about the operation of the industry, which will allow us to make better-informed decisions about permanent regulatory policies. On the other hand, placing constraints on the characteristics of the services prematurely and without sufficient information may reduce the desirability of the service to the public and increase the DBS operators' costs and risks. This, in turn, could reduce their ability to attract financing and might decrease the probability that DBS systems are initiated. Once the systems have proven viable, however, we of course retain the option to impose further regulation if experience shows it to be necessary.

82. *Regulatory classification.* Some commenters propose specific regulatory structures for DBS.[76] Citizens, for instance, states that customers of common carrier DBS licensees who function as broadcasters must be licensed and regulated under Title III. The UAW proposes a dual licensing regulatory framework under which each satellite operator would be licensed as a common carrier and each channel would be licensed individually according to the nature of the proposed service. The UAW states that a dual licensing scheme promotes diversity of expression and ownership, and is required by First Amendment principles.

83. Nothing in the comments has persuaded us to abandon our proposal to apply a flexible regulatory approach for the interim operation of DBS systems. We continue to believe that this approach will allow for the type of technical and economic experimentation that is appropriate prior to the adoption of a permanent regulatory scheme. Thus, during this interim period, we will follow the plan noted in paragraphs 24 and 84 of the *Notice*, and process applications and grant authorizations under a scheme patterned after Part 5 of the Commission's Rules and the "open entry" policy successfully used in the domestic satellite field. *Establishment of Domestic Satellite Facilities*, 35 FCC 2d 844 (1972).

84. Further, we decline at this point to require DBS systems to operate under a particular service classification before the developmental and experimental period has had a chance to run its course. The imposition of an *a priori* classification would determine the nature of the service at the outset and thus would largely foreclose the possibility of gathering valuable experimental data. A primary advantage of an experimental service scheme is that the Commission's eventual public interest judgments can be guided by the experience garnered during the experimental phase. During this period the Commission may learn, for example, whether satellite operators find it most feasible to operate as broadcasters, common carriers, private radio operators, or some combination or variant of these classifications. From this experience the Commission can, if appropriate, establish DBS as a permanent service according to traditional classifications, create a new classification as experience and public interest mandates dictate, or retain the existing open entry policy. In this connection, we also note that the Commission's authority to authorize experimental services is well established [77] and that much useful information has been gained by such experimentation in past proceedings.[78]

85. As we stated in the *Notice*, we will of course impose any applicable statutory requirements upon interim DBS systems. 86 FCC 2d 719, 750 n. 64. *E.g.* 47 U.S.C. 201 *et seq.* (common carriers); 47 U.S.C. 315 (broadcasters). Classification questions will be resolved in the context of considering each individual application.[79]

86. However, as a general matter, certain principles will guide our decisions on classification. First, if an applicant proposes to provide direct-to-home service and retains control over the content of the transmissions, then the service is probably a broadcast service and the broadcasting provisions of Title III will apply.[80] If such services are provided on a subscription basis, they will still be classified as broadcast services unless and until the Commission determines otherwise. 86 FCC 2d at 250–51 n. 64. Second, if a DBS applicant chooses to operate as a common carrier, it must offer its satellite transmission services indiscriminately to the public pursuant to tariff, under the provisions of Title II of the Act.[81] We

[75] These include DBSC, SBS, STC, USSB, the Pop Network, and the Western Union Telegraph Company (Western Union).

[76] Many commenters in the permanent phase of this proceeding discussed regulatory structures for DBS. Of these, HBO; NTIA; Oak; RCA American Communications, Inc. (RCA Americom); STC; the Sony Corporation of America (Sony); the United States Department of Justice (DOJ); and Western Union supported the Commission's proposed flexible regulatory approach. Others, ABC; CBS, Inc. (CBS); Citizens; CPB; UAW; JCET; NBMC; the National Council of Churches of Christ in the USA (NCC); PSSC; Lael Scott; UCC; the University Affiliated Program of Childrens Hospital of Los Angeles (UAP); and WCRI proposed other regulatory structures.

[77] Pursuant to the Communications Act, the Commission is explicitly authorized to experiment with new uses of the radio spectrum. *See* Section 303(g), which requires the Commission "to study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest." 47 U.S.C. 303(g). *See also Connecticut Committee against Pay TV* v. *FCC*, 301 F. 2d 835 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 816 (1962).

[78] *See e.g., Network Project* v. *FCC*, 511 F. 2d 786 (D.C. Cir. 1975).

[79] As discussed in the *Notice*, applicants will be permitted to show that particular features of their proposals require classification of the proposals other than as broadcast services. 86 FCC 2d at 750-51 n. 64.

[80] *See* 47 U.S.C. 153(o) which defines broadcasting as "the dissemination of radio communications intended to be received by the public * * *" An example of a non-broadcast DBS service might be transmission to hospitals, businesses, schools, or cable systems.

[81] It should be noted that such regulatory policies and procedures are being reviewed in the Competitive Carrier rulemaking and the Transponder Sales rulemaking. *Deregulation of Telecommunications Services (Further Notice of Proposed Rulemaking)*, 84 FCC 2d 445 (1982); *Domestic Fixed-Satellite Transponder Sales (Notice of Proposed Rulemaking)*, 88 FCC 2d 1419 (1982). We reserve the option to revisit the regulatory

see no reason, furthermore, why a DBS operator could not function as broadcaster with respect to some channels and a common carrier with respect to others.

87. We next address the question of what regulatory restraints, if any, should be imposed upon programmer-customers of a common carrier DBS operator. At the outset, contrary to the contentions of some commenters, we note that nothing in the Communications Act requires that a carrier's customers be licensed and regulated as broadcasters.[82] At the time of passage of the Communications Act, Congress apparently did not consider what type of regulation would be appropriate for a system in which a programmer, using facilities and frequencies licensed to a common carrier, would provide service directly to the public.[83] Instead, it seems plain that Congress envisioned a system that clearly distinguished broadcasters from common carriers. Common carriers were required to provide non-discriminatory access to their facilities without exercising control over message content. In contrast, broadcasters were given broad discretion in determining the content of the programming they transmitted and, with limited exceptions, were not required to provide access to their stations by others. Thus, Congress explicitly declined to require a common carrier approach for broadcasters, declaring in Section 3(h) that no broadcaster shall "be deemed a common carrier." 47 U.S.C. 153(h); *see Columbia Broadcasting System, Inc.* v. *Democratic National Committee, supra,* at 103–114.

88. It seems apparent, therefore, that the imposition upon a common carrier's customers of the limited access requirements now imposed on broadcasters merely would serve to duplicate the more pervasive access obligation already imposed upon the carrier itself. Given this, and in light of the Act's legislative history, we question whether Congress envisioned that the statutory requirements for broadcast licensees must, or should, apply in the context of a common carrier system. As discussed above, Congress apparently imposed certain requirements on broadcasters in lieu of mandating that broadcasters operate as common carriers. Thus, whether such constraints should also apply in a common carrier system is, in our view, an open question which must be resolved under the broader public interest standard.

89. In considering this matter, we believe it is pertinent that in roughly analogous contexts involving existing terrestrial services, programmers have not been subjected to traditional broadcast regulation. Most directly analogous here is our experience with the common carrier Multipoint Distribution Service (MDS). *See Multipoint Distribution Service,* 45 FCC 2d 616, 618–19 (1974). In MDS service, a carrier's customers, many of whom provide subscription programming services to individual residences, are not licensed or regulated by the Commission.

90. In sum, we believe it is unlikely that Congress intended customers of common carrier operators to be licensed and regulated as broadcasters. Because the statute does not compel that they be licensed, and in view of the policy considerations favoring a flexible regulatory approach to this service, we decline at this time to license and classify common carrier DBS customers as Title III broadcasters. Our determination is further supported by the fact that similar systems are currently operating unencumbered by regulation without apparent harm to the public. We wish to stress, however, that in deciding at this point to defer from regulation, we do not foreclose the possibility that we may decide that limited broadcast-type regulation of these programmers would be in the public interest.[84] We therefore retain the discretion to apply appropriate regulatory constraints if circumstances arise to suggest that they are needed.[85]

91. *Restrictions on ownership and control.* In the *Notice* we recommended no restrictions on ownership or control of DBS systems for the interim period. Some commenters, however, advocate imposition of restrictions on the number of channels that can be owned or controlled by a single operator or on the identity of the owner.[86] Commenters recommend these limits to encourage competition and to satisfy First Amendment requirements for diversity of sources of programming. Citizens, in fact, states that such requirements will always be necessary and that there is no maximum number of voices which is sufficient to satisfy the First Amendment.

92. Other commenters state that quantitative limits on ownership of DBS systems to prevent abuses of market power are unnecessary.[87] STC and DOJ, for instance, oppose multiple-ownership restrictions, and state that enough close substitutes for DBS services exist to prevent abuses of power. STC states that the Commission's ongoing oversight function would provide additional protection.

93. Some commenters state that control of multiple channels by a single operator is necessary to develop a profitable service. STC asserts that ownership restrictions would hamper the development of the service by reducing the number of applicants and increasing the cost of providing service, and thus would reduce the number of options available to viewers. USSB states that no applicants would apply if they expected restrictions on the number of channels they could program or on geographic service areas, and asserts that multiple- or cross-ownership restrictions would mean the demise of DBS service. STC and Oak recommend that the Commission impose no restrictions on the number of channels an entity can control or on what entities can control them until the results of experimental operations have been examined. Other commenters state that it would be discriminatory to allow multiple- and cross-ownership of DBS systems while restricting the ownership of existing broadcast stations, and state that such restrictions should be applied neither to DBS nor to conventional broadcasters.[88]

94. Some commentes recommend specific restrictions on who may own DBS systems. Citizens and UAW, for instance, state that cross-ownership of a DBS system by a network, broadcaster, cable operator, or newspaper should be prohibited if the DBS signals are received in the entity's service area. NBMC states that AT&T should also be prohibited from owning DBS systems.

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status of the common carrier DBS operators in the event that we determine, as a result of these and other proceedings, that certain carriers are exempt from Title II regulation.

[82] We have received only one application (that of DBSC) that proposes to provide DBS service on a common carrier basis.

[83] For a discussion of the legislative history surrounding Congress' consideration of broadcast regulation and its relation to a common carrier scheme *see generally Columbia Broadcasting System, Inc.* v. *Democratic National Committee,* 412 U.S. 94, 103–114 (1973).

[84] It is possible, of course, that the issue will never arise. For example, it is not clear at this time that particular services provided by a carrier's customers necessarily would be akin to traditional notions of broadcast service. *See* note 83, *supra.*

[85] In passing we also note that the feasibility of applying such constraints through a dual licensing scheme is not clear. Subjecting a carrier's customers to the hearing requirements of Section 309 of the Act, for example, might create fatal impediments to a carrier's ability to operate this service successfully. Any requirements the Commission might choose to impose on programmers, however, could also be accomplished through tariff provisions or pursuant to Commission rules.

[86] These include Citizens and Licensees. UAW, NBMC, and WCRI advocated such restrictions in their comments on permanent policies.

[87] See comments of USSB and permanent comments of CBS, NAB, STC, and DOJ.

[88] These include Licensees, CBS, and NAB.

Citizens states that once cross-ownership is established it is difficult to remedy, and that therefore it should be prohibited from the outset. DOJ, on the other hand, states that cross-ownership restrictions may be desirable in some circumstances, but recommends such restrictions only where a threat of market power is apparent. DOJ states that the necessity of cross-ownership restrictions within given markets can best be determined on a case-by-case basis.

95. We continue to believe that multiple-ownership restrictions to prevent excessive market power are unnecessary for the interim period. Provision of satellite services does not appear to exhibit the increasing returns to scale that might lead to domination of the market by a single supplier, and, in fact, the current domestic satellite industry consists of several suppliers.[89] Thus we expect considerable competition among DBS systems. In addition, as pointed out in the *Staff Report*, many alternative video services should be available by the time DBS systems go into operation and would provide sufficient competition to prevent monopolistic pricing or other abuses of market power.[90] If the market can support only one DBS system, that system may provide only a small portion of the available video programming. If a large number of DBS channels proves viable, we expect that several DBS operators will compete among themselves and with terrestrial suppliers to provide video services. In any case, existing antitrust laws would provide adequate protection against possible abuses of market power due to horizontal concentration of control.

96. We also believe that it is neither necessary nor appropriate to impose interim restrictions on multiple ownership or control of multiple channels for the purpose of assuring diversity of sources of programming. We hesitate at this early stage to limit the number of channels that can be owned and controlled by a single entity, since such a limitation could discourage many present and potential DBS applicants from entering the market at all.[91] Because DBS systems will add to the total number of sources of programming, the goal of increasing diversity of voices will be well served by the introduction of DBS service. Furthermore, given the many alternative outlets for expression which are likely to be available, we expect the introduction of DBS service to enhance, rather than threaten, First Amendment rights of free expression and the public's access to diverse ideas and points of view.

97. Moreover, the benefits to viewers of requiring that DBS programming originate from many sources must be weighed against the costs. For instance, ownership restrictions may limit the availability of services provided by the most experienced and capable suppliers, and may prevent DBS operators from assembling the most attractive program package. Thus, we are concerned that ownership restrictions may discourage potential applicants and financial supporters.

98. In most cases cross ownership of DBS systems by other media interests appears not to create a threat of concentration of control, again because of the large number of alternatives that in most cases would remain available. As pointed out in the *Staff Report*, however, the number of alternative sources of information and programming varies greatly across geographic areas.[92] In localities where few other sources of programming are available, ownership of the local outlets by a DBS owner could conceivably limit access to video alternatives. We believe, however, that the likelihood of such an occurrence is small. In addition, antitrust laws provide a remedy for abuses of market power. Of course, if our experience with the operation of early DBS systems indicates that excessive concentration of control limits viewers' access to information, we retain the option of imposing ownership restrictions at a later time. We do not believe that we should do so in the absence of evidence that it would serve a useful purpose. If concentration of control appears to be a problem in particular localities, we believe we should consider such localities individually rather than apply blanket rules that in most cases would be inappropriate.

99. *Access requirements.* Some commenters, including UAW and UCC, advocate reserving DBS channels for particular purposes. Some advocate that certain groups, such as nonprofit organizations, be given access to channels at reduced rates or at cost, and that the channels be allocated on a nondiscriminatory basis. The public's right to transmit and receive information should not depend solely on middlemen, according to the UAW, particularly in a national system not founded on institutionalized community contacts. UCC also believes that it is essential to guarantee access and to provide for use of satellite channels by organizations that cannot afford the regular rental price.

100. In the *Notice*, we concluded that access requirements should not be imposed on experimental DBS systems. We pointed out that, by requiring operators to relinquish control over programming services, we might significantly impede an operator's ability to market his service and thereby achieve an acceptable return on his investment. Given the enormous financial risks inherent in constructing these satellite systems, we continue to believe that the public interest would not be served by subjecting entrepreneurs, particularly during this experimental phase, to regulatory burdens that could substantially reduce their incentives to initiate this promising new service. Moreover, we are not convinced that, merely because DBS operators may lack institutionalized community contacts, they will have insufficient incentives to respond to the informational needs and interests of viewers. As noted earlier, it seems likely that, for the most part, DBS systems will operate in a highly competitive video marketplace. Thus licensees will likely have ample economic incentives to offer services that are most desired and needed by the public. Accordingly, we believe it would be premature to impose access requirements, when a period of experimental operation may demonstrate clearly that such requirements are unnecessary.[93] We shall therefore impose no interim access requirements on DBS licensees operating as broadcasters and only those required by Title II of the Communications Act on common carrier DBS operators.

101. *Responsiveness to viewer needs.* Some commenters assert that the Commission should adopt interim rules to ensure that DBS programming is

[89] The competitiveness of the existing domestic satellite industry is under investigation in the Competitive Carrier and Transponder Sales rulemakings. *See* note 81 *supra*.

[90] *Staff Report*, p. 81.

[91] Some commenters, for instance STC and USSB, argue, for example, that DBS systems will be viable only when operated on multiple channels. If these commenters are correct, then our premature imposition here of an ownership restriction would actually serve to diminish overall diversity of voices.

[92] Ibid., pp. 83–84.

[93] We recognize that market failures may occur in advertiser-supported broadcast markets because advertisers may choose not to program for groups that do not purchase advertised products, and because advertisers in general consider only the number of viewers of given programs and not the intensity of their tastes for various kinds of programming. We believe, however, that increases in the number of channels available and the availability of subscription programming are likely to reduce these tendencies greatly. For a discussion of these issues see Owen, Beebe, and Manning, *Television Economics*, pp. 49–90.

responsive to the needs of the audience. We do not believe that such regulation is needed for DBS systems in the interim period. At this early stage, we do not know exactly what the nature of DBS service is likely to be. We do anticipate that DBS will provide services to satisfy public needs that are currently unfilled. As was discussed in the *Notice*, the presence of many channels of programming creates incentives for programmers to provide variety in programming to meet the needs of audiences with specialized tastes. In addition, subscription programming allows small audiences with intense preferences for certain types of programming to purchase programming that advertiser-supported stations might not find it profitable to present. Consequently, at least for the interim period, we find no need to impose program content requirements or other guarantees of responsiveness on DBS operators beyond those required by the Communications Act.

102. *Equal employment opportunity.* We have determined, however, that DBS operators functioning as broadcasters should be subject to the same equal employment opportunity requirements as are conventional broadcasters, at least for this interim period. Employment decisions made at an early stage in the organization of DBS systems may have a lasting impact on the representativeness of the workforce of DBS operators, and we cannot rule out at this early date the possibility that EEO requirements may be imposed upon permanent DBS systems. We do not wish to render ineffective any future EEO requirements we may choose to impose by permitting operators to hire their basic workforce without specific attention to the purposes and goals embodied in the Commission's EEO rules. For that reason, and because we believe the imposition of this requirement will not unduly burden licensees or restrict their ability to develop this service, we conclude that it is appropriate to impose this requirement on DBS operators from the outset.

Technical Standards

103. The technical requirements we proposed in the *Notice* consisted only of the technical guidelines specified in the WARC–77 Final Acts and the condition that all authorizations would be subject to modification in order to comport with determinations made at RARC–83. We stated that deviations from the guidelines of the WARC–77 or from the outcome of the 1983 RARC might be permitted with Commission approval, provided they did not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the 1977 WARC. Thus we proposed to require only the technical standards imposed by international agreement, and to set no further technical restrictions on the characteristics of the systems or the services they offered.

104. Some commenters to the responding to the *Notice* assert that the lack of technical standards will adversely affect permanent DBS standards or will give the first interim DBS operator the right to establish *de facto* technical standards.[94] They contend that a second system operator will probably provide signals compatible with receiving equipment already owned by the public, even though another system design might be technically superior. Other commenters support the flexible approach proposed in the *Notice*.[95] For example, GE recommends that the Commission not attempt to establish technical standards for interim service beyond the minimal requirements expressed in the *Notice*. GE does recommend, however, that the Commission establish a cooperative effort with industry and interested technical societies and trade associations on the development of longer range technical standards. The Top Network, in its comments, endorses the Commission's flexible approach to technical standards, noting that it will allow all participants to develop the DBS technology best adapted to the needs of the service.

105. Many of the comments concerning permanent DBS regulatory policies also addressed the issue of technical standards. Many commenters believe that the Commission should establish transmission or receiver standards to ensure compatibility of DBS signals.[96] They state that such standards are needed to ensure that receiving equipment can receive all available DBS transmissions. They believe that such standards will reduce the risks involved in initiating DBS systems, and thereby encourage investment in DBS service. They state that such standards are needed to ensure that receivers are compatible with mass production techniques and can be made available at relatively low prices. They believe that such standards will lessen the risk to viewers that their equipment will become obsolete or that they will need more than one receiver to receive all available signals. Two commenters, Sony and WCRI, also believe that the Commission should adopt uniform scrambling standards. Another commenter, Oak, opposes such standards.

106. Many other commenters believe that the Commission should not adopt technical standards.[97] These commenters believe that DBS operators should be allowed maximum technical flexibility. They believe that technical standards will tend to stifle technical development and innovation and retard the growth of the service. They believe that Commission action at this time will be based on inadequate information and could have an inhibiting effect on the introduction of DBS or the types of services provided. They note that standards for out-of-band emissions will be set by the RARC–83 process.

107. We continue to agree with the commenters who assert that it would be unwise for the Commission to impose technical standards on DBS systems at this time. DBS technology is now at an early stage of development and can be expected to evolve rapidly. Imposing standards based on current technology could stifle its further development. By not specifying compatibility standards, we will allow DBS operators the freedom to offer new services in response to advances in technology or changes in viewers' tastes. Furthermore, in our view, the authorization of interim systems is unlikely to prevent later systems from offering services that the public prefers. If viewers find the characteristics of a second, incompatible system very desirable, the probability is high that demand for the second system will be great enough that the two systems will profitably coexist or that the second system will supplant the first. In sum, as stated in the *Notice*, we believe that by allowing DBS operators to implement a variety of technical configurations, the Commission will provide entrepreneurs the best possible opportunity to provide the services most valued by viewers.

108. We also believe that members of the industry are likely to have very strong incentives to make correct technical judgments regarding DBS system performance parameters. Thus, if an initial DBS system sets *de facto* technical standards for the service, we have no reason to believe that those standards would necessarily be less appropriate than any standards the Commission might impose at this time.

[94] These commenters include ABC and NBC.

[95] See comments filed by GE, Pop Network, STC, and Western Union.

[96] These commenters include CBS, the Consumer Electronics Group of the Electronic Industries Association (EIA), HBO, UAW, UCC, USSB, Oak, PSSC, RCA Americom, Sony and WCRI.

[97] These commenters include Hughes, NTIA, DOJ, STC, and Western Union.

Of course, if later developments indicate that Commission involvement in the setting of technical standards is needed, we will at that time take appropriate action. In addition, as we stated in the *Notice*, we will carefully examine interim applications to ensure that technical proposals efficiently utilize the orbit and trequency resource and are flexible enough so that we can be reasonably assured of their likely ability to accommodate any permanent rules or technical standards. *Notice*, paras. 86, 87.

109. *High Definition Television.* CBS, in its comments, states that the Commission should not authorize the use of the 12 GHz band for DBS systems offering conventional video service. CBS indicates that using the 12 GHz spectrum to provide a transition from conventional television to HDTV service would represent a better use of the orbit/spectrum resource. ABC also indicates that interim DBS authorizations might foreclose the introduction of truly innovative DBS services like HDTV. Other commenters, however, oppose reserving the band exclusively for HDTV operations.[98] The Pop Network, in its comments, states that while the Commission can encourage the development of HDTV satellite service, it should not do so at the expense of other services.

110. We agree with the latter commenters. As stated in the *Notice*, the Commission wishes to encourage experimentation with HDTV systems, and with other technological innovations that might be used in conjunction with DBS. Thus, we believe that we should provide for HDTV delivered by DBS, and the Commission's preparations for the 1983 RARC have indeed taken HDTV requirements into account. However, we believe that the provision of HDTV service should not exclude conventional television service. We note that only one of the DBS applicants, CBS, proposes to broadcast HDTV exclusively. We believe that any transition to HDTV is likely to be slow, and that reserving the 12 GHz band for HDTV would deprive the public of the use of the band for conventional television transmission. Moreover, HDTV presently requires considerably more bandwidth than conventional television signals, and therefore it reduces the number of channels that can be provided within a given amount of spectrum. Our present proposal would permit the band to be used either for HDTV or for conventional television signals, as spectrum allocation permits and the market dictates. We believe this approach serves the public interest better than reserving the band exclusively for either service.

Licensing and Procedural Requirements

111. The licensing and procedural policies and requirements we are adopting are, with few exceptions, those that were set forth in the *Notice*. In particular, applicants will be required to conform to the technical guidelines specified in the WARC–77 Final Acts. Furthermore, all interim authorizations will be subject to modifications, as the Commission deems necessary, in order to comport with determinations made at RARC–83 and any other policies and rules which the Commission may hereafter conclude are necessary or appropriate in the public interest. Deviations from the guidelines of the WARC–77 or from the outcome of RARC–83 may be permitted with Commission approval provided they do not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the WARC–77 or RARC–83.

112. Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions will not be assigned until completion of the 1983 RARC. We note that the number of frequencies, the orbital locations, and the size of the service areas specified in the applications we have received to date have varied considerably. While we intend to take each applicant's request fully into account, the Commission may, in acting on a particular application, restrict the number of channels assigned to any applicant, limit or modify the area to be served, or impose any other conditions it deems necessary.

113. The Commission will continue to accept applications for DBS systems. In addition, the Commission intends in the very near future to establish a second cut-off list for applications.[99] In view of the number of applications that have been accepted to date and the number of potential applications that may be filed, future applicants are requested to indicate whether or not they would be willing to operate their systems from non-eclipse-protected orbital positions.

114. In lieu of stringent financial showings and subsequent Commission analysis, we will require that parties granted authorizations proceed with diligence in constructing interim DBS systems. Interim DBS systems will be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station will also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit will not be considered to justify extension of these deadlines. We believe that a diligence requirement will provide a more orderly processing of applications and assure that those applicants that are granted construction permits go forward expeditiously.

115. Each application for an interim DBS system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.[100] Each application for an interim DBS system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application. A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests. All frequencies and orbital positions, however, shall generally be considered to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain. Each application for an interim DBS system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the system is in the public interest.

116. All authorizations for interim DBS systems shall be granted for a period of

[98] For example, see comments submitted by the Pop Network, STC, and USSB.

[99] A number of the interim DBS applications filed in response to the first cut-off date were found unacceptable for filing. Some of these applications were subsequently amended and may now be acceptable for filing.

[100] The Commission will carefully review each DBS application for completeness. Accordingly, all applicants should be sure that their applications contain a complete and detailed technical showing and that the service to be provided is adequately described. (*See also Memorandum Opinion and Order*, FCC 81–500, and *Memorandum Opinion and Order*, FCC 82–92.)

five years. All licenses shall be subject to the policies set forth in this *Report and Order* and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

VIII. Ordering Clauses

117. Pursuant to Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303, it is ordered, That:

(a) Parts 2 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as set forth in Appendix C, effective thirty days after publication in the **Federal Register.**

(b) Chapter I of Title 47 of the Code of Federal Regulations is amended to include a new Part 100 as set forth in Appendix D, effective August 20, 1982.

(c) The Petition for Expedited Relief submitted by the Aerospace and Flight Test Radio Coordinating Committee on August 12, 1981 is granted to the extent indicated above and is otherwise denied.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments in Response to Notice of Proposed Policy Statement and Rulemaking in General Docket No. 80–603

The following organizations and individuals submitted comments or reply comments in response to the *Notice of Proposed Policy Statement and Rulemaking* in General Docket No. 80–603:

ABC, CBS, and NBC Television Network Affiliates Associations (Affiliates)
Aerospace and Flight Test Radio Coordinating Council (AFTRCC)
American Broadcasting Companies, Inc. (ABC)
American Newspaper Publishers Association (ANPA)
American Petroleum Institute, Central Committee on Telecommunications (API)
American Telephone and Telegraph Company (AT&T)
Association for Higher Education of North Texas (AHE)
Association of American Railroads (AAR)
Association of Maximum Service Telecasters (MST)
CBS, Inc. (CBS)
California Public-Safety Radio Association, Inc. (CPRA)
Citizens Communications Center, *et al.* (CITIZENS)
Corporation for Public Broadcasting (CPB)
Direct Broadcast Satellite Corporation, Inc. (DBSC)
Forward Communications Corporation *et al.* (Licensees)
General Electric Company (GE)
Green, Jeff
Harris Corporation, Farinon Electric Operations (FARINON)
Home Box Office, Inc. (HBO)
Hubbard Broadcasting, Inc. (Hubbard) (succeeded by United States Satellite Broadcasting, Inc. [USSB])
International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW)
Lemke, Douglas A.
Manufacturers Radio Frequency Advisory Committee (MRFAC)
Marberg, William
National Association of Broadcasters (NAB)
National Broadcasting Company, Inc. (NBC)
The New York Times Company, Walter E. Mattson, President
Office of Communication, United Church of Christ (UCC)
Oklahoma State Regents for Higher Education (Oklahoma Regents)
The Pop Network Inc. (The Pop Network)
Public Service Satellite Consortium (PSSC)
Rockwell International Corporation (Rockwell)
Satellite Business Systems (SBS)
Satellite Television Corporation (STC)
Small Business Administration (SBA)
Southern Pacific Communications Company (SPCC)
Telecom Engineering, Inc. (Telecom)
Utilities Telecommunications Council (UTC)
Western Union Telegraph Company (Western Union)

Appendix B

Comments Concerning Permanent Regulatory Policies in General Docket No. 80–603

The following organizations and individuals submitted comments and reply comments concerning permanent regulatory policies in General Docket No. 80–603:

ABC, CBS, and NBC Network Affiliates Organization (Affiliates)
ABC Television Affiliates Association (ABC Affiliates)
Aerospace and Flight Test Radio Coordinating Council (AFTRCC)
American Broadcasting Companies, Inc. (ABC)
Association for Higher Education of North Texas (AHE)
Association of American Railroads (AAR)
CBS Inc. (CBS)
Central Committee on Telecommunications of the American Petroleum Institute (API)
Citizens Communications Center *et al.* (Citizens)
Consumer Electronics Group of the Electronic Industries Association (EIA)
Corporation for Public Broadcasting (CPB)
Fisher Broadcasting Inc. (Fisher Broadcasting)
Forward Communications Corporation *et al.* (Licensees)
GTE Satellite Corporation (GSAT)
The Harris Corporation, Farinon Electric Operations (Farinon)
Home Box Office, Inc. (HBO)
Hughes Aircraft Company (Hughes)
International Union, UAW (UAW)
Joint Council on Educational Telecommunications (JCET)
Los Angeles, County Board of Supervisors (L.A. County)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
National Association of Broadcasters (NAB)
National Black Media Coalition (NBMC)
National Broadcasting Company, Inc. (NBC)
National Council of Churches of Christ in the USA (NCC)
National Telecommunications and Information Administration (NTIA)
Oak Communications Inc. (OAK)
Public Service Satellite Consortium (PSSC)
Puerto Rico Federal Affairs Administration (PRFAA)
RCA American Communications, Inc. (RCA Americom)
Satellite Business Systems (SBS)
Satellite Syndicated Systems, Inc. (SSS)
Satellite Television Corporation (STC)
Scott, Lael (Scott)
Sony Corporation of America (Sony)
Southern Pacific Communications Company (SPCC)
State Board of Education of the State of Georgia (Georgia State)
United Church of Christ (UCC)
United States Department of Justice (DOJ)
United States Satellite Broadcasting Company, Inc. (USSB)
University Affiliated Program of Childrens Hospital of Los Angeles (UAP)
Utilities Telecommunications Council (UTC)
Washington Post Company (Post)
The Western Communications Research Institute, Inc. (WCRI)
Western Union Telegraph Company (Western Union)

Appendix C

Parts 2 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106 is amended by revising the "Service" column of the frequency bands listed below and by adding new Footnotes NG139 and NG140 in proper numerical order to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

United States		Federal Communications Commission		
Band (GHz)	Allocation	Band (GHz)	Service	Class of station
5	6	7	8	9
*	*	*	*	*
12.2–12.75	NG	12.2–12.5 NG8 NG52 NG139	FIXED	International Control Operational Fixed Space
			BROADCASTING-SATELLITE.	
		12.5–12.7 NG8 NG52 NG139	FIXED	International Control Operational Fixed Earth Space
			FIXED-SATELLITE BROADCASTING-SATELLITE.	
		* * *	* * *	
*	*	*	*	*
15.7–17.7	G, NG US110	* * *	* * *	* * *
		17.3–17.7 NG140	FIXED-SATELLITE RADIOLOCATION	Earth Radiolocation Land Radiolocation Mobile.
17.7–19.7	NG	17.7–17.8 NG140	FIXED MOBILE FIXED-SATELLITE	Fixed Mobile Earth Space
		* * *	* * *	* * *

NG 139 Pending adopting of further specific rules concerning usage of the band 12.2–12.7 GHz by the fixed and broadcasting-satellite services, systems in these services may be authorized subject to the condition that adjustments in certain system design or technical parameters may become necessary during the system lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

NG 140 Pending adopting of further specific rules concerning usage of the band 17.3–17.8 GHz by the fixed-satellite service for the purpose of providing feeder links to the broadcasting-satellite service, systems may be authorized for this purpose subject to the condition that adjustments in certain system design or technical parameters may become necessary during the system lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

* * * * * * *

PART 94—PRIVATE OPERATIONAL—FIXED MICROWAVE SERVICE

In § 94.65, paragraph (h) is revised to read as follows:

§ 94.65 Frequencies.

* * * * *

(h) *12,200–12,700 MHZ:* Commission has allocated the 12.2–12.7 GHz band for use by the broadcasting-satellite service. Operational-fixed stations authorized in this band prior to the issuance of a *Report and Order* allocating alternative frequency bands for the operational-fixed service shall not be required to protect domestic broadcasting-satellite systems from interference for a period of five years from the date of issuance of that *Report and Order*. Subsequent to the expiration of this five-year period, such operational-fixed stations shall operate on a strict non-interference basis and shall be required to make any and all adjustments necessary to prevent interference to operating broadcasting-satellite systems. Operational-fixed stations authorized after the issuance of the referenced *Report and Order* shall be licensed on a strict non-interference basis and shall be required to make any and all adjustments necessary to prevent interference to operating broadcasting-satellite systems. Notwithstanding any other conditions, no operational-fixed stations shall be permitted to cause interference to broadcasting-satellite stations of other countries operating in accordance with the Region 2 plan for the broadcasting-satellite service established at the 1983 RARC.

* * * * *

Appendix

Chapter I of Title 47 of the Code of Federal Regulations is amended to include a new Part 100 to read as follows:

PART 100—DIRECT BROADCAST SATELLITE SERVICE

Subpart A—General Information

Sec.
100.1 Basis and purpose.
100.3 Definitions.

Subpart B—Administrative Procedures

100.11 Eligibility.
100.13 Application requirements.
100.15 Licensing procedures.
100.17 License term.
100.19 License conditions.

Subpart C—Technical Requirements

100.31 Technical requirements.

Subpart D—Operating Requirements

100.51 Equal employment opportunities.

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

Subpart A—General Information

§ 100.1 Basis and purpose.

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to prescribe the manner in which parts of the radio frequency spectrum may be made available for the development of interim direct broadcast satellite service. Interim direct broadcast satellite systems shall be granted licenses pursuant to these interim rules during the period prior to the adoption of permanent rules. The Direct Broadcast Satellite Service shall operate in the frequency band 12.2–12.7 GHz.

§ 100.3 Definitions.

Direct Broadcast Satellite Service. A radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public. In the

Direct Broadcast Satellite Service the term "direct reception" shall encompass both individual reception and community reception.

Subpart B—Administrative Procedures

§ 100.11 Eligibility.

An authorization for operation of a station in the Direct Broadcast Satellite Service shall not be granted to or held by:

(a) Any alien or the representative of any alien;

(b) Any foreign government or the representative thereof;

(c) Any corporation organized under the laws of any foreign government;

(d) Any corporation of which any officer or director is an alien;

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representatives thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 100.13 Application requirements.

(a) Each application for an interim direct broadcast satellite system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.

(b) Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions shall not be assigned until completion of the 1983 Region 2 Administrative Radio Conference for the Broadcasting-Satellite Service. The Commission shall generally consider all frequencies and orbital positions to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain.

§ 100.15 Licensing procedures.

(a) Each application for an interim direct broadcast satellite system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application.

(b) A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests.

(c) Each application for an interim direct broadcast satellite system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the proposed system is in the public interest.

§ 100.17 License term.

All authorizations for interim direct broadcast satellite systems shall be granted for a period of five years.

§ 100.19 License conditions.

(a) All authorizations for interim direct broadcast satellite systems shall be subject to the policies set forth in the *Report and Order* in General Docket 80-603 and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

(b) Parties granted authorizations shall proceed with diligence in constructing interim direct broadcast satellite systems. Permittees of interim direct broadcast satellite systems shall be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station shall also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit shall not be considered to justify extension of these deadlines.

Subpart C—Technical Requirements

§ 100.21 Technical requirements.

Prior to the 1983 Regional Administrative Radio Conference for the Broadcasting-Satellite Service, interim direct broadcast satellite systems shall be operated in accordance with the sharing criteria and technical characteristics contained in Annexes 8 and 9 of the Final Acts of the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service in Frequency Bands 11.7–12.2 GHz (in Regions 2 and 3) and 11.7–12.5 GHz (in Region 1), Geneva, 1977; *Provided, however,* That upon adequate showing systems may be implemented that use values for the technical characteristics different from those specified in the Final Acts if such action does not result in interference to other operational or planned systems in excess of that determined in accordance with Annex 9 of the Final Acts.

Subpart D—Operating Requirements

§ 100.51 Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded all licensees or permittees of direct broadcast satellite stations licensed as broadcasters to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

(b) *Equal employment opportunity program.* Each station shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

(1) Define the responsibility of each level of management to ensure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate the station's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color,

religion, national origin, or sex from the station's personnel policies and practices and working conditions.

(5) Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station.

(c) Applicants for a construction permit for a new facility, for authority to obtain assignment of the construction permit or license of such a station, for authority to acquire control of an entity holding such construction permit or license, (other than pro forma or involuntary assignments of transfers) and for renewal of license, shall file with the FCC programs designed to provide equal employment opportunities for American Indians and Alaskan Natives; Asians and Pacific Islanders; Blacks, not of Hispanic Origin; Hispanics; and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in Forms 396 and 396A. A program need not be filed by an applicant who employs or proposes to employ less than five full-time employees. Additionally, a program for minority group members need not be filed if minorities constitute less than five percent, in the aggregate, of the labor force in the applicant's labor recruitment area. Applicants exempt from the filing requirement should submit a statement of explanation with their applications.

(d) Each licensee or permittee with five or more full-time employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

Appendix E—Final Regulatory Flexibility Analysis

Why is Action Contemplated

Action is being taken to permit the introduction of direct broadcast satellite (DBS) service in the United States. The Commission in this *Report and Order* has determined that the provision of this new service is in the public interest. The Commission has indicated that DBS service has the potential of providing additional television and other video services to all the people of the United States, including those in the remote and rural areas of the country that are currently underserved by the existing terrestrial broadcast system. Further, DBS service will be able to provide the American people with additional diversity in video programming and to provide additional incentives to the program production industry, thereby enhancing competition in all video markets. Moreover, by providing some or all of its service in a subscription mode, a DBS system will be able to provide services for certain groups whose needs might not be met through conventional advertiser-supported mass programming.

Objectives and Legal Basis for Proposed Rule

Our objective in proposing these policies and rules is to provide a regulatory environment that will permit the development of direct broadcast satellite service. Our legal basis for this action can be found in Sections 1, 4 (i) and (j), 303 (g) and (r), and 403 of the Communications Act of 1934, as amended.

Small Entities Affected

In addition to the DBS applicants, this action will affect two types of businesses, some of which may be small entities. First, DBS service will provide additional competition for local television, cable, STV, and MDS operations. The *Report and Order* considers the effect of DBS service on local broadcasters and concludes that the effect would not be sufficiently great to warrant Commission intervention. Any effect that would occur would result from the addition of new competitors rather than from regulatory requirements increasing the costs of local stations or otherwise affecting their ability to provide service.

Second, the provision of DBS service may also affect existing terrestrial microwave users of the 12 GHz band. Since DBS and terrestrial microwave operations apparently cannot use the same frequencies in the same geographic area without causing unacceptable interference to DBS receivers, some terrestrial operators may have to move to other frequency bands for DBS to be able to operate in some areas. Changing frequencies will require replacement of some or all transmitting and receiving equipment. Approximately 1900 one-way links are now licensed in the 12 GHz band. A two-way system requires two such links. At this time we cannot determine, however, the total number of licensees or whether or not the terrestrial users are "small entities" for the purposes of the Regulatory Flexibility Act. Furthermore, the number of users affected and the extent to which they may be affected cannot be determined at this time.*

*The number of terrestrial users affected will depend on the outcome of the 1983 Regional Administrative Radio Conference and the number of DBS systems implemented in the United States.

Reporting, Record-Keeping, and Compliance Requirements

According to our proposed rules and policies, DBS applicants will have to provide a filing describing the type of service that will be provided, the technology that will be employed, and any other pertinent information. We believe that this provision is in keeping with the requirements of the service. In view of the large investments involved in placing a satellite in operation, DBS applicants will almost certainly not be "small entities" as described in the Regulatory Flexibility Act. No reporting requirements are imposed on anyone except DBS applicants.

Relevant Federal Rules Which May Conflict With, Duplicate, or Overlap the Proposed Rule

To our knowledge, there are no other Federal rules that conflict with, duplicate, or overlap the proposed policies and rules contained in this *Notice.*

Specific Alternatives That Could Accomplish the Same Objectives

We believe that the only significant available alternative to our proposed policies and rules is one that probably would not permit the introduction of DBS service. If terrestrial microwave users were allowed to remain indefinitely in the 12 GHz band, even though they caused interference to DBS receivers, the loss of audience to DBS operations would probably be sufficiently great to prevent their becoming economically viable. We do not believe that such a decision is in the public interest or in keeping with the stated objectives of the Communications Act. We note that our policies and rules have recognized and taken into account the potential impact of DBS on other entities and services and has attempted to minimize such impacts. For example, our rules would affect only those terrestrial microwave users that caused harmful interference to operating DBS systems. Further, we plan to provide other frequencies for the terrestrial users that will minimize the cost of relocation, and to provide affected terrestrial operations with a transition period in which to move to alternative frequencies.

Economic Impact of the Rule

For terrestrial microwave users required to change frequencies, the cost would in most cases be $1,000 to $2,000 per transmitter. Where movement to the most desirable frequencies was not possible, however, the cost might average $88,000. As we have noted

above, licensees required to change frequencies would be given a transition period to allow for amortization of existing equipment.

Comments on Initial Regulatory Flexibility Analysis

We received comments on the Initial Regulatory Flexibility Analysis (IRFA) from the American Broadcasting Companies, Inc. (ABC); Forward Communications Corporation *et al.* (Licensees); National Association of Broadcasters (NAB); Satellite Television Corporation (STC); and the Small Business Administration (SBA). NAB, ABC, and the Licensees state that the Commission has submitted an inadequate IRFA, and that before interim rules are adopted, the Commission must issue a Further Notice containing an IRFA that complies with the Regulatory Flexibility Act and provides the public with a meaningful opportunity to comment. They state that the Commission neglected to describe "small entities" and did not describe or weigh alternatives to the rules proposed that would lessen the economic impact on small entities.

SBA is interested in the effect of DBS regulations on local television stations and STV and MDS operators, some of which are small businesses. SBA states that the Commission's IRFA would be aided by a description of the potentially affected small entities, and recommends that the Commission consider supplementing its IRFA to reflect this concern.

STC states that the Commission complied with the Regulatory Flexibility Act. According to STC, the *Notice* considered alternatives to the proposed regulations, gave notice to all concerned of their opportunity to comment on the Commission's proposals, and took steps to minimize the impact of its proposals on small entities. STC states that the Commission has adequately described the small entities that might be affected by its proposed rules.

Numerous comments on the substance of the *Notice* were submitted by association of broadcasters and by associations of terrestrial microwave users, many of which may be small entities. These comments are described and the Commission's response to them is presented in the text of the *Report and Order.*

We agree with STC that the IRFA in this proceeding met the requirements of the Regulatory Flexibility Act. We identified the small entities we believe would be affected as well as possible, given the data available to us. The small entities were certainly sufficiently well identified and given sufficient notice to permit them an opportunity to comment. We considered alternatives to our proposed rules and chose the alternative that we believe imposes the least cost on terrestrial microwave users while permitting DBS service to proceed.

June 23, 1982.

Separate Statement of Chairman Mark S. Fowler

Re: *Direct Broadcast Satellites.*

When Arthur C. Clarke first envisioned direct space-to-earth transmissions in a little article in Britain's *Wireless World* in 1944, he sensed what technology was capable of. Today the Commission demonstrates what government can, and should, do in the face of that technology: let it go forth.

Our report and order is neither a red flag or a checkered flag for the new video delivery system of direct broadcast satellite (DBS). It is simply a green light to a new player. This player wants to offer the public a new service. It comes to the market place with its own advantages and disadvantages when poised against other technologies.

Those who have expressed an interest in providing DBS service comprise a wide range of entrepreneurs, from established broadcasters to relatively new telecommunications players. This range of applicants, with more, perhaps, to file in the future is proof that the emerging video market place under FCC guidance favors open entry.

The potential market for DBS includes rural America. Millions of people live in parts of the country that can receive no over-the-air TV signals; millions more receive two or fewer channels. DBS represents for these people a major advance in access to television service.

DBS can be a powerful tool both domestically and internationally. Of course, DBS is intended to serve the continental United States. But a worldwide system of orbs linking all people and all lands is not beyond the power of DBS. Such a system could be humanity's blessing, or its curse. Like other technologies wrought of this century, DBS carries the capacity for weal and woe.

We at the FCC cannot insure that DBS reaches its full potential as a contributor to our civilization. We do not even warrant its commercial success. But we have allowed it to enter the video marketplace with the least regulatory encumbrances.

And, significantly, it enters a competitive market place. That environment that has been a spur to innovation and creativity in our economy. On it we rely again today.

Despite my continuing concern, with this decision the Commission has moved the promise of DBS much closer to reality and to the public who will benefit from this service.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Inquiry into the Development of Regulatory Policy in regard to Direct Broadcast Satellites (DBS) for the period following the 1983 Regional Administrative Radio Conference—Report and Order.

I am pleased to see the Commission take this action which allows DBS—an exciting and potentially vital technology and service—to prove itself in the telecommunications marketplace. Those entrepreneurs proposing to make DBS a reality are truly putting their money and talents where this Commission's procompetitive theory is. While this Commission should not and cannot act as a guarantor of their investment and entrepreneurial risk, we do have an obligation to ensure that our regulatory process does not impede or obstruct their best competitive efforts.

For these reasons, I am concerned that the necessary migration of potentially interfering Operational Fixed Service users out of the 12.2–12.7 GHz band now allocated for DBS proceed on an expeditious basis. Here, I would have preferred a date-certain for OFS relocation, rather than the uncertain five-year time-frame stated by this decision. This five-year time-frame is now keyed to the future issuance of a Commission *Report and Order* allocating alternative spectrum for OFS use. While I credit the categorical assurances of both the Commission and its staff that such a *Report and Order* will issue in September of 1983, a date certain would send a firmer and clearer signal to both OFS users and equipment manufacturers that there will be no lag or slippage.

The timely and reasonable accommodation of the OFS users' migration requirements is a critical consideration. So is DBS systems' ability to penetrate subscriber markets as quickly and as fully as the worth of their services to consumers will allow. The Commission must ensure that the incentives are properly structured to achieve both of these objectives. A date certain would better meet this essential regulatory purpose.

June 23, 1982.

Concurring Statement of FCC Commissioner James H. Quello

In re: *Report and Order on Direct Broadcast Satellite (DBS) Service, General Docket No. 80–603.*

While this Report and order has been characterized as an "interim" action, it clearly authorizes a new service which has the potential to dramatically change the current pattern of video distribution in this country. Given the huge capital resources required to participate in this "interim" venture, it is unlikely that the Commission will embark upon a different course once the resources have been committed and the service has begun.

I am particularly concerned that local broadcasting services be given full consideration in any equation which examines this new DBS service. Localism has, traditionally and as a matter of Commission policy, been the bedrock of the broadcasting service in this country. I continue to think it is a good policy and one which demands the careful attention of all us charged with the responsibility of maintaining and improving the system. It has been noted that the bulk of television programming is not locally produced. However, lest the inference be drawn that

local programming and non-local programming are separate entities and need not be considered together, I would point out that the revenues generated by local stations from non-local entertainment programming often supports the production of quality local programming. Thus, to the extent that DBS supplants local broadcasting as a distributor of non-local, entertainment programming, economic support for local program production might well be diminished. My concern is not in protecting the profits of local broadcasters but in protecting continued and enhanced local broadcasting service.

I realize that prediciting the effects of any new technology upon an existing service is historically fraught with peril. Radio broadcasting was once believed by many to be doomed because of the advent of television broadcasting. Of course, radio broadcasting has not only survived but it continues to prosper. Radio programming was changed as a result of the introduction of television service. I would expect that, over time the programming of local television stations will also change as a result of the new video distribution technologies including direct satellite-to-home broadcasting. Local television broadcasters are likely to be faced with problems of adaptation similar to those faced by radio broadcasters thirty years ago. I am confident that they will meet that challenge.

Despite some very real concerns about the orderly introduction of this new technology, I realize that it has the potential to offer to the American public important and desirable new services in the very near future. This *Report* and *Order* deliberately imposes minimal rules and regulations upon this new service providing an opportunity for it to develop in a manner likely to best serve the public. Clearly, DBS is an idea whose time has come and it ill behooves regulators to stand in its way. Thus, I support today's Commission action to move forward.

My support, however, is tempered by my concern that localism must not be sacrificed. I do not fully share the confidence expressed in the *Report* and *Order* that localism has nothing to fear from DBS. At the same time, neither do I believe that the death knell of local broadcasting is being sounded by the action.

Therefore, I concur in the result.

Statement of Commissioner Henry M. Rivera

In re: *Direct Broadcast Satellite Proceeding.*

My Support for the decision to impose minimal regulation on DBS at this time—particularly to refrain from imposing ownership restrictions—flows from the fact that we do not know enough about the service and how it will develop to frame appropriate regulations, and *not,* as the *Report and Order* may suggest, paras. 95–98, from the view that limitations on matters like multiple and cross-ownership are probably unnecessary in this service. The need for such restrictions will have to be carefully evaluated based on the circumstances that exist when the Commission adopts final regulations for DBS.

The future of this service, from both a regulatory and an operational perspective, is largely uncharted. It is unlikely that DBS will come into being, let alone be put to the test of the marketplace, before close to the end of this decade. Therefore, the majority's claims regarding the markets in which DBS will compete, the likely degree of competition among DBS systems, as well as the amount of competition posed by other video alternatives, are wholly premature. In my view, the proper basis for imposing minimal restraints on DBS at this time is simply that the service is in an embryonic stage, not sweeping and unsupported generalizations about future levels of competition.

[FR Doc. 82-19733 Filed 7-20-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

[Docket No. 20817; FCC 82-304]

Amendment of the Commission's Radio Operator Licensing Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order confirms the Federal Communications Commission (FCC) decision to no longer issue First Class Radiotelephone Operator Licenses, and also clarifies previously amended broadcast radio operator rules. This action is taken because of requests for reconsideration and is necessary to avoid misunderstanding of the operator requirements by station licenses that may cause unnecessary expenses and inconvenience.

DATE: Effective August 16, 1982.

FOR FURTHER INFORMATION CONTACT: John Reiser, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast.

47 CFR Part 74

Television.

Memorandum Opinion and Order

Adopted: July 1, 1982.

Released: July 9, 1982.

1. The Commission recently adopted a *Fourth Report and Order* in this proceeding terminating the docket.[1] As our final action in a series of deregulatory actions in this area dating back to 1976,[2] we found that the public interest would best be served by: (1) Repealing rules that require the operators who repair broadcast transmitting equipment to hold a Radiotelephone First Class Operator License; (2) terminating the Radiotelephone First Class examination and license; and (3) renaming the Radiotelephone Second Class License as the General Radiotelephone Operator License; and (4) revising the broadcast rules to permit the holder of any class of commercial license, including a Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to maintain as well as operate any class of broadcast transmitting equipment.

2. Nine petitions for reconsideration or clarification have been received.[3] After considering each of the arguments set forth in these requests, we affirm our decision but provide the requested clarification of one rule provision. (*See* paragraph 6, *infra.*) We reach this conclusion for three reasons. First, none of the petitioners provided any new facts, evidence, or reasoning that was not explicitly presented and examined in our deliberations that culminated in the *Fourth Report and Order.* Second, since there have been no changes in the record or the general circumstances on which we reached our conclusion, we find no reason to revise our conclusions. Third, and most importantly, we again conclude, based on the entire record including the arguments again enumerated in the instant petitions, that the public interest will best be served by elimination of the Radiotelephone First Class Operator License and the rule provisions specifying it as a requirement for operating broadcast equipment.

3. The arguments presented by the petitions for reconsideration repeatedly focused on a few points. Several petitions set about counting the number of commenters in favor of or opposed to the rule changes we proposed,[4] arguing

[1] 46 FR 35450 (July 8, 1981).

[2] *Notice of Inquiry,* 41 FR 22981 (June 8, 1976).

[3] The petitioners are listed in Appendix I. One petition was captioned as a Request for Stay and Reexamination (*see* petition by Charles V. Feeley, Jr.), but the petitioner made no attempt to document any of the showings required to justify a stay of a final Commission action. *See, Virginia Petroleum Jobbers Association* v. *Federal Power Commission,* 259 F. 2d 921 (D.C. Cir. 1958); *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.,* 559 F. 2d 481 (D.C. Cir. 1977). Rather than deny this petition without consideration for this failure, we will consider it as a petition for reconsideration. Nevertheless, for the reason enumerated below, the requested relief will be denied.

[4] *Notice of Proposed Rule Making,* Docket No. 20817, 66 F.C.C. 2d 100 (August 4, 1977). *See, e.g.,*

that the number of commenters on one side of an issue or another accurately reflects the public sentiment on the question and that this number dictates the required outcome of the Commission's deliberations. This premise is faulty for two reasons. First, in proceedings such as this one, where proposed rule changes significantly affect one particular segment of an industry, the affected group always provides the largest number of comments. Although the comments of parties so directly affected are invaluable, simple head counting is not an adequate or acceptable basis for reaching a public interest determination. Rather, the Administrative Procedure Act requires the Commission to analyze all arguments presented, weighing appropriately the comments of each party. Sometimes one documented, well justified position will be more enlightening than many unsupported opinions advocating the opposite outcome. In short, our decision-making process must weigh the merits on each side of an issue.

4. Several petitioners question our conclusion that the public interest would not be served by further Commission efforts to restructure and modify the existing Radiotelephone First Class Operator examination to bring it up-to-date, to resolve the problem of the examination being compromised through pre-test availability of specific test questions, and to make it more relevant to a technician's actual ability to maintain transmitter equipment. These petitioners have misunderstood our conclusion in several regards. First, we did not conclude that written examinations could not be developed to identify which of a group of applicants is most likely to become a competent broadcast technician.[5] We concluded that the existing examination system, or anything that would result from a restructuring of that examination that does not include hands-on testing, is unlikely to be reliable in predicting such a complicated outcome. Second, we suggested that industry associations could develop an examination, not because we believed an examination and certification system was absolutely required, but to illustrate our belief that if certain segments of the communications industry strongly believe such a system is a sufficiently desirable institution, they are free to expend industry resources to develop and implement such a system. What we concluded was that we did not feel further expenditure of Commission resources was warranted.[6] Federal Government implementation is not required merely because a licensing system would be helpful to some broadcasters in selecting competent technical employees.[7] Third, and central to our resolution of this issue, we concluded that the process of licensing Radiotelephone First Class Operators is not in the public interest because, although it imposes substantial costs on the broadcast industry, the Commission, and the public,[8] it was not shown by the record in this proceeding to protect the public in any substantial way.

5. A related contention by some petitioners is that Section 318 of the Communications Act, 47 U.S.C. 318 (1980), requires retention of the Radiotelephone First Class Operator License in particular, and forbids operation or maintenance of broadcast equipment by holders of the Restricted Radiotelephone Operator Permit. Neither the language of Section 318 nor the legislative history of the Communications Act supports an argument that the Commission is constrained in its discretion to decide which level of license[9] qualifications would best serve the public interest. If retention of technicians with more exacting paper credentials better suits a particular broadcaster's needs, each licensee is free to set such standards.[10]

6. Several petitions requested clarification or modification of two aspects of our decision. First, our new Section 73.1870 defines a new "chief operator" requirement and lists several duties as that individual's responsibility.[11] Concern was expressed by several petitioners that we intended that the particular individual designated as chief operator personally perform each of the functions enumerated in the rules section and that those duties could not be delegated to subordinates. Such a requirement would conflict with the practical division of labor in many stations, especially those with equipment at multiple locations. We did not intend to restrict licensee discretion in the assignment of internal responsibilities. The licensee will remain the focal point of all obligations under our rules. We will look to the licensee for compliance with the technical (as well as non-technical) aspects of the station's operation, and will not excuse non-compliance caused by failures on the part of its employees. Compliance with our rules requiring inspections, log entries, and so forth, will remain the exclusive responsibility of the licensee. The licensee, however, is free to delegate to the chief operator, and the chief operator is free to redelegate further, any of the duties imposed by the rules. The wording of the new rule § 73.1870(c) was intended to ensure that there is an individual within each station to whom the Commission can turn who is familiar with all technical aspects of that station. Although performance of the listed duties by a single individual is not required, we believe it better to specifically enumerate which duties are the chief operator's ultimate responsibility to emphasize our intention that the licensee ensure that these technical responsibilities reside in one identifiable person.[12]

7. The second requested area of clarification addressed the issue discussed in paragraph 63 of our *Fourth Report and Order*, 46 FR at 35460 (July 8, 1981), and the Notes to new rule § 73.61.

Petition for Reconsideration of the Society of Broadcast Engineers, filed August 6, 1981.

[5] We concluded that even an improved examination would have little impact on an operator's ability to repair equipment or to assure his safety when actually handling equipment. *Fourth Report and Order* in Docket No. 20617, 46 FR at 35456, paragraph 39 (July 8, 1981).

[6] SBE, in its petition for reconsideration, cites the testing of attorneys ("Bar Examinations") as an illustrative example of a comprehensive examination used to preliminarily determine technical competence. However, this system is not required by Federal Government regulation but rather is a creation of individual state governments.

[7] Indeed, a number of station licensees in their comments argued for elimination of the Radiotelephone First Class license requirement.

[8] SBE suggests that we could reduce this dependence on tax revenues by charging applicants a fee. SBE, petition at 14. However, agency attempts to defray administrative expenses by charging "fees" in the absence of explicit Congressional authorization raises many serious questions. *See National Cable Television Association, Inc. v. United States*, 415 U.S. 336 (1974). Moreover, such attempts are inappropriate under any circumstances where, as here, a determination has been made that there is no substantial public benefit accruing from tests that are the subject of any potential fee assessments.

[9] One petitioner suggested that the restricted permit is not a license because there is no examination prerequisite. A license is merely a certificate or document that gives permission to perform acts which, if performed without such authorization, are illegal. *See, Black's Law Dictionary*, 4th Ed. (1968) at 1067 and cases cited therein. A license does not imply a qualifications examination requirement.

[10] In this regard the existence of any antiquated equipment requiring above normal maintenance provides the individual broadcaster with a choice: He can retain such maintenance intensive equipment, expending higher amounts on technical services, or he can invest in modern equipment that needs less maintenance. Our deregulatory action does not increase his costs in any way. It just provides him with the option of choosing to upgrade his equipment to lower maintenance costs.

[11] The designation of "chief operator" must be in writing and be posted with the operator's license, but Commission notification of who has been so designated is not required. *See*, 47 CFR 73.1870(b)(3), 46 FR 36563 (July 8, 1981).

[12] To clarify the ambiguity that raised the delegation question, we are rewording § 73.1870(c) as set out in Appendix II.

In that paragraph we attempted to make clear our intention to preserve the *status quo* pending further rule making. Those stations that did come under former § 73.93(e)(3) were to continue performing partial proofs of performance as required by § 73.61(b) and those licensees that did not come under former § 73.93(e)(3) were to continue to be exempt from the partial proof-of-performance measurements requirements. We chose this path because we felt initially that the decision to extend these measurement requirements to a new class of stations, or to exempt those now so required from future measurements, involved considerations better resolved in a future proceeding. In a separate Notice of Proposed Rule Making to be issued at a later date we will solicit comments on a proposal to review the value of retaining the periodic proof measurements as required by § 73.61(b). We believe a new docket is necessary given the clear distinction between the subject matter of this docket (the Commission's radio operator licensing program) and the subject matter of § 73.61(b) (AM directional antenna field measurements).

8. We will take this opportunity to address one further minor matter. Through telephone and other informal inquiries, it has come to our attention that the wording of rule § 74.665 has been misinterpreted by several parties to require the employment of General Radiotelephone Operators for the operation of TV broadcast auxiliary stations in situations we intended to leave free of such requirements. To remove this ambiguity we are, on our own motion, further amending the first subsection of § 74.665 to clearly state that such equipment may be operated by anyone designated by the licensee of the authorized broadcast station except in the circumstances specified in the other rule subparts of § 74.665.

9. Accordingly, we believe the decisions announced in our *Fourth Report and Order* in Docket No. 20817, as clarified, are in the public interest. In an era of reduced conduct regulation by the Commission, individual licensees' attention to the technical maintenance of their stations becomes of utmost importance. We will continue to actively monitor licensee performance of our rules.[13] As industry practice develops under the radio operator rules, as now amended, some additional modifications or adjustment of those rules intended to ensure satisfactory station functioning may be appropriate. Under such circumstances, we will, on our own motion, take appropriate action.

10. For the above-stated reasons, the petitions for reconsideration by Charles V. Feeley, Jr.,[14] Cedar Rapids Television Company, Eastern Broadcasting Corporation, F. M. Gamer, Schwartz, Woods & Miller, and the Society of Broadcast Engineers, Inc. are denied. The petitions for clarification or partial reconsideration by Annapolis Broadcasting Company, the National Association of Broadcasters (NAB) and in support of NAB, American Broadcasting Companies, Inc., are, to the extent indicated above, granted, and in all other respects denied.

11. In view of the foregoing and pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is ordered, That effective August 16, 1982, §§ 73.61, 73.1870 and 74.665 of the Commission's rules and regulations are amended as set forth in the attached Appendix II.

12. For further information concerning this proceeding, contact John W. Reiser, Broadcast Bureau, (202) 632–9660.

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

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix I—List of Petitions for Reconsideration or Clarification

1. *Formal Request for Stay of Final Rule, and Reexamination of Docket 20817,* FCC 81–226, Charles V. Feeley, Jr. (July 27, 1981).

2. *Petition for Clarification and Partial Reconsideration,* National Association of Broadcasters (August 4, 1981).

3. Statement of American Broadcasting Companies, Inc., In support of NAB's "Petition for Clarification and Partial Reconsideration," American Broadcasting Companies, Inc., (August 7, 1981).

4. *Petition for Reconsideration,* Cedar Rapids Television Company (August 7, 1981).

5. *Petition for Reconsideration,* Eastern Broadcasting Corporation (August 7, 1981).

6. *Petition for Reconsideration,* F. M. Gamer (August 3, 1981).

7. *Petition for Reconsideration,* Schwartz, Woods & Miller (August 7, 1981).

8. *Request for Partial Reconsideration and/or Clarification,* Annapolis Broadcasting Corporation (August 6, 1981).

9. *Petition for Reconsideration,* Society of Broadcasting Engineers, (August 6, 1981).

Appendix II

PART 73—RADIO BROADCAST SERVICES

1. Section 73.61 is amended by revising Notes 1 & 2 to read as follows:

§ 73.61 AM directional antenna field measurements.

* * * * *

Note 1: An AM station that is not required to make periodic field strength measurements under the terms of its current authorization is not subject to the requirements of paragraph (a) of this Section.

Note 2: An AM station that was not required to make periodic skeleton or partial antenna proof of performance measurements under the duty transmitter operator provisions of § 73.93 (e)(3) prior to July 1, 1981, is not subject to the requirements of paragraph (b) of this Section until the need for these measurements for all stations is addressed in a future rulemaking proceeding.

2. Section 73.1870 is amended by revising paragraph (c) to read as follows:

§ 73.1870 Chief operators.

* * * * *

(c) The chief operator is responsible for completion of the following duties specified in this paragraph below. When these duties are delegated to other persons, the chief operator shall maintain supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner.

(1) Weekly (or monthly for stations using automatic transmission systems) inspections and calibrations of the transmission system, required monitors, metering, and control systems; and any necessary repairs or adjustments where indicated. (See § 73.1580.)

(2) Periodic AM field monitoring point measurements, equipment performance measurements, or other tests as specified in the rules or terms of the station license.

(3) Review of the station operating logs at least once each week as part of the transmission system inspections to determine if the entries are being made correctly or if the station has been operating as required by the rules or the station authorization. Upon completion

[13] This fiscal year (1982) the Commission expects to monitor or inspect approximately 800 broadcast stations, 8–10% of the total licensees. We believe the inspection level will be sufficient to inform us adequately of the level of compliance.

[14] *See* note 3, *supra.*

of the review, the chief operator or his designee is to make a notation of any discrepencies observed and date and sign the log; initiate necessary corrective action, and advise the station licensee of any condition which is a repetitive problem.

(4) Entries in the maintenace log. (*See* § 73.1830.)

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. Section 74.665 is amended by revising paragraph (a) to read as follows:

§ 74.665 TV broadcast auxiliary station operator requirements.

(a) Except as provided for in paragraphs (b) and (c) and (d) of this Section, TV broadcast auxiliary stations may be operated by any person designated by the station licensee.

* * * * *

[FR Doc. 82-19732 Filed 7-20-82; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 274, 284, 375 and 381

[Docket No. RM82-30-000]

Fees Applicable to the Natural Gas Policy Act; Extension of Time for Comments

July 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking; extension of comment period.

SUMMARY: On June 2, 1982, the Commission issued a Notice of Rulemaking involving fees applicable to the Natural Gas Policy Act (47 FR 24726, June 8, 1982). The comment period is being extended at the request of Exxon Corporation.

DATE: Comments must be submitted on or before August 13, 1982.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19693 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 271 and 276

[Docket No. RM82-36-000]

Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to eliminate Part 276 of its regulations. That part requires the filing of information concerning first sales of natural gas made under sections 105, 106(b) and 109 of the NGPA, and prescribes Form Nos. 122, 123, and 124. The Commission proposes keeping the requirement now under Part 276 that sellers retain certain records, books and contracts relating to sales under these sections; but would place that requirement under the part containing the regulations that govern the ceiling prices for sales under these sections of the NGPA. This proposal is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

DATE: Written comments must be received by August 16, 1982. Requests for oral presentation must be received by August 6, 1982.

ADDRESS: Comments and requests for oral presentation must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM82-36.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to eliminate Part 276 of its regulations. That part requires the filing of information concerning first sales of natural gas made under sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978 (NGPA), and prescribes Form Nos. 122, 123, and 124. The Commission proposes keeping a requirement that sellers retain certain records, books, and contracts relating to sales of natural gas made under these sections of the NGPA. This proposal is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Part 276 was issued on March 23, 1979, and created a general reporting obligation on first sellers of natural gas qualifying under sections 105, 106(b), and 109 of the NGPA.[1] The information to be reported annually relates to dates of sales of natural gas, volumes of gas so length of contracts, and identity of parties to the contract.[2] The Commission provided three forms for reporting this information as follows: Form No. 122 for sales of natural gas subject to section 109 of NGPA, Form No. 123 for sales subject to section 105, and Form No. 124 for sales subject to section 106(b). The Commission's regulations also require that affidavits by company officials be filed with these forms. In addition, these regulations require persons who filed reports to retain certain relevant records, books, and contracts for various periods of time.

The Commission has required the filing of these reports in order to get information relating to transactions under sections 105, 106(b), and 109 of the NGPA. Unlike other pricing categories of the NGPA, a seller is not required to get a state or federal eligibility determination prior to charging the price authorized by these sections. Collecting the information in these reports was, therefore, considered necessary to provide the Commission with information relating to the identity of the parties to contracts and the number of sales being made under these various pricing categories of the NGPA, and to use these reports as a basis for deciding how to conduct audits for compliance with the NGPA.

Reports for the period of December 1 to December 31, 1978, were required to be filed by June 1, 1979. Reports for succeeding calendar years were suspended on March 14, 1980.[3] The reason for the suspension was "to reevaluate the regulatory need for reports on an annual basis and to address problems experienced in the

[1] Docket No. RM79-30, 44 FR 18-647 (March 29, 1979). Prior to that order, interim regulations under Part 276 had been issued on December 1, 1978, 43 FR 56-448 (December 1, 1978), and amended on February 2, 1979, to extend the filing deadline for initial reports under the Part 276 Interim Regulations from March 1, 1979 to May 1, 1979.

[2] *See, e.g.*, 18 CFR § 276.103(a).

[3] Docket No. RM79-30, 45 FR 19-546 (March 26, 1980).

past year associated with annual reports." [4]

III. Discussion

The Commission has reevaluated the need for these yearly reports and believes that they are not necessary for an effective NGPA compliance program for sales made under these sections. The Commission, therefore, proposes eliminating the reporting requirements of Part 276, including the forms and the various affidavit requirements. The Commission proposes to retain a requirement that certain documents related to the sales be kept; these provisions, however, will be added to the particular subparts of the regulations prescribing rules for selling natural gas under sections 105, 106(b), and 109 of the NGPA.

The reports that have been filed under Part 276 were designed to ensure that the prices charged for the sale of natural gas did not exceed the maximum lawful price allowed by the relevant NGPA section. However, the Commission cannot usually determine if the price reported is in compliance with the NGPA without detailed contract information as well as documents related to the specific sales transaction. The Commission has considered the alternative of requiring the filing of detailed contract information. However, the Commission believes that this alternative would place an unwarranted filing burden on industry and an unwarranted processing and auditing burden on the Commission's staff.

The Commission believes that the compliance function is best carried out by field audits and specific requests for information from sellers or purchasers rather than by annual reporting requirements. Requests to individual natural gas producers or pipelines for volume or revenue information, when needed, is a less burdensome way of getting the information than is requiring that all sellers involved in transactions under these NGPA sections file under Part 276 every year. If this filing requirement were eliminated, regulated entities would be relieved of the burden of filing approximately 5,000 annual oath statements and 300 annual reports containing approximately 25,000 lines of data. This elimination would reduce the total paperwork burden imposed by Part 276 on regulated entities by approximately 15,000 hours annually, or about ninety percent of the present burden. The remaining burden of ten percent is attributable to the record retention requirement. Accordingly, the Commission proposes to eliminate Part 276, including all the reporting requirements, forms, and affidavits.[5]

Consistent with the notion that field audits are a more effective means of ensuring compliance with the pricing provisions of the NGPA, the Commission proposes continuing to require sellers to keep books, records, and contracts relevant to sales made under sections 105, 106(b), 109. The proposed length of time for keeping the books and records is three years, the approximate duration of the Commission's auditing cycle. The proposed length of time for keeping contracts is three years after the expiration of the contract. The Commission believes that it is already normal business practice for sellers to keep these records and contracts for at least as long as the proposed three-year period.[6] These recordkeeping requirements will be moved to the relevant subparts of Part 271, the part containing rules relating to ceiling prices for the various categories of natural gas.

IV. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA),[7] requires the Commission to perform a regulatory flexibility analysis on proposed rules that will have "a significant economic impact on a substantial number of small entities."[8] The Commission is not required to make such an analysis if it certifies that the rule will not have "a significant economic impact on a substantial number of small entities."

There are approximately 10,000 natural gas producers in the United States. Approximately eighty percent of these producers are small entities. This rule, if promulgated, will affect most of these entities by eliminating several reporting requirements and reducing regulatory burden. The Commission believes this reduction will have a positive impact on small entities. The Commission does not, however, believe the economic impact will be "significant," since the burden reduction is about one and a half hours per entity when spread out over the 10,000 entities which could potentially be required to file reports.

Pursuant to section 605(b) of the RFA, the Commission accordingly certifies that this rule, if promulgated, will not have a "significant economic impact on a substantial number of small entities."

V. Comment Procedures

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by August 16, 1982. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM82–36.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will, if requested, be afforded in accordance with section 502(b) of the NGPA. Any person seeking to appear to give oral comments must file a request to do so with the Secretary by August 6, 1982.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. IV 1980); Energy Supply and Environmental Coordination Act, 15 U.S.C. 791–798 (1976 & Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. III 1979); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

18 CFR Part 276

Natural gas, Reporting requirements, Wage and price controls.

In consideration of the foregoing, the Commission proposes to amend Parts 271 and 276, Title 18 of the Code of Federal Regulations, as set forth below.

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[4] *Id.*

[5] Some sellers may not have filed these initial reports as required by Part 276. Liability for such failure to file required reports will not be relieved by this rule which, if promulgated, eliminates the reporting requirements of Part 276. *Cf. U.S. v. Hark*, 320 U.S. 531, 536 (1944) (Revocation of a regulation does not prevent indictment and conviction for violation of its provisions at a time when it remained in force); *U.S. v. Resnick*, 455 F. 2d 1127, 1134 (5th Cir. 1972) (Revocation of a regulation does not bar prosecution where the legislation authorizing the regulation has not been repealed).

The Commission will keep the reports initially filed by June 1, 1979. Persons who filed these reports are not entitled to have them returned; the Commission needs these reports to determine who to audit.

[6] These recordkeeping requirements are, for the most part, the same or less than the requirements of the Internal Revenue Service. *See*, Records, Treas. Reg. § 1.6001–1 (1978) 26 CFR 1.6001–1 (1981). As such, these recordkeeping requirements impose very little burden on sellers.

[7] 5 U.S.C. 601–612 (Supp. IV 1980).

[8] *Id.* at § 603(a).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

1. Part 271 is amended in its Table of Contents and text by revising the title and text of §§ 271.503, 271.603, and 271.903, all to read as follows:

§ 271.503 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

§ 271.603 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

§ 271.903 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

PART 276—[RESERVED]

2. Subchapter H of Chapter I is amended in its Table of Contents and in its text by removing Part 276 in its entirety and reserving the same for future use.

[FR Doc. 82-19650 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Olympic National Park Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The intent of this proposed rule is to update the present fishing and boating regulations in Olympic National Park, largely in response to Federal court mandate [*U.S.* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974)]. In addition the proposed rules respond to new information and changing conditions in order to more accurately reflect Olympic National Park's fisheries management program for the rivers, lakes and streams. Boating regulations are being updated and clarified to more accurately identify waters which are open to hand-propelled vessels and motorboats.

DATE: Written comments, suggestions of objections will be accepted until August 20, 1982.

ADDRESS: Comments should be directed to: Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362.

FOR FURTHER INFORMATION CONTACT: Roger J. Contor, Superintendent, Olympic National Park, Telephone: (206) 452-4501.

SUPPLEMENTARY INFORMATION:

Background

Olympic National Park occupies about 900,000 acres in the center of northwest Washington's Olympic Peninsula and in a narrow coastal strip along the western margin of the Peninsula. The headwaters and upper reaches of nearly all the Peninsula's important river systems supporting anadromous salmonid fishes are in the park. Outside the park these rivers flow through an often confusing array of State and Native American tribal jurisdictions. The mouths of two of the major rivers are in the detached coastal strip of the park and thus are in the unusual position of being under park control at both ends but not the middle.

Since the original promulgation of fishing regulations by the park, the environmental situation on the Olympic Peninsula has undergone considerable change. Land development and heavy logging outside the park on private, State and Federal lands has damaged natural spawning habitat. The largest proportion of the remaining undisturbed habitat is within the park. In addition, extremely heavy fishing pressure by ocean trollers, trawlers, gillnetters and sportsmen has contributed to the seriously depleted runs of anadromous species. The jurisdictional situation regarding the management of anadromous fish has also been changing on the Peninsula. Recent Federal court decisions have affirmed a prominent role for the several Native American tribal fisheries programs and fishery management activities. Olympic National Park fishery management objectives are not always in total agreement with state or tribal objectives. The park emphasizes strongly the perpetuation not only of native species of fish but also, to the extent possible, of natural genetic processes. The park's major role in preserving the unspoiled spawning environment has become apparent. Emphasis is also placed on the maintenance of a quality wild sport fishing experience and on the importance of the fish in their role in the ecosystem.

Adding to the jurisdictional and environmental complexity is the biological variability of the fish themselves. At issue are five salmon species, steelhead trout (sea-run rainbow), sea-run cutthroat trout and Dolly Varden. Within each species and from river to river are significant differences in the timing, size and vigor of the runs. Management manipulations, moreover, have altered these runs even further.

The park needs to be able to carry out its own objectives and respond to biological, environmental and legal constraints with a degree of flexibility not currently possible. This proposed rule will authorize the superintendent to make adjustments in seasons and daily catch limits after consultation with the State and, where appropriate, the concerned Indian Tribe.

The proposed boating revision updates and clarifies the existing rule to more accurately identify waters which are opened to hand-propelled vessels and motorboats. Another provision of this rule closes 8 miles of the Upper Hoh River to fishing from boats to allow bank fishermen an opportunity to fish without competition from boats. Recreational boating would still be allowed. The remaining 30 downstream miles of the Hoh River would be open to all fishermen during legal seasons.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule to the location identified in the Addresses section of this preamble. Comments must be received on or before August 20, 1982.

Drafting Information

The following persons from Olympic National park participated in the writing of this regulation: Gordon Boyd, Chief Ranger; John Aho, Group Chief, Science and Technology; Jeff Singer, Chairman of Citizen's Advisory Committee, Paul Crawford, Staff Ranger, Elwood Jones,

Law Enforcement Specialist, and Robert Marriott, Park Ranger.

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 610 *et seq.* This conclusion is based on the fact that this regulation clarifies an existing rule. The addition of the Indian fishing rights will not have an economic effect on any small entities as no other group has been allowed to fish in park waters in a similar manner.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment on this proposed regulation which is available at the address noted above.

This rule does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

(Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. section 3)

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to amend 36 CFR by revising § 7.28 (a) and (b) as follows:

§ 7.28 Olympic National Park.

(a) *Fishing*—(1) General Provisions. All water within Olympic National Park are open to fishing in conformance with those seasons and limits published annually by the Washington State Department of Game and the Washington State Department of Fisheries applicable in the same watershed in adjoining counties, except as provided for below.

(i) Possession limit. This shall be the same as the daily limit for all species; *provided however,* it is lawful to possess four steelhead over 20 inches regardless of weight. In the Queets River and tributaries the summer season possession limit is two steelhead over 20 inches.

(ii) General summer season. Daily steelhead catch limit shall not exceed two fish, *provided however:*

(A) The Queets River and tributaries shall have a summer season daily limit of one steelhead over 20 inches in length.

(B) The Quinault River is closed to the taking of steelhead all year above the confluence of the North and East Forks, but is open in its entirety during the general summer season to the taking of two rainbow trout with a minimum size of 10 inches and maximum size of 20 inches.

(2) *Salmon Fishing.* Salmon fishing is permitted on the following park waters, exclusive of tributaries, when adjacent State waters are open:

Dickey River
Hoh River below confluence of South Fork
Kalaloch Creek
Ozette River
Queets River below Tshletshy Creek
Quillayute River
Quinault River below the bridge connecting North Fork and Graves Creek Roads
Salmon River

Seasons and bag limits shall be established annually after consultation with the State and any affected Indian tribe.

(3) *Conservation waters.* After consultation with the State and, where appropriate, the concerned Indian tribe, the superintendent may, by local publication and conspicuous posting of signs, alter the season and change daily limits for spawning, conservation or research purposes.

(4) *Closed waters.* That portion of the Morse Creek watershed within the park (except Lake Angeles and P.J. Lake) and that section of Kalaloch Creek which is used as domestic water supply (as posted) are closed to fishing. Fishing from boats is prohibited on the Hoh River upstream from the South Fork Hoh boat launch.

(5) *Fishing gear.* Fishing with a line, gear or tackle having more than two spinners, spoons, blades, flashers, or like attractions, or with more than one rudder, or more than two hooks (single, double, or treble barbed) attached to such line, gear, or tackle, is prohibited.

(6) *Bait.* The use of nonpreserved fish eggs is permitted.

(7) *License.* A license to fish in park waters is not required; however, an individual fishing for steelhead or salmon in park waters, except treaty Indians fishing in the exercise of rights secured by treaties of the United States, shall have in his/her possession a State of Washington punch card for the species being sought. Steelhead and salmon shall be accounted for on these cards as required by State regulations.

(8) *Indian treaty fishing.* (i) Subject to the limitations set forth below, all waters within the Olympic National Park which have been adjudicated to be usual and accustomed fishing places of an Indian tribe, having treaty-secured off-reservation fishing rights, are open to fishing by members of that tribe in conformance with applicable tribal or State regulations conforming to the orders of the United States District Court.

(ii) Identification cards and tags. Members of the tribes having treaty-secured fishing rights shall carry identification cards conforming to the requirements prescribed by the United States District Court and issued either by the Bureau of Indian Affairs or the applicable tribe when fishing in accordance with the tribe's reserved treaty fishing right. Such persons shall produce said card for inspection upon request of a National Park Service enforcement officer. A tribally issued identification tag shall be attached to any unattended fishing gear in park waters.

(iii) Conservation closures and catch limits. The superintendent may close a stream or any portion thereof to Indian treaty fishing or limit the number of fish that may be taken when it is found either that it is:

(A) Reasonable and necessary for the conservation of a run as those terms are used by the United States District Court to determine the permissible limitations on the exercise of Indian treaty rights; or

(B) Necessary to secure the proper allocation of harvest between Indian treaty fisheries and other fisheries as prescribed by the court.

(iv) Catch reports. Indian fishermen shall furnish catch reports in such form as the superintendent, after consultation with the applicable tribe, shall have prescribed.

(v) Applicability of other park regulations. Indian treaty fishing shall be in conformity with National Park Service general regulations in Parts 1–6 of this chapter.

(b) *Boating.* All vessels are prohibited on park waters except as provided below:

(1) Hand propelled vessels and sailboats are permitted on park waters except the following:

Dosewalips River

(2) Motorboats are permitted on the following waters:

Lake Crescent
Lake Cushman
Lake Mills
Dickey River in coastal strip
Hoh River in coastal strip
Quillayute River in coastal strip
Quinault River below the bridge connecting North Fork and Graves Creek Roads

* * * * *

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

June 23, 1982.

[FR Doc. 82-19745 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-10-FRL 2141-3]]

Approval and Promulgation of State Implementation Plan: Oregon and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking address State Implementation Plan (SIP) revisions to be submitted by the State of Oregon Department of Environmental Quality pursuant to the requirements of Part D of the 1977 Clean Air Act (hereafter referred to as the Act). In today's action, EPA is proposing to approve the 1982 carbon monoxide and ozone attainment plans for the Portland nonattainment area based on draft plans submitted on January 19, 1982 and February 10, 1982, respectively. These draft plans will be used as a basis for State and local public hearings. Major revisions are not anticipated. EPA is also proposing to approve the redesignation of the Portland carbon monoxide nonattainment boundary.

DATE: Comments must be received on or before August 20, 1982.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A-82-7), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460;

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101;

State of Oregon, Department of Environmental Quality, Yeon Building, 522 S.W. Fifth, Portland, OR 97207.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-7369, FTS. 399-7369.

SUPPLEMENTARY INFORMATION:

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A. Carbon Monoxide Plan
B. Ozone Plan
C. Carbon Monoxide/Ozone—Joint Elements
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V. Proposed Rulemaking Action

I. Introduction

The **Federal Register** action is being processed in parallel with action at the State and local level to adopt and submit a revision to the currently approved SIP. It is an attempt to accelerate the EPA rulemaking process by proposing approval based on an acceptable public hearing draft, rather than a finally adopted and submitted SIP. The key to this shortened process is inclusion of EPA opportunity for comment in the early stages of SIP development so that the SIP, when submitted, is approvable without additional corrections. It assumes also that no major changes will be made to the draft SIP as a result of the public hearing. Such changes could necessitate a reproposal on those portions of the SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit plans to demonstrate how they will attain and maintain compliance with national ambient air standards for those areas designated as nonattainment. The Act further requires these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension until December 31, 1987 is possible, if the State can demonstrate that despite implementation of all reasonably available control measures the December 31, 1982 attainment date cannot be met.

On March 3, 1978, the Oregon portion of the Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) was designated by EPA as a nonattainment area for carbon monoixide (CO). At the same time the entire Portland-Vancouver Interstate AQMA was designated as a nonattainment area for ozone (O_3). In accordance with Section 174 of the Act, former Governor Straub designated the Columbia Regional Association of Governments (CRAG) as the lead agency for the development of the CO and O_3 SIP revisions for the Portland AQMA. On December 12, 1978, Governor Straub redesignated the Metropolitan Service District (MSD) as lead agency, effective January 1, 1979, in accordance with the voter approved May 23, 1978 ballot measure which abolished CRAG and transferred its responsibilities and powers to MSD.

In June 1979, the Governor submitted CO and O_3 plans for the Oregon portion of the Portland-Vancouver AQMA to EPA. These plans made an initial estimate of the CO and hydrocarbon emission reductions required to attain the Federal standards. They also laid the framework for the potential control measures to be evaluated, indicated that the December 31, 1982 attainment date could not be met despite the implementation of reasonably available measures, and requested an extension of the attainment date.

EPA published an approval of this request in the **Federal Register** on June 24, 1980 (45 FR 42278) allowing an extension of the Portland CO and O_3 attainment dates beyond December 31, 1982, but before December 31, 1987. A specific date was to be identified in the 1982 SIP to be submitted to EPA prior to July 1, 1982.

MSD and the City of Portland agreed that the City of Portland should have primary responsibility for writing the CO plan for the region while MSD would write the O_3 plan. Today EPA is proposing to take action on the 1982 CO and O_3 SIPs which were presented before a public hearing on May 24, 1982. A corresponding ozone SIP for Vancouver, Washington, is being developed by the Regional Planning Council of Clark County and action on this portion of the interstate plan will be taken separately.

III. Plan Review

The general requirements for CO and O_3 SIP's are described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the draft SIP's in accordance with those requirements and developed a technical support document for each plan which briefly describes EPA's conclusions regarding each SIP requirement and its approvability. The following discussion will briefly describe the SIP in terms of its content and indicate what action EPA proposes.

A. *Carbon Monoxide Plan*—1. *Data Base and Modeling Results.*

Numerous violations of the 8-hour CO standard of 9 parts per million (ppm) have been recorded in the Portland Central Business District (CBD). Based upon a statistical analysis of the data for three years, the design CO concentration is 14.9 ppm. The corresponding required emission reduction to reach the standard is approximately 40 percent. It is estimated that CO emissions from motor vehicles represent 95 percent of the total CO emissions generated in the Portland area in 1977. In 1987, 85 percent of the emissions are still projected to be from motor vehicles.

The APRAC–2 computer model was used to predict air quality concentrations. The results of the analysis indicate that a few streets in the Portland CBD are projected to violate the 8-hour CO ambient air quality standard beyond 1982. Analysis shows that the controls adopted in this plan are projected to bring the region into attainment by 1985. Therefore, a request to extend the attainment deadline for the CO ambient air quality standards to December 31, 1985 is included in the SIP revision.

2. *Control Strategy.* In light of the dominant motor vehicle contribution to the CO nonattainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one or more of three ways: (a) By reducing vehicle trips and miles traveled; i.e., improved mass transit, carpooling, etc., or (b) by improving traffic speeds; i.e., improved traffic signalization, traffic flow improvements, parking restrictions, etc., or (c) by reducing the emissions from individual vehicles; i.e., an inspection and maintenance program or the Federal Motor Vehicle Emission Control Program (FMVECP). The following is a list of measures already being implemented with commitments for continued operation:

a. Inspection and maintenance program;
b. Improved public transit;
c. Exclusive bus and carpool lanes;
d. Area-wide carpool programs;
e. Long-range transit improvements;
f. Parking controls;
g. Park-and-ride lots;
h. Transit mall;
i. Employer programs to encourage carpooling and vanpooling;
j. Traffic flow improvements;
k. Bicycle program.

Additional measures that have been committed to implementation in the near future include:

a. McLoughlin in Corridor Rideshare Program;
b. Employer Bicyle Planning Project;
c. State Legislation to Encourage Ridesharing;
d. Shop and Ride Program;
e. City of Portland Bicycle Parking Program;
f. Employee Flexible Working Hours Program;
g. Traffic Signal System Program;
h. Downtown Portland Air quality Plan.

B. *Ozone Plan*—1. *Date Base and Modeling Results.*

Ambient O_3 concentrations are generally not related to direct emissions to the atmosphere, but are formed by complex reactions between volatile organic compounds (VOC) and oxides of nitrogen in the presence of sunlight. Attainment strategies focus primarily on reducing VOC emissions and rely on both mobile source control programs and emissions reductions from stationary sources.

There have been six days which exceeded the 0.12 ppm Federal ozone standard in the Oregon portion of the Portland/Vancouver AQMA during the last three years. Five of these days occurred in the summer of 1981 during extreme meteorological conditions. Based upon this monitoring data the design concentration was conservatively identified to be 0.146 ppm.

In 1980, stationary sources contributed 51 percent of total volatile organic compound emissions within the AQMA. Mobile sources (primarily automobiles) accounted for 45 percent, with off-highway vehicles contributing the remaining 4 percent. Projections show that by 1987, stationary sources will contribute 60 percent of total emissons, highway sources will fall to 33 percent, and off-highway vehicles will contribute 7 percent. It should be noted that in both 1980 and 1987, 84 percent of total Portland-Vancouver AQMA volatile organic compound emissions are produced in the State of Oregon and 16 percent are produced in the State of Washington.

The air quality modeling analysis shows that a 26 percent reduction in volatile organic compound emissions will be needed to attain the 0.12 ppm Federal ozone standard. The projected 1987 volatile organic compound emissions inventory shows that previously implemented transportation control measures, including the Oregon biennial inspection and maintenance program, coupled with the FMVECP program and already adopted industrial controls will reduce emissions by 27 percent by 1987.

2. *Control Strategy*—a. Mobile. Measures already implemented with commitments to continued operation are the same as those contained in the CO plan. In addition to those already mentioned, measures that have been committed to implementation in the near future which will have a positive effect on O_3 include:

(1) Bus purchases
(2) Transit fare incentives
(3) Ramp metering
(4) City of Portland Employee Travel Reduction

b. Stationary. Stationary source controls for VOC emissions are contained in Chapter 340–22 of the Oregon Administrative Rules (OAR). Specifically, Sections 100 through 220 of Chapter 340–22 provide for reasonable available control technology controls on all applicable categories of sources for which Control Technique Guidelines (CTG) were published by EPA. EPA published approval of these controls as part of the SIP strategy on June 24, 1980 (45 FR 42265) and March 11, 1982 (47 FR 10534). All 100 ton sources are included in the CTG categories.

c. Growth Allowance. The results of the analysis show that the Portland/Vancouver AQMA will attain the Federal ozone standard by the December 31, 1987 deadline. It is projected that the control strategy will produce VOC emission reductions of 1,700 kilograms per day more than is required for attainment that year.

Pursuant to the requirements under Section 173(1)(B) of the Act, EPA is proposing to approve a 1,700 kilogram per day volatile organic compound emission growth allowance of which 1450 kilograms per day would be used by Portland. The remaining 250 kilograms per day would be made available to Vancouver. The Portland growth allowance would allow new or modified major stationary sources to locate in the Oregon portion of the AQMA without the requirement of obtaining VOC emission offsets until the cushion is used up. If reasonable further progress is not maintained, then the Oregon offset program must be reactivated in place of the growth allowance.

The State is revising its new source review regulation (OAR 340–20–240) to incorporate the Portland VOC growth allowance. The rule change will be submitted prior to EPA's final approval action.

C. *Carbon Monoxide/Ozone—Joint Elements.* The following elements of the CO and O_3 SIP's will be discussed on a joint basis, since they are basically the same for both SIP's. These elements include (1) monitoring reasonable further progress (RFP), (2) basic transportation needs, (3) conformity of highway projects with the SIPs, (4) the inspection and maintenance program and (5) public and elected official participation.

1. *Monitoring Reasonable Further Progress.* The proposed O_3 and CO plans meet the RFP requirement contained in the Act. A monitoring plan to periodically assess the extent to which the transportation measures are actually resulting in meeting this RFP requirement has been established. Although emphasis will be placed on monitoring emission reductions each year, ambient air quality monitoring

data will still be examined. To the extent possible other reasonable indicators will also be used to monitior RFP, such as monitoring the number and use of downtown parking spaces and traffice volumes entering the downtown. To monitor RFP, the Oregon Department of Environmental Quality (DEQ) and MSD will jointly submit a report each July 1 for the preceding calendar year which will comply with the following EPA requirements:

a. Identification of growth of major new or modified sources and mobile sources;

b. Reduction in emissions from existing sources;

c. Update of the emission inventory;

d. Comparison of air quality monitoring data with the emission inventory.

e. Information relating to the effectiveness and enforcement of the I/M program. If ambient air quality data suggests that RFP is not being maintained, MSD and DEQ will examine the emission inventories, meteorological data, and actual O_3 and CO concentrations to determine if a problem exists. If it is determined that RFP is not being maintained, the contingency plan contained in the SIP will be implemented.

2. *Basic Transportation Needs.* EPA requires funding and implementation of public transportation measures to maintain the mobility of people where transportation control strategies are implemented. The Portland region is continuing its emphasis on high levels of transit and ridesharing as a means of providing mobility to the general public, while helping to relieve congestion on the highway system, reduce pollutant emissions and conserve energy. There is a commitment in the plan to implement and fund these measures, thus insuring that requirements for basic transportation needs are satisfied.

3. *Conformity of Federal Actions with the SIP.* Existing State rules already ensure that Federal Actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 Federal Register (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans, programs and projects are included in the draft SIP produced by MSD. As indicated in the CO plan, regardless of the initial conformity finding of the transportation plans and program, individual projects still must comply with all provisions and requirements of the SIP. Specifically, this includes the provision that a project must not cause new or exacerbate existing violations of the standards.

4. Inspection and Maintenance Program. The Portland I/M program has been in operation since 1975 and has been recognized as an integral part of the transportation control plan since 1974. The program rules and regulations have already been approved in the January 2, 1981 Federal Register (46 FR 35) and no modifications have been submitted by the State in the 1982 SIP revision. The State has also submitted in the plan additional documentation which discusses how the Portland I/M program meets EPA policy requirements. Accordingly, EPA has determined that the existing program meets all of the criteria for approval contained in the January 22, 1981 Federal Register (46 FR 7182).

5. *Public and Elected Official Participation.* Participation in the SIP development process extended to a wide range of public and elected officials. For developing the ozone plan, the Portland Air Quality Advisory Committee was the focal point of the air quality planning and public involvement effort in the Oregon portion of the AQMA. This committee consisted of 24 members from government, business, industrial, environmental and civic organizations, and citizens. There were two major committees involved in the development of the CO plan: the Citizens Advisory Committee with representation from various city bureaus and agencies. These committees interacted to develop recommendations on the CO plan which were forwarded to the Portland Planning Commission. Both plans were then adopted by the Metro Council with input from the committees as well as other various city and county representatives.

The Metro Council then submitted their adopted plan to the Oregon Environmental Quality Commission. With input from DEQ, it is anticipated that the plan will be adopted and forwarded by the Governor to EPA for approval.

IV. CO Boundary Redesignation

Based upon new monitoring and modeling data submitted in the plan, EPA is proposing, pursuant to Section 107 of the Act, to approve a change to the CO nonattainment boundary. The existing boundary includes the entire air quality maintenance area. The proposed boundary is limited to the general downtown area and is defined as the area enclosed by the west bank of the Willamette River, the Broadway Bridge and Broadway Ramp, Hoyt Street, I–405 (the Stadium Freeway), and the Marquam Bridge.

V. Proposed Rulemaking Action

1. EPA is proposing to approve the Portland CO attainment plan which will be submitted by the DEQ pursuant to part D requirements and a CO boundary redesignation pursuant to 107 of the Act. The plan approval includes the extension of the attainment date for CO to December 31, 1985.

2. EPA is also proposing to approve the Portland and O_3 attainment plan including an extension of the attainment date to December 31, 1987.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by (30-days after publication) will be considered in any final action EPA takes on this proposal.

Under U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Section 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502).

Dated: May 28, 1982.

Robert S. Burd,

Acting Regional Administrator.

[FR Doc. 82–19642 Filed 7–20–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

Designations of Areas for Air Quality Planning Process Attainment Status Designations: Illinois

[A–5–FRL 2162–4]

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking proposes to revise the Total Suspended Particulate (TSP) and Ozone designations for certain counties from nonattainment to attainment. This proposed revision is

based on a request from the State of Illinois to redesignate these areas. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

This rulemaking proposes to revise the TSP designation for all or portions of 19 counties in Illinois. Portions of the following counties are proposed to be redesignated for TSP: Knox, Peoria, Tazewell, Cook, Du Page, Lake, Will, Kane, Jo Daviess, Monroe, Madison, St. Clair, Bureau, Putnam, De Kalb, Winnebago, Jefferson, Williamson and Sangamon.

This rulemaking also proposes to revise the ozone designation for 13 counties in Illinois. The following counties are proposed to be redesignated for ozone: Adams, Kankakee, La Salle, McHenry, Peoria, Sangamon, Will, Macoupin, Boone, De Kalb, Grundy, Kendall and Tazewell. These revisions are based on a request from the State of Illinois and on supporting data the State submitted.

DATE: Comments must be received on or before August 20, 1982.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886–6035

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On January 19, 1982, Illinois submitted a request to U.S. EPA to change the Sec. 107 attainment status designations for TSP in all portions of 22 counties in Illinois. The State included TSP ambient data collected at monitor sites in these areas for the years 1978–1980 and referenced several TSP modeling studies to support the proposed TSP redesignations. Illinois' Sec. 107 redesignations for TSP are made on a township-by-township basis. The criteria used by Illinois in proposing the TSP redesignations are given below:

1. Townships with monitored violations in 1979 or 1980 were designated nonattainment.

2. Eight valid quarters of data were required to support redesignation of a township from nonattainment to attainment, based solely on monitoring results. A township in which a monitor is located was designated attainment if no violations were measured during 1979 and 1980. When eight valid quarters were not available for 1979 and 1980, data fron 1978 were also considered.

3. Where available, air quality modeling studies were used in evaluating the attainment status of townships.

EPA's criteria for redesignating an area are summarized in the June 12, 1979, memo, "Section 107 Redesignation Criteria," by Richard G. Rhoads, Director of EPA's Control Program Development Division. In general, a change from a primary nonattainment designation to either secondary nonattainment or attainment must be supported by either:

1. The most recent eight consecutive quarters of quality assured, representative data on ambient air quality which show no violations of the appropriate national ambient air quality standards (NAAQS), or

2. The most recent four consecutive quarters of quality assured, representative data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions.

The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of monitored TSP concentrations exceeds 75 micrograms per cubic meter of air 75 $\mu g/m^3$) (the annual primary standard, or (2) the maximum 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS is violated when, in a year, the maximum 24-hour concentration exceeds 150 $\mu g/m^3$ more than once.

EPA reviewed the air quality modeling results and the emissions inventories in order to determine whether the ambient TSP data are representative of the air quality in the area. In the absence of monitor data, the modeling and inventory were reviewed to determine whether the analyses were adequate to support the proposed redesignation. In addition, the TSP monitor data for 1981 were reviewed to assess whether the most recent data are consistent with Illinois' proposed redesignations.

Based on this review, EPA proposes to revise the TSP designation of townships in 19 Illinois counties as follows: From primary and secondary nonattainment to only secondary nonattainment: Knox County-Galesburg and Henderson Townships; Peoria County-Richwoods Township; Tazewell County-Cincinnati, Elm Grove, Pekin, and Washington Townships; Cook County-Jefferson, Lakeview, Rogers Park, Oak Park, Palos, and Proviso Townships; Du Page County-Lisle Township; Will County-Crete and Troy Townships; Jo Daviess County-East Galena, West Galena, and Rawlins Townships; Monroe County-T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, and T.2S–R10W, Madison County-Alhambra, Collinsville, Edwardsville, Fort Russell, Foster, Hamel, Helvetia, Jarvis, Marine, Moro, Omphghent, Pin Oak, Saline, and St. Jacob Townships; St. Clair County-Freeburg, Lebanon, Millstadt, O'Fallon, Smithton and Stookey Townships.

From secondary nonattainment to attainment: Cook County-Evanston Township; Lake County-Antioch, Shields, Grant, Wauconda, and Waukegan Townships; Will County-Monee Township; Kane County-Dundee Township; Jo Daviess County-Hanover, Menominee, Pleasant Valley, Rush, Stockton, Vinegar Hill, and Warren Townships; Monroe County-all Townships other than T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, T.2S–R.10W, T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Bureau County-all Townships not already classified as attainment; Putnam County-Hennepin Township; De Kalb County-except for DeKalb and Mayfield Townships; all Townships are now attainment; Winnebago County-Rockford Township; Jefferson County-all Townships not already classified attainment; Williamson County, West Marion Township.

From primary and secondary nonattainment to attainment: Du Page County-Milton, Wayne and Winfield Townships; Jo Daviess County, Apple River, Council Hill, Elizabeth, Guilford, Rice, Scales Mound, Thompson and Woodbine Townships; Monroe County-T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Madison County-Leef, New Douglas, and Olive Townships; St. Clair County-Englemann, Fayetteville, Lenzburg, Marissa, Maccoutah, New Athens, and Prarie du Long Townships.

From unclassified to secondary nonattainment: Sangamon County, Springfield Township.

From unclassified to attainment: Sangamon County-all Townships other than Springfield.

From attainment to secondary nonattainment: Will County-Wilmington Township.

On January 19, 1982, the Illinois Environmental Protection Agency (IEPA) also submitted a request to the USEPA proposing a redesignation of a number of counties for ozone.

Based on a review of the State's proposed revision, EPA has determined that the following changes to the *Code of Federal Regulations* are warranted. It is proposed that the following counties be redesignated attainment for ozone: Adams, Kankakee, LaSalle, McHenry, Peoria, Sangamon and Will. In each of the counties, the three most recent years of monitoring data show no violations of the ozone NAAQS. It is proposed that the following counties be redesignated unclassified for ozone: Boone, DeKalb, Grundy, Kendall and Tazewell. There are no ozone monitors located in these counties.

These counties were originally designated nonattainment on March 3, 1978 (43 FR 8964), with respect to the 0.08 ppm NAAQS for photochemical oxidants (ozone). Subsequently, on February 8, 1979 (44 FR 8220), the 0.08 ppm photochemical oxidants standard was revised to a 0.12 ppm ozone standard. Because of the change in the level of the standard and because these counties are relatively rural and located in close proximity to other rural counties with monitors showing no violation of the ozone NAAQS, this redesignation to unclassified is justified. It is proposed that Macoupin County should be redesignated nonattainment for ozone. There were five monitored exceedances of the ozone NAAQS in the 3 most recent years of ozone monitoring data for this county.

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date above will be considered in determining whether EPA will approve this redesignation. After review of all comments submitted, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Section 107(d) of the Act, as amended (42 U.S.C. 7407).

Dated: June 25, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-19747 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-9-FRL 2174-1]

Guam Environmental Protection Agency, Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Guam Environmental Protection Agency requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held if sufficient public interest is shown.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Guam Environmental Protection Agency to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by August 6, 1982. If sufficient public interest is shown, a public hearing will be held August 18, 1982, 7:00 p.m.–10:00 p.m. All comments must be received by September 1, 1982.

ADDRESSES: Comments and requests to testify may be mailed to Doris Lee-Betuel, Water Management Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California, 94105. Copies of the application and pertinent material are available between 8:00 a.m. and 5:00 p.m. at the following locations:

Environmental Protection Agency, Region IX, Library, 6th Floor 215 Fremont Street, San Francisco, California, 94105, (415) 974–8076

Guam Environmental Protection Agency, Safe Drinking Water Section, Harmon Plaza, Guam, 646–8863.

The Hearing if held, will be held at the Guam Environmental Protection Agency, Conference Room, Harmon Plaza, Guam.

FOR FURTHER INFORMATION CONTACT: Doris Lee-Betuel, Water Management Division, Environmental Protection Agency, Region IX, 215 Fremount Street, San Francisco, California, 94105, (415) 974–7433. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Guam Environmental Protection Agency is for the regulation of all injection wells in the Territory. The inventory of injection wells indicates that all existing injection wells on Guam are for stormwater disposal (Class V). The Guam program proposes a ban on all Class I, II, III, and IV injection wells. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the Guam Environmental Protection Agency and the Region IX, Office of the United States Environmental Protection Agency.

List of Subjects in 40 CFR 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 15, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19744 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-4-FRL 2174-2]

North Carolina Department of Natural Resources and Community Development, Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the North Carolina Department of Natural Resources and Community Development requesting approval of its Underground Injection Control program; (2) the

application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held if sufficient public interest is shown.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirements that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the North Carolina Department of Natural Resources and Community Development to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by August 16, 1982. A Public Hearing will be held on August 24, 1982, at 2:00 p.m. Comments must be received by August 31, 1982. Should EPA not receive sufficient public comment or requests to present oral testimony by August 16, 1982, the Agency reserves the right to cancel the Public Hearing and those persons who submitted written comments or requests to present oral testimony to EPA will be notified.

ADDRESSES: Comments and requests to testify may be mailed to Curtis Fehn, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of the application and pertinent material are available for review and/or copying between 9:00 a.m. and 4:00 p.m. at the following locations:

Environmental Protection Agency, Region IV, Library, 1st Floor, 345 Courtland Street, Atlanta, Georgia 30365 (404) 881–3866
North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 North Salisbury, Raleigh, North Carolina, (919) 733–2020

The hearing will be held in the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Curtis Fehn, Ground Water Section, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365 (404) 881–3866. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the North Carolina Department of Natural Resources and Community Development is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the North Carolina Department of Natural Resources and Community Development and the Region IV office of the Environmental Protection Agency.

List of Subject in 40 CFR Part 123

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 15, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19743 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2E2643/P239; PH-FRL 2172-8]

N,N-Diethyl-2-(1-Naphthalenyloxy)-Propionamide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide in or on the raw agricultural commodity basil. The proposed amendment to establish a maximum permissible level for residues of the herbicide in or on the commodity was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before August 20, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (T–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 2E26423 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of California and North Carolina.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide in or on the raw agricultural commodity basil at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a rat acute oral study with an LD_{50} greater than 5 g/kg; a 90-day rat feeding study with a no-observed-effect level (NOEL) of 25 mg/kg/day; a 90-day dog feeding study with a NOEL of 40 mg/kg/day; two 2-year feeding studies (rat and mouse), each with a NOEL of 30 mg/kg/day; a 3-generation reproduction study (rat) with a NOEL of 30 mg/kg/day; and three mutagenicity studies (rec-assay, host-mediated, Ames test), all negative for mutagenic effects. An acceptable teratology study in a mammalian species is lacking but a study in rats is expected to be initiated in 1982 and in a second species in 1983.

The Provisional Acceptable Daily Intake (PADI), based on the 2-year rat feeding study (NOEL of 30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.3 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 18.0 mg/day. The incremental residue contribution from the current action to the theoretical maximum residue contribution (TMRC) from existing tolerance for a 1.5 kg daily diet is calculated to be 5×10^{-5} mg/day, a quantity so small that the TMRC is increased by less than 0.3 percent. Published tolerance utilize 0.10 percent of the PADI which the current action will not increase.

The nature of the residues is adequately understood and an adequate analytical method, high-pressure liquid chromatography using ultraviolet detection, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after

publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 2E2643/P239]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(e)))

List of Subjects in 40 CFR Part 180

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

Dated: July 9, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.328 be amended by adding and alphabetically inserting the raw agricultural commodity basil to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy)-propionamide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Basil	0.1
* * * * *	

[FR Doc. 82-19837 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 425

[WH-FRL 2175-2]

Leather Tanning and Finishing Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On June 2, 1982, EPA announced the availability of supplemental technical and economic data for the leather tanning industry rulemaking under the Clean Water Act (47 FR 23958). The comment period on this notice expires July 19, 1982. On July 7, 1982, the Tanners' Council of America requested EPA to extend the period for submittal of comments on the impact of space limitations on a tannery's ability to implement the pretreatment technology option being considered by EPA. EPA is granting this request and is extending the comment period until August 2, 1982.

DATES: Comments on the impact of space limitations on a tannery's ability to implement pretreatment Technology Option II must be submitted to EPA by August 2, 1982. All other comments on all other subjects must be submitted by July 19, 1982.

ADDRESS: Send comments to Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Docket Clerk, Leather Tanning Notice of Availability. The supporting information and all comments on this Notice of Availability are available for inspection and copying at EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Donald F. Anderson (202) 426-2707.

SUPPLEMENTARY INFORMATION: On July 2, 1979, EPA proposed regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in processing animal hides and skins into finished leather (44 FR 38746-38776). The proposal included effluent limitations guidelines for "best practicable technology," "best available technology," "best conventional technology," new source performance standards, and pretreatment standards under the Clean Water Act.

On June 2, 1982, EPA announced in the Federal Register (47 FR 23958-23965) the availability of supplemental technical and economic data for the leather tanning industry rulemaking. EPA requested comments on these supplementary record materials and on the Agency's preliminary analysis of how these materials might influence the final leather tanning and finishing industry effluent limitations guidelines, new source performance standards and pretreatment standards. Included in that notice was a specific request for comments as to whether any plants would have inadequate space available to meet limitations based on pretreatment Technology Option II and whether those facilities could utilize alternative methods to control chromium (47 FR 23963). Comments on the June 2, 1982, Notice of Availability were to have been submitted by July 19, 1982.

On July 7, 1982, the Tanners' Council of America requested a two week extension of the comment period so that the smaller tanneries could respond to the Agency's request for information on the specific application of pretreatment Technology Option II. Since the Agency has requested information on the specific application of this technology, and since the Tanners' Council has indicated that smaller plants would have difficulty submitting this information by the July 19 deadline, the Agency will extend the comment period on this issue for two weeks, until August 2, 1982. This extension is limited to comments on whether any plants would have adequate space available to meet limitations based on pretreatment Technology Option II and whether those facilities could utilize alternative methods to control chromium. All other comments on all other subjects must be submitted by July 19, 1982.

The Tanners' Council also requested that the comment period be extended to allow companies more time to comment on the economic impacts of the regulatory control options discussed in the June 2, 1982, Federal Register. This portion of their request was denied. A copy of the Agency's response to the Tanners' Council is included in the record.

Dated: July 16, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19836 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 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

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 9:00 a.m. August 25, 1982 at the Tepee Work Center located approximately 20 miles west of Custer, South Dakota. The purpose of this meeting is to discuss allotment management plans, range betterment funds and to review the Forest Plan. If time permits, a short field trip will be conducted.

The meeting will be open to the public. Persons who wish to attend should notify William V. Carpenter, Black Hills National Forest, phone 605/673–2251.

Dated: July 12, 1982.

James R. Mathers,

Forest Supervisor.

[FR Doc. 82–19684 Filed 7–20–82; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Forms Under Review by Office of Management and Budget

July 16, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447–6201.

New

• Forest Service
Requests to National Forest Concessioners in Region 3 for Reconciled Fee-Base Financial Reports
R3–2700–20, R3–2700–21 and R3–2700–19
Annually
Businesses or other institutions: 35 responses; 105 hours; not applicable under 3504(h).
Frank Pickle (505) 474–2432

• Food and Nutrition Service
Report of Coupon Issuance and Commodity Distribution for Disaster Relief
FNS–292
On occasion
State or local governments: 100 responses; 42 hours; not applicable under 3504(h).
Alan Rich (703) 756–3810

• Agricultural Stabilization and Conservation Service
Conservation and Environmental Programs Regulation 7 CFR Part 701—Recordkeeping
On occasion
Farms: 257,000 responses; 64,250 hours; not applicable under 3504(h).
Charles Sims (202) 447–9563

Extension

• Agricultural Stabilization and Conservation Service
Request for Cost-Sharing
ACP–245
On occasion
Individuals or households and farms: 260,000 responses; 65,000 hours; not applicable under 3504(h).
Charles Sims (202) 447–9563

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82–19653 Filed 7–21–82; 8:45 am]

BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

[Docket 40627]

Houston-Acapulco Route Proceeding; Change of Time for Hearing

Notice is hereby given that the hearing in this proceeding assigned to be held on August 3, 1982, in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. (47 FR 29865, July 9, 1982), will begin at 9:30 a.m. (local time) rather than the 10:00 a.m. time originally scheduled.

Dated at Washington, D.C., July 15, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82–19755 Filed 7–20–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Revision to Federal Information Processing Standard 61, Channel Level Power Control Interface

Correction

In FR Doc. 82–18916, published at page 30277 on Tuesday, July 13, 1982, make the following change:

On page 30277, in the third column, the third line from the bottom should read "provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this standard."

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare a Proposed Draft Environmental Impact Statement

The United States Air Force proposes to site a Phased Array Warning System radar (PAVE PAWS) in the vicinity of Goodfellow AFB/San Angelo, Texas. The mission of PAVE PAWS is to

provide radar coverage over a southern sector of the broad ocean area for tactical warning and attack assessment of sea-launched ballistic missiles (SLBMs) launched against the continental United States. Similar facilities have been completed at Otis Air National Guard Base, Massachusetts and Beale Air Force Base, California and another is proposed to be located at Robins Air Force Base, Georgia.

Four alternative sites in the San Angelo area will be considered in the environmental analysis: Christoval area ranch property located about 17 miles south of San Angelo and within four miles east northeast of Christoval; Mount Susan, lying about 17 miles south of Goodfellow AFB and within two miles southeast of Christoval; Schleicher County ranch property, located about 35 miles south of Goodfellow AFB; ranch property in Tom Green County and Schleicher County, about 33 miles south of Goodfellow AFB.

The environmental analysis will consider such topics as electromagnetic emissions, bio-physical effects, land use compatibility, and the impacts of introducing about 235 direct mission support personnel to the community.

Participation in the environmental analysis process by interested federal, state, and local agencies, as well as interested private organizations and individuals is invited. A scoping meeting will be held at 7:30 PM on Thursday, August 5, 1982 in the Fine Arts Building Recital Hall at Angelo State University in San Angelo, Texas to review the proposed action and facilitate early public involvement in identifying the environmental issues to be included in or eliminated from the environmental analysis. Written comments on environmental issues are also welcome.

It is estimated that the Draft Environmental Impact Statement (EIS) will be available for public review and comment by November 1982.

Questions or comments concerning the proposed action, scoping meeting and EIS may be directed to 3480 TTWG/PA, Goodfellow AFB, Texas, 76903, (915) 653-2322 or HQ ESD/PA, Hanscom AFB, Massachusetts, 01731, (617) 861-4466.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-19669 Filed 7-20-82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary of the Air Force

Acceptance of Group Application; Merchant Seamen Requisitioned by the U.S. Army for Participation in Operation Mulberry

Under the provisions of Section 401 of Pub. L. 95-202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Merchant Seamen requisitioned by the U.S. Army for Participation in Operation Mulberry. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Mrs. Simard, telephone No. 694-5074.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

Federal Voting Assistance Program

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of intent.

SUMMARY: In 44 FR 35283 (FR Doc. 79-19037) the Secretary of Defense published a Notice of Intent. This Notice indicates that minor changes have been implemented in a 1981 revision of the Federal Post Card Application (FPCA) form, SF-76. This form is used for absentee voting in accordance with the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975 as amended. Individuals covered by these Acts are as follows:

(a) A member of the armed forces or merchant marine in active service;

(b) A spouse or dependent of (a), above;

(c) A U.S. citizen temporarily residing outside the United States;

(d) A spouse or dependent residing with (c), above.

(e) U.S. citizen overseas by virtue of employment;

(f) A spouse or dependent residing with (e), above;

(g) Other U.S. citizen residing outside the United States.

42 U.S.C. 1973cc-14(d) authorizes the presidential designee, currently the Secretary of Defense, to promulgate such changes to forms by regulation. 1979 edition of the form may be used. The 1981 revision of the Federal Post Card Application form contains a small return post card which is part of the FPCA form. This return post card is used by election officials to advise applicants of their voting status. Other minor changes were made in terminology to clarify instructions for completing the form.

ADDRESSES: Federal Voting Assistance Program, Office of the Secretary of Defense, Pentagon, Room 1B457, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Henry Valentino, Director, Federal Voting Assistance Program, Extension 695-0663/4.

BILLING CODE 3810-01-M

POST CARD REGISTRATION AND ABSENTEE BALLOT REQUEST

Notice: Knowingly presenting false information in this application could result in criminal sanctions.
(Fold and seal prior to mailing)

U.S. Postage Paid
42 USC 1973dd

PAR AVION

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

TO

RETURN POST CARD

Election Official Name & Complete Address

Privacy Act Statement:
Authority: 42 USC 1973cc et seq. (formerly 50 USC § 1451 et seq.) 42 USC dd et seq., 92 STAT. 2538 (1978), 10 USC 133, EO 10646. This form is designed to serve as an application for registration or request for absentee ballot. Disclosure of all information on this form is voluntary. However, your failure to provide the necessary information may keep the pertinent State or other jurisdiction from processing this form and may possibly prevent you from exercising your right to vote absentee.

INSTRUCTIONS

A. **TYPE OR PRINT LEGIBLY.** Type or print legibly all entries before signing. The term *APPROPRIATE U.S. OFFICIAL* as used herein refers to Unit Voting Officers or Counselors, Commanding Officers, U.S. Embassy or U.S. Consulate Officers or any other official who has access to the VOTING ASSISTANCE GUIDE.

B. **ADDITIONAL ASSISTANCE.** A detailed VOTING ASSISTANCE GUIDE is published each even numbered year. It contains voting information for all States, U.S. territories and the District of Columbia. The VOTING ASSISTANCE GUIDE is distributed to all Unit Voting Officers, Commanding Officers, U.S. Embassies and Consulates and State Election Officials. Copies of the VOTING ASSISTANCE GUIDE are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

C. **IDENTIFICATION.** Passport or State Department or Military I.D. Card number is preferred. An alternative form of identification may be acceptable if you do not possess a valid passport or card of identity and registration. Indicate the type of identification used such as a birth or baptism certificate.

D. **APPLICATION.** Some States require a separate application for registration and for each election. If you circle (all as Permitted) you will receive those ballots permitted by State law. Consult the *APPROPRIATE U.S. OFFICIAL* for specific information concerning your State. If you circle (Primary), (Special), or (General) and you are eligible to vote, you will receive a ballot only for the election circled.

E. **PRIMARIES.** Party choice is secret in Primary Elections in the following: Alaska, Guam, Hawaii, Idaho, Louisiana, Michigan, Minnesota, Montana, North Dakota, Utah, Vermont, Washington, Wisconsin. You do not have to disclose your political party preference for a Primary Election ballot in these jurisdictions.

F. **TYPE OF BALLOT.** Most States allow military personnel and U.S. citizens outside the United States to vote absentee in State and local, as well as in Federal elections. However, in a few States, you may be liable for State or local taxes if you vote in State or local elections. The exercise of any right to register or vote in Federal elections by any U.S. citizen outside the United States shall not affect the determination of his place of residence

(Fold Here) CONTINUED (OVER)

POST CARD REGISTRATION AND ABSENTEE BALLOT REQUEST

Date _____

Notice: Illegible or incomplete information may delay or invalidate your request

APPLICATION FOR STATE OF _____ COUNTY OF _____ CITY OR TOWNSHIP OF _____ §

(Be sure to sign the Application at Item 15 and place your return address on the return post card above)

1. Type or Print Full Name (Last, First, Middle)

2. My voting residence in the U.S. is, Number & Street or Rural Route **(For citizens checking 10(g), my last residence immediately prior to my departure from the United States) (See Instruction I):**

City, Town, or Village | County or Parish

Precinct No. (if known) | Ward No. | State | Zip Code

3. I am a United States Citizen, eligible to vote in the above jurisdiction.
(a) Place of Birth | (b) Date of Birth (Yr/Mo/Day)

4. If Naturalized:
(a) Place | (b) Naturalization No. | (c) Date (Yr/Mo/Day)

5. (a) Sex | (b) Height | (c) Weight

(d) Color Hair / Eyes | (e) Race | (f) Marital Status

6. (a) Social Security No. (See Privacy Act Statement) | (b) Other Identification No. (Passport, I.D. Card) (See Instruction C.)

7. I request registration (if required) and absentee ballot(s) to vote in the coming election(s). Circle applicable election(s). (See Instruction D.)
(a) Primary (b) Special
(c) General (d) All as permitted by State law

8. For primary election ballot, my political party preference is: (If party choice is secret for primary in this State do not answer. See instruction E).

9. Check one box: (See Instruction F)
☐ (a) I request Federal, State and local ballot, if I am entitled.
☐ (b) I request only Federal election ballot if provided separately by State.

10. I am: (check applicable box — See Instruction G)
☐ (a) a member of the armed forces, uniformed services or merchant marines in active service
☐ (b) a spouse or dependent of (a) above
☐ (c) a U.S. citizen temporarily residing outside U.S.
☐ (d) a spouse or dependent residing with (c) above
☐ (e) a U.S. citizen overseas by virtue of employment (See Instruction H)
☐ (f) a spouse or dependent residing with (e) above
☐ (g) other U.S. citizen residing outside U.S. (See Instruction I)
☐ (h) Special _____ (See Instruction J)

11. Please mail my ballot to this address: (include zip code if applicable and ensure military or foreign address is complete)

12. The last time I voted was in:
a. Year | Address and County, City or Township | State
b. Voter Registration No. | and Precinct No., if known | Ward No.

13. I have not been convicted of a felony or other disqualifying offense or been adjudicated mentally incompetent. (If so, See Instruction K)

14. **Affirmation:** I am not requesting a ballot from or voting in any other U.S. State, territory or possession or subdivision thereof in the coming election(s). I swear or affirm, under penalty of perjury, that the above information is true and complete.

15. **Signature** of person requesting ballot.

OATH IF REQUIRED BY STATE (See Instruction L)

16. Subscribed and sworn to before me on (Year/Month/Day)

Signature of official administering oath

Typed or printed name of official administering oath

Title or rank, and organization of administering official

The information contained herein is for official use only. Any unauthorized release of this information may be punishable by law.

NSN 7540-00-634-5053

INSTRUCTIONS (CONTINUED)

or domicile for purposes of any tax imposed under Federal, State or local law. If you wish to avoid classifying yourself as a State resident (or domiciliary) for tax purposes (through use of this form), you should request only a Federal election ballot and check boxes 9(b) and 10(g) of form. Consult the *APPROPRIATE U.S. OFFICIAL* for specific information concerning your State. If you request a Federal Ballot only and receive a full ballot (Federal and State or local) because some States do not print a Federal Ballot, you may vote the full ballot without incurring a tax liability.

G. **VOTER CATEGORY.** In most States, checking any box 10(a) through (f) will entitle you to a full ballot. Checking box 10(c) generally means that at some future time the voter intends to reside again in the State where application is being made. Civilian employees of the Federal government assigned to an overseas area and requesting a full ballot should check box 10(c).

H. **VOTER CATEGORY.** All citizens, not employed by the Federal government, who are overseas by virtue of their employment and are requesting a full ballot should check box 10(e).

I. **VOTER CATEGORY.** Other U.S. citizen, 10(g), means all civilians not covered by any other listed category who are outside the U.S. in a private capacity and who are requesting only a Federal ballot and whose intent to return to the State of last residence may be uncertain.

J. **VOTER CATEGORY.** Some States offer special voter status to certain persons who are residing **within** the U.S. such as Missionaries, clergymen, teachers, students; their spouses and dependents; the ill or physically disabled, if you are unavoidably unable to register to vote in person. Some States also offer special status to persons on extended travel or vacation in the U.S. or overseas. Consult the *APPROPRIATE U.S. OFFICIAL* for special information concerning your State.

K. **DISQUALIFYING OFFENSES.** In some states, a criminal conviction for a felony or certain misdemeanors, or an adjudication of mental incompetency disqualifies a person from voting. A legal process for reinstatement of voting rights is available in some of these states. Consult the *APPROPRIATE U.S. OFFICIAL* for further information concerning your state.

L. **OATH.** Not all States require completion of the Oath or Notary provision in item 16. If completion of this item presents an undue hardship, consult the *APPROPRIATE U.S. OFFICIAL* to determine if this is a requirement for your state.

M. **ADDRESS.** Address the card to the proper county, city, township or State official. Consult with the *APPROPRIATE U.S. OFFICIAL* to determine the correct address for your application. Place your return address on the return post card.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1982-359-812

ELECTION OFFICIAL NOTE:
This is a return postcard for your use. Please complete and return to Applicant. Please sign and put your return address on the card prior to mailing to the Applicant.

This acknowledges receipt of your post card registration and absentee ballot request.

☐ You will be sent an absentee ballot for the _____ election(s).

☐ Your ballot will be mailed approximately _____.

☐ Your application cannot be processed. Item(s) _____ must be completed. Please resubmit a completely new application.

☐ Your application is incomplete. Please provide the following information to complete your application:

_____

_____

_____

☐ Other Comments: _____

_____

_____

☐ **NOTE:** A separate application must be submitted for each election.

_____
Signature

_____
Title

_____
Date

Name and complete address

_____

_____

_____

_____

_____

U.S. Postage Paid
42 USC 1973dd

PAR AVION

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

TO _____

_____

_____

_____

Standard Form 76
Revised 1981
Issued under 42 U.S.C. 1973cc-14
76–110
(1979 edition may be used)

BILLING CODE 3810-01-C

Dated: July 15, 1982.

M. S. Healy,

OSD Federal Register Liaison, Department of Defense.

[FR Doc. 82-19672 Filed 7-20-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council; Subcommittee on Third World Petroleum Development; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Third World Petroleum Development National Petroleum Council.

Date and time: Wednesday, August 11, 1982, 10:00 a.m.

Place: The Madison Hotel, Mount Vernon Room, Fifteenth and M Streets NW., Washington, DC.

Contact: Gloria Decker, Information Management Systems Branch, U.S. Department of Energy, 1000 Independence Ave., SW., Forrestal Building, Room 4D-024, Washington, DC 20585, telephone: 202-252-8990.

Purpose of committee: To provide advice, information, and recommendations to the Secretary of Energy matters relating to oil and gas or the oil and gas industries.

Tentative Agenda:

- Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of Third World petroleum development.
- Discuss an organizational structure for the study.
- Discuss a timetable for completion of the study.
- Discuss any other matters pertinent to the overall assignment from the Secretary.

Public Participation

The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 16, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-19726 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

Dose Assessment Advisory Group; Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management and Budget Circular (OMB) No. A-63, revised. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Dose Assessment Advisory Group (DAAG) charter has been renewed for a two-year period ending on July 15, 1984.

The purpose of DAAG is to provide the Secretary of Energy and the Manager, Nevada Operations Office, with advice and recommendations pertaining to the Offsite Radiation Exposure Review Project concerning the evaluation and amount of radiation potentially received by members of the offsite population surrounding the Nevada Test Site (NTS) as a result of nuclear test operations conducted at the NTS.

I certify that the DAAG has been determined essential and in the public interest in connection with the performance of duties imposed on the Department of Energy (DOE) by law. The DAAG will operate in accordance with the provisions of the FACA (5 U.S.C. Appendix, Pub. L. 92-463, 86 Stat. 770), the DOE Organization Act (42 U.S.C. 7101 et seq., Pub. L. 95-91, 91 Stat. 567), OMB Circular No. A-63, revised, and other instructions issued in implementation of those Acts.

Further information regarding DAAG may be obtained from Gloria Decker (202) 252-8990.

Issued in Washington, DC, on July 16, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82-19727 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

Battelle Memorial Institute; Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Battelle Memorial Institute, an exclusive license to practice in the United States, Canada, Great Britain, France, Federal Republic of Germany, and Japan, the invention described in U.S. Patent No. 4,046,666, entitled "Device For Providing High Intensity Ion Or Electron Beam," and in corresponding patents and patent applications as follows:

Great Britain Patent No. 1,559,430
France Patent No. P.77.13952
Japan Patent Application S.N. 77-50,034
Canada Patent No. 1,072,913
Federal Republic of Germany Patent Application S.N. 27 20 424.6

The invention is owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209 (c) and (d), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to practice the invention in the United States, Great Britain, Canada, France, Federal Republic of Germany and/or Japan, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously in one or more of the countries listed herein.

The Assistant General Counsel for Patents will review all written responses to this notice. The license will be granted if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209 (c) and (d), that the license grant is in the public interest.

Signed at Washington, D.C. on this 14th day of July 1982.

R. Tenney Johnson,

General Counsel.

Memorandum of Determination

Battelle Memorial Institute, a not-for-profit corporation, has requested an exclusive license, with right to grant sublicenses, on DOE-owned U.S. Patent No. 4,046,666,

entitled "Device for Providing High Intensity Ion or Election Beam," and in corresponding foreign patents in Canada, France and Great Britain and pending applications in West Germany and Japan.

The invention relates to an electronic device for production of high-intensity electron and ion beams having particular application in sputter deposition and in melting, casting, evaporating, or welding. In accordance with the invention, an auxiliary electrode is positioned near the cathode, said auxiliary electrode including on its surface a metal that can be electro-deposited onto the surface of the cathode, resulting in enhanced electron emission. A U.S. patent on the invention issued in September 1977.

The invention arose from DOE-sponsored research conducted by Battelle's Pacific Northwest Laboratories. According to Battelle's license application, the invention has been developed to the point of practical application for some purposes. It is currently being practiced for the Government at Battelle's Pacific Northwest Laboratory for coatings on high energy laser components, and for protective coatings for high temperature service in gas turbines and diesel engines. However, there is no known practice of the invention for commercial (non-governmental) purposes and no known plans for the Government to fund development of commercial aspects of the invention.

If granted the requested exclusive license, Battelle intends to develop and commercialize the process through performance of research and development service and sublicensing of the invention for commercial manufacture and sale. Battelle represents in its application that it has already invested approximately $1 million of its own funds for research, equipment and process development in the field of cathodic sputtering. Battelle has been working with two prospective sublicensees for further development of the invention. One prospective sublicensee is a large, diversified company which, among other things, supplies manufacturing equipment to the micro-electronic industry. This firm has outlined a development program for applying the invention to the high-rate and large area deposition of a variety of conductor and di-electric materials in the production of semiconductor devices. The development plan includes a feasibly study, an R&D program, and design and construction of a manufacturing prototype at an estimated cost of $440–540K over two years.

A second prospective sublicensee currently has an agreement with Battelle for expending over $1 million over a seven-year period on research and development by Battelle in the field of laser optics employing sputtering. This firm is currently establishing a facility for manufacture of laser mirrors having sputter deposited faces.

The invention has been published as available for license in accordance with normal procedures. However, except for the current license application of Battelle, DOE has received no application for licensing of the subject domestic or foreign patents.

Grant of the requested exclusive license to Battelle, with the right to grant sublicenses, appears to be in the public interest in that it will promote the expenditure of private capital to develop the invention to commercialization, and will allow Battelle to couple its expertise in the technical area of the invention with the capabilities and resources of interested industrial sponsors. Battelle has developed a technical competence in sputtering technology, and has initiated exploratory research work at Battelle Northwest with respect to commercial aspects of the invention. Battelle's plans for transfer of the technology include feasibility studies, prototype development, and cooperative ventures with prospective sublicensees in which Battelle performs the technical R&D needed to support commercialization of the invention, using internal R&D funds and Battelle equipment. Battelle is in a position to combine the subject Government-owned patent rights with unpatented technical "know-how" residing at Battelle to promote further development of the invention. Accordingly, in view of Battelle's unique competence in sputtering technology, its willingness to commit non-Government funds for development of the invention, and its collaboration with interested industrial sponsors, coupled with representations that having the ability to grant exclusive rights is necessary to provide the incentive for commitments from private investors of the substantial funds required for commercialization, grant of the requested exclusive license with the right to grant exclusive sublicenses, appears merited.

Battelle is amenable to sharing with the Government any sublicensing royalties that may accrue from commercial sales of the invention, and in addition, it is amenable to reimbursing the Government for maintenance fees on the corresponding foreign patents.

It is therefore recommended that a Notice of Intent to grant the requested exclusive license be placed in the Federal Register, advising the public of its right to file written objections, or to apply for a nonexclusive license, within sixty days of the Notice.

Robert J. Marchick,

Chief, Licensing Branch, Office of the Assistant General Counsel for Patents.

Concurrence:

John E. Rudolph,

Director of Program Support, Office of Military Application, DP–224.

Leonard Coburn,

Acting Director of Competition, CP–63.

May 28, 1982.

[FR Doc. 82–19723 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Stromberg Enterprises; Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Stromberg Enterprises, of Albuquerque, New Mexico, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 4,274,394 entitled "Electromechanical Solar Tracking Apparatus." The patent is owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209, and will be subject to an irrevocable, nonexclusive, royalty-free license to Western Electric Company, American Telephone and Telegraph Company, and other companies of the Bell System to practice the invention in the field of public service communication equipment. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this notice. The license will be granted if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C., on this 14th day of July, 1982.

R. Tenney Johnson,

General Counsel.

MEMORANDUM OF DETERMINATION

Stromberg Enterprises, a small business partnership registered in New Mexico, has applied for an exclusive license to practice the invention described in DOE-owned U.S. Patent No. 4,274,394, entitled "Electromechanical Solar Tracking Apparatus." The invention relates to an apparatus for maintaining a solar collector in a desired orientation with respect to the sun. The invention comprises a pair of bi-metallic elements which are equally shaded from the sun when the apparatus is directed toward the sun. When the apparatus is not aligned with the sun, the elements are shaded unequally and flex an unequal amount, closing an electrical contact, thereby activating an electric motor to correct the position of the apparatus.

Stromberg Enterprises includes the inventor, Mr. Robert P. Stromberg, an employee of Sandia. Mr. Stromberg has been engaged in mail-order sale of plans for

parabolic solar collectors using the subject tracking device and is fabricating a number of test models of the invention. Neither DOE nor Mr. Stromberg are aware of any firms other than Stromberg Enterprises known to be considering commercial manufacture or sale of the invention.

There are no plans for the Government to develop the invention. Indeed, the inventor represents that the invention was made without any Government contribution of any kind, largely as a home project.

The invention has been published as available for licensing by DOE. Except for the current application, there have been no indications of licensing interest in the invention.

According to the application, if granted an exclusive license, applicant plans a $10,000 tooling investment for initial lot fabrication of the apparatus. Applicant contends that exclusivity is necessary for a small business to justify such an investment. Applicant contends that the current market for parabolic trough solar systems, for which the invention is particularly suited, is limited, and therefore a four to ten year period is necessary for projected manufacturing rates to justify the tooling expense. Grant of an exclusive license to applicant will be subject to a covenant that applicant will expend the $10,000 estimated tooling expense within a specified period after grant of the license.

Accordingly, it appears that exclusivity is reasonable and necessary to attract expeditiously the capital needed to bring about the desired practical application of the invention. It is recommended that a Notice be placed in the **Federal Register**, advising the public of an intent to grant the requested exclusive license, and providing the public with an opportunity to file written objections to the proposed grant within sixty days of the Notice.

Robert J. Marchick,

Chief, Licensing Branch, Office of the Assistant General Counsel for Patents.

Memorandum of Determination

Proposed Exclusive Patent License—Stromberg Enterprises

Concurrence:

Gerald W. Braun,

Director, Division of Solar, Thermal Technology Development, CE–314.

Dated: June 10, 1982.

Leonard Coburn,

Acting Director of Competition, CE–314.

Dated: May 12, 1982.

[FR Doc. 82–19724 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Inexco Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Inexco Oil Co. as a final order of the Department.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 E. 11th Street, Kansas City, Missouri 64106–2466, telephone number (816) 374–2092.

SUPPLEMENTARY INFORMATION: On April 23, 1982, Vol. 47, No. 79, FR, Page 17613, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Inexco Oil Co. (Inexco) on March 25, 1982, which would not become effective sooner than 30 days after publication of that notice. The Order resolves the dispute between the DOE and Inexco Oil Co. arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 210, 211, 212, in connection with Inexco's sales of natural gas liquids (NGL's) and natural gas liquid products (NGLP's) during the period September 1, 1973 through January 28, 1981. The Order requires that Inexco pay the sum of $982,000, including interest, in twelve equal monthly installments commencing within thirty (30) days after the effective date of the Consent Order. The payments are to be made to the U.S. Treasury to be held in an escrow account, and the ERA will determine ultimate distribution of the funds. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Four comments were received. None objected to the validity of the Consent Order, rather each comment addressed only the distribution of the escrowed funds suggesting that the funds be allocated to state of local governments for energy related programs which would offer direct benefit and restitution to the unidentified consumer-purchasers.

Since the ERA received no comments objecting to the Consent Order as proposed, the Proposed Consent Order was made final and effective on June 1, 1982 without modification, In determining the ultimate distribution of the escrowed funds, the ERA will consider numerous factors including the suggestions submitted in the comments received.

Issued in Kansas City, Missouri, on the 2nd day of July 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–19720 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–CERT–012]

Public Service Electric and Gas Co.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On June 9, 1982, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 7.0 billion cubic feet of natural gas per year to displace approximately 1,057,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 28,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in New Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001. Notice of that application was published in the **Federal Register** (47 FR 27403, June 24, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On July 25, 1981, Public Service received a recertification (ERA Docket 81–CERT–015) of an eligible use of natural gas purchased from Equitable for a period of one year expiring on July 24, 1982, for use in its electric generating stations in New Jersey.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has

determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 15, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuel Programs, Economic Regulatory Administration.

[FR Doc. 82–19721 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Santa Fe Energy Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a Proposed Consent Order and provides an opportunity for public comment on the Proposed Consent Order.

DATE: Comments by August 20, 1982.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, United States Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106–2466. Phone (816) 374–2092.

SUPPLEMENTARY INFORMATION: On July 2, 1982, the ERA executed a proposed Consent Order with Santa Fe Energy Company, of Amarillo, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Santa Fe Energy Company, with its home office located in Amarillo, Texas, is a firm engaged in the production and sale of domestic crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order (September 1, 1973 through January 28, 1981). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Santa Fe's transactions involving crude oil sales during the period September 1, 1973 through January 28, 1981, (the period covered by this Consent Order) the ERA, and Santa Fe Energy Company entered into a Consent Order, the significant terms of which are as follows:

A. Santa Fe produces and sells domestic crude oil. Santa Fe is a "producer" as that term is defined in the Mandatory Petroleum Price Regulations at 10 CFR 212.31, and is subject to the price regulations presently codified at 10 CFR Part 212, Subpart D.

B. Santa Fe Energy Company operates the SFPRR (Sections 27, 28, 33, 34) and the Montana State 16 properties, from which the ERA believes that during the audit period crude oil produced from these properties was sold at prices in excess of the applicable ceiling prices, in violation of 10 CFR 212.74.

C. Santa Fe has discussed settlement with ERA officials. The ERA and Santa Fe disagree in several respects concerning the proper application of the relevant federal statutes and regulations to Santa Fe's pricing of crude oil during the audit period. Both Santa Fe and the ERA believe that their respective positions concerning the alleged civil liability would be sustained if litigated. However, Santa Fe desires to settle all civil disputes with the ERA concerning the specified transactions which occurred during the audit period, rather than incur the expense and inconvenience of litigation. Similarly, the ERA believes it is in the best interest of the general public and the U.S. Government to conclude the compliance proceeding now by means of this Consent Order.

D. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds and Civil Penalty

A. Disposition of Refunds

In this Consent Order, Santa Fe Energy Company will pay the sum of $800,000, which includes interest, within thirty (30) days of the effective date of this Consent Order to DOE for deposit in the U.S. Treasury as miscellaneous receipts. Upon full satisfaction of the terms and conditions of this Consent Order by Santa Fe Energy Company, the DOE releases Santa Fe Energy Company from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

B. Civil Penalty

In addition, Santa Fe Energy Company agrees to pay the sum of $8,000 in compromise of civil penalties relating to the above described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

(1) The ERA invites interested persons to submit written comments concerning the terms and conditions of this Consent Order.

You should send your comments to DAVID H. JACKSON, Director, Kansas City Office, Economic Regulatory Administration, United States Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106–2466. You may obtain a free copy of this Consent Order by writing to the above address.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Santa Fe Energy Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, August 20, 1982. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri, on the 6th day of July 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–19719 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Southland Corp.; Proposed Consent Order

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with The Southland Corporation ("Southland"). The Consent Order resolves all issues of compliance with the DOE Petroleum

Price and Allocation Regulations for the period September 1, 1973 through January 28, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Southland has agreed to make payments totalling $1,193,397.

As required by the regulations cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this Notice, August 20, 1982. Address comments to: Southland Consent Order Comments, Department of Energy, RG–30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, RG–30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Southland Consent Order Request, Department of Energy, RG–30, Room 5109, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E–190, Washington, D.C. 20585, between the hours of 8:00 a.m.–4:00 p.m.

SUPPLEMENTARY INFORMATION: Southland is a marketer of motor gasoline subject to the jurisdiction of the OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). An audit conducted by OSC of Southland included a review of Southland's records relating to its compliance with the Regulation during the period September 1, 1973 through January 28, 1981. During the audit, questions and issues were raised and enforcement documents were issued. This Consent Order resolves all administrative and civil issues concerning the sale of motor gasoline during the audit period.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Southland's compliance with the applicable Regulations. OSC's audit reviewed Southland's pricing policies and procedures and the manner in which Southland applied the Regulations with respect to the sale of motor gasoline.

At the conclusion of the audit, OSC alleged that Southland sold motor gasoline at prices in excess of applicable maximum lawful selling prices. Notwithstanding DOE's position to the contrary, Southland maintains that it has correctly construed and applied the Regulations. The parties, however, desire to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Southland audit, and thus, that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To remedy any violations that may have occurred during the audit period, Southland has agreed to payments totalling $1,193,397 in equal monthly installments, plus installment interest, to begin thirty (30) days after the Consent Order has been made effective and to be completed by September 30, 1982.

Also, within twenty (20) days after the effective date of the Consent Order, Southland shall pay civil penalties in the amount of $23,868. Because the records that Southland maintains with respect to retail sales of motor gasoline do not permit the identification of customers who were allegedly overcharged, DOE has concluded that a refund to customers is not feasible. Southland marketed its gasoline at retail in numerous states on a cash basis. Under these circumstances, DOE determined that payment into the U.S. Treasury as miscellaneous receipts is an appropriate remedy.

The Consent Order also provides details concerning the conclusions of the audit and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties upon the discovery of information which is materially inconsistent with the information upon which this Consent Order is based.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Southland has waived its right to administrative or judicial appeal. The Consent Order does not constitute an admission by Southland or a finding by OSC of a violation of any Federal petroleum price statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on or before August 20, 1982 will be considered by OSC before determining whether to adopt the Consent Order as a final order. Any modifications to the Consent Order that, in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment. If, after consideration of public comments, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by notice to that effect to Southland. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of any action taken on this Consent Order and an appropriate explanation of the action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., July 13, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Adminstration.

[FR Doc. 82–19721 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF82–154–000]

Amoco Chemicals Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 15, 1982.

On June 14, 1982, Amoco Chemicals Corp., 301 Evans Avenue, Wood River, Illinois 62095, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Wood River, Illinois. The primary energy sources of the facility are natural gas and fuel oil. The electric power production capacity

of the facility is 12 megawatts. Normal operation produces 4 to 6 megawatts of electric power. Steam is available for process use at a rate of 120,000 lbs/hr. The most recent addition to the facility was constructed in 1953. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 20, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not seve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19708 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-499-006]

Cities Service Gas Co.; Petition To Amend

July 16, 1982.

Take notice that on June 18, 1982, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-499-006 a petition to amend the order issued December 22, 1980, as amended, in Docket No. CP80-499 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension in the term of the sale of natural gas to EL Paso Natural Gas Company (El Paso), and a change in the average daily quantity of gas from 200 billion Btu to 200,000 Mcf, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued December 22, 1980, as amended, Petitioner was authorized to sell an average daily quantity of 200 billion Btu of gas to El Paso for resale for a term expiring December 31, 1982.

Petitioner states that because of El Paso's continued need for additional supplies of gas to alleviate curtailment on its system and the availability of additional volumes of gas on Petitioner's system which are in excess of the needs of Petitioner's customers, Petitioner proposes to extend the term of the sale for an additional two-year period through December 31, 1984. Petitioner further proposes to change the average daily quantity of gas sold from 200 billion Btu to 200,000 Mcf since the sale price is on a volumetric basis.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19694 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-387-000]

Colorado Interstate Gas Co.; Application

July 16, 1982

Take notice that on June 21, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-387-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with Cities Service Gas Company (Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that both Cities and Applicant control certain volumes of gas within an area of interest in Carbon and Sweetwater Counties, Wyoming, and that the parties have therefore entered into a gas purchase and exchange agreement dated January 26, 1982, which provides for the gathering and exchange of gas between wells to which each party is connected within the area of interest.

It is stated that pursuant to the agreement Applicant and Cities would deliver thermally equivalent volumes of gas at the respective delivery points. Applicant notes that if exchange gas received by either party exceeds in total thermal content the exchange gas delivered by the party in any given month, then that party would pay a gathering charge equal to the product of (1) the exchange volumes so delivered during such month and (2) a gathering charge based upon the cost of service per Mcf of the gathering party, including a reasonable return on investment, as agreed upon by the parties.

Applicant maintains that the exchange is an accommodation for both parties eliminating the need for duplication of facilities and therefore a gathering charge would be assessed but no transportation fee for the exchange or balancing of gas.

Applicant notes that any facilities that it may require would be constructed under Applicant's certificated gas supply budget authority.

It is stated that two common pipeline delivery points located within the area of interest in Sweetwater County, Wyoming, have been included for the purpose of balancing the exchange. It is further stated that the exchange would be balanced insofar as practicable during the month following the imbalance.

Applicant further requests that the Commission authorize annual filing of tariff revisions by January 31 of each year which would reflect any additions or deletions or wells covered by the agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act

and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, furhter notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19695 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-391-000]

Columbia Gas Transmission Corp.; Application

July 16, 1982.

Take notice that on June 24, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-391-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certifice of public convenience and necessity authorizing the construction of 48 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.—1 tap for residential service; 1 tap for commercial service. Estimated annual usage of 330 Mcf.
(2) Columbia Gas of Ohio, Inc.—25 taps for residential service; 1 tap for commercial service. Estimated annual usage of 3,950 Mcf.
(3) Columbia Gas of Pennsylvania, Inc.—4 taps for residential service. Estimated annual usage of 600 Mcf.
(4) Columbia Gas of West Virginia, Inc.—14 taps for residential service; 1 tap for commercial service. Estimated annual usage of 3,499 Mcf.
(5) The Dayton Power and Light Company—1 tap for residential service. Estimated annual usage of 285 Mcf.

Applicant estimates that the total cost of the interconnections proposed herein is $14,480 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19709 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-130-000]

Consolidated Gas Resources, Inc.; Informal Hearing

July 14, 1982.

On June 9, 1982, the Commission instituted a rate proceeding in this docket to determine a fair and equitable rate for Consolidated Gas Resources, Inc. (CGR) transportation on behalf of United Gas Pipe Line Company.

The Staff panel will conduct an informal hearing on Thursday, July 29, 1982 at 10:00 a.m. at the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. Parties to the proceeding will have an opportunity to make oral presentation of data, view and arguments as more fully described in the Commission's order. The parties should be prepared to address the cost justification for CGR's proposed rate as well as whether the service rendered to United is "transportation" within the meaning of Section 311(a) of the Natural Gas Policy Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19710 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-379-000]

Delhi Gas Pipeline Corp.; Application

July 16, 1982.

Take notice that on June 16, 1982, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-379-000 an application pursuant to Section 284.127 of the Commission's Regulations for long-term authorization to transport natural gas on behalf of Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that pursuant to a transportation agreement with Transwestern dated June 25, 1980, Applicant receives natural gas at various points of delivery on its Western Oklahoma Pipeline System and subsequently transports and redelivers equivalent quantities of gas to Transwestern. Such service, Applicant states, commenced July 9, 1980, and was to continue for a period of two years but was extended for a two year period until July 8, 1984.

Applicant now proposes to extend such transportation service effective July 8, 1984, until March 1, 1990, continuing to receive gas from Transwestern at various points in Custer, Caddo, Grady, Roger Mills, and Washita Counties, Oklahoma. Applicant asserts that it anticipates additional deliveries in the immediate future from Transwestern in Dewey, Blaine, Ellis and Beckman Counties, Oklahoma, as well as additional points during the term of the transaction. Upon receipt, Applicant explains, it would transport and redeliver equivalent quantities of natural gas to Transwestern at points in Ellis and Custer Counties, Oklahoma.

Applicant estimates the daily and total volumes of natural gas to be transported during the remainder of the term of the transaction to be 80 billion Btu and 164.8 trillion Btu of gas, respectively.

For such transportation service, it is asserted, Transwestern would pay Applicant 37.89 cents per million Btu of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a part to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19696 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-394-000]

El Paso Natural Gas Co.; Application

July 16, 1982.

Take notice that on June 29, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-394-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities and the transportation and delivery of natural gas on an exchange basis to the Phillips Petroleum Company (Phillips) in Hutchinson, Gray and Wheeler Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to accept for the account of Phillips pursuant to a gas exchange agreement dated June 18, 1982, up to 95,000 Mcf per day at an existing point of interconnection between the facilities of Applicant and Phillips located at the outlet of Phillips' Dumas Plant in Moore County, Texas. In exchange, Applicant has agreed to deliver concurrently to Phillips at an existing point of interconnection between the facilities of Applicant and Phillips located in Hutchinson County, Texas, referred to as the Borger delivery point, and at two proposed points of interconnection between the facilities of Applicant and Phillips located in Gray and Wheeler Counties, Texas, referred to as the Pampa and Wheeler delivery points, respectively, an equivalent volume of natural gas.

Applicant also proposes to construct and operate tap facilities at the Pampa and Wheeler delivery points. Applicant also states that it estimates the cost of the proposed facilities to be $15,680. Such facilities, it is asserted, would be financed through the use of internally generated funds.

It is also stated that in January 1968 Applicant installed, without apparent certificate authorization, tap facilities necessary to deliver gas to Phillips at the Borger delivery point on Applicant's 18-inch O.D. EPNG-Schafer Plant to Dumas Plant pipeline in Hutchinson County, Texas. Applicant, therefore, requests authorization for these existing facilities at the Borger delivery point.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its desigee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19697 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-166-001]

Energenics Systems, Inc., Potholes East Canal; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 15, 1982.

On June 28, 1982, Energencis Systems, Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectrics small power production facility will be located on the Potholes East Canal near Mesa in Franklin County, Washington. The electric power production capacity of the facility will be 1,860 kilowatts. There are no other small power production facilities within one mile of the site which are owned by the Applicant and use the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 20, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19711 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-395-000]

Florida Gas Transmission Co.; Application

July 16, 1982.

Take notice that on June 30, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-395-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain pipeline facilities and for permission and approval to abandon by removal other facilities required to receive ethane from Texas Gas Exploration Company (TGEC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant entered into a contract with TGEC dated February 4, 1982, which provided for the purchase of 8,000 to 9,000 Mcf of ethane per day from TGEC for a period not to exceed sixty days and at a price not to exceed the Section 102 price under the Natural Gas Policy Act of 1978 (NGPA). Applicant also states that initial delivery under the contract with TGEC commenced on February 24, 1982, and terminated on April 24, 1982, pursuant to the Commission's emergency regulations. On May 10, 1982, the Commission authorized Applicant to continue operating those facilities necessary to continue purchasing such enthane from TGEC for a period through July 8, 1982.

Applicant asserts that in order to receive TGEC's ethane into Applicant's system Applicant made certain minor modifications to its existing pipeline facilites in Acadia Parish, Louisiana. Specifically, Applicant states that it removed 3½ feet of 6-inch pipe, one standard concentric reducer, one four-inch flange, and installed one six-inch weld cap.

It is stated that Applicant seeks authorization to continue using its system as modified so that it may continue purchasing ethane from TGEC for as long as such ethane is available at a price equal to or below the NGPA Section 102 price delivered to Applicant's pipeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commisison, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19698 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-26-000]

Grace Petroleum Corp.; Application for Staff Adjustment

Issued: July 15, 1982.

On June 18, 1982, Grace Petroleum Company (Grace), 6501 North Broadway, Oklahoma City, Oklahoma 73116 filed an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301-3432, (Supp. IV 1980), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure. Specifically, Grace seeks an adjustment from § 271.804(c) including a waiver of § 274.206 of the Commission's regulations.

Grace states that this adjustment is needed to prevent serious hardship and inequity. Specifically, Grace requests an adjustment to permit Dewald Rice 23-10 well (Dewald) to requalify as a stripper well as of January 5, 1981 based upon the 90 day production period ending October 31, 1980 and to qualify for continued stripper well status commencing January 5, 1981 based upon installation of compression by Grace. Grace states that it recently became aware that Dewald's continuing qualification as an section 108 stripper well was deficient because the recognized enhanced recovery technique (compression) was not "performed or installed by the producer" as required in § 271.803(a).

Grace states that continued stripper gas pricing is necessary for the Brown's Coulee compressor to operate economically. Grace further states that during the most recent twelve month period, operation of the compressor at section 104 pricing produced revenues of $36,092 but operating costs were $40,020. Without relief, Grace predicts termination of the operation of the Brown's Coulee compressor.

Furthermore, Grace alleges the Dewald well may not ever requalify as a stripper well after termination of the compressor due to § 274.807 of the Commission's regulations, and that in such case, the Dewald well would be plugged and abandoned.

Concurrently, Grace filed a petition to reopen and withdraw the Dewald continuing qualification determination.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19699 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-29-000]

W. B. McCarter, Jr., et al.; Application for Adjustment

Issued: July 15, 1982.

Take notice that on June 21, 1982, W. B. McCarter, Jr. (McCarter), 1820 Southwest Tower Building, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission (Commission), on behalf of himself, Resource Investments, and Barbara McCarter, (applicants) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. IV

1980), and § 1.41 of the Commission's Rules of Practice and Procedure. McCarter requests a waiver of the provisions of § 273.204(a)(1) of the Commission's regulations. (18 CFR 273.204(a)(1)).

Specifically, McCarter seeks an adjustment of the provisions of 18 CFR 273.204(a)(1) which limit retroactive collection of NGPA maximum lawful prices for natural gas to the deliveries of such natural gas occurring between the date on which an application for an NGPA well category eligibility determination is filed with a jurisdictional agency, and the date on which said eligibility determination becomes final. McCarter seeks authorization to retain the excess of the NGPA section 102 ceiling price over the NGPA section 109 ceiling price for certain deliveries made from the 8300' sand reservoir of the R. J. Hine Estate No. 1 well, located in the Rogers Gully field, Jefferson Davis Parish, Louisiana. (The applicants are all working interest owners of the R. J. Hine Estate No. 1 well.) The subject deliveriess from 8300' sand reservoir were made prior to the date of filing with the state jurisdictional agency of an application for an NGPA section 102(c)(1)(C) eligibility determination for the 8300' sand.

Although an application for an NGPA section 102(c)(1)(C) eligibility determination was filed with the jurisdictional agency when the well was completed in the 8200' sand reservoir, when the well was recompleted in the 8300' sand reservoir after the 8200' sand reservoir had been depleted, McCarter states that he did not realize that a separate well category application would be required for gas from the 8300' sand reservoir, and, although production and sales from the 8300' sand reservoir commenced on July 10, 1981, McCarter did not file a separate well category application for gas produced from the 8300' sand until October 20, 1981.

McCarter requests an adjustment of 18 CFR 273.204(a)(1) to permit the collection of approximately $48,895.86, plus interest, which represents the difference between the NGPA section 102 price and the NGPA section 109 price which would apply to deliveries of gas from the 8300' sand made prior to the October 20, 1981 filing of the application for an eligibility determination for said gas. In support thereof, McCarter states that the basis for the requested relief is the alleged existence of the same type of "inequity" which the Commission spoke of in Order No. 149, where the Commission ruled it would not require refunds from producers that had misinterpreted the regulations under NGPA section 103 which require separate eligibility determinations for each proration unit from the same well. McCarter states that no factual, legal or policy distinction exists between the applicants' instant request for adjustment relief and the basis for the relief granted in Order No. 149. (Order No. 149, Docket No. RM81-31, issued May 28, 1981).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19700 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-399-000]

Michigan Wisconsin Pipe Line Co.; Application

July 16, 1982.

Take notice that on July 2, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-399-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and measurement facilities in St. Mary Parish, Louisiana (Centerville), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to transport up to 120,000 Mcf of natural gas per day from the West Cameron area, offshore Louisiana, for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), to United Gas Pipe Line Company (United). It is further stated that deliveries to Northern are presently being made by Applicant by displacement at an interconnection of the pipeline systems of Applicant and Northern in Kiowa County, Kansas.

Applicant submits that on or about November 1, 1982, the delivery point will shift from Kiowa County to Centerville to accommodate and exchange arrangement between Northern and United authorized by the Commission in an order issued April 28, 1980, in Docket Nos. CP79-396 and CP79-400, respectively. Applicant maintains that additional metering will be required to effectuate this.

Applicant, therefore, proposes to construct and operate two addition 10-inch orifice meter runs at Centerville. To attain greater operating flexibility and system security, Applicant also proposes to construct and operate a crossover comprising 0.1 mile of 20-inch O.D. pipeline interconnecting Applicant's existing 30-inch pipeline and 30-inch loop line to an existing 20-inch pipeline.

Applicant estimates the cost of the facilities to be $1,543,150 which would be financed with funds presently on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19701 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-125-003]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

July 16, 1982.

Take notice that on June 18, 1982, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-125-003 a petition to amend the order issued January 13, 1977,[1] in Docket No. CP75-125 so as to authorize the transportation of natural gas to an additional point of delivery in order to make redeliveries of natural gas to Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued January 13, 1977, Petitioner was authorized, *inter alia*, to provide a gas transportation service for Texas Gas whereby Petitioner would take receipt of up to 196,640 Mcf of gas at the northerly terminus of the pipeline facilities of High Island Offshore System in West Cameron area Block 167, offshore Louisiana, provide transportation, and make redeliveries of equivalent quantities to Texas Gas at a redelivery point near North Tepetate, Louisiana, Eunice delivery point.

Petitioner further states that by order issued July 6, 1978, at Docket No. CP78-134, Petitioner was authorized to construct and operate measurement facilities comprising two 10-inch meter runs and associated appurtenances which are interconnected to the facilities of Texas Gas at Petitioner's Grand Chenier process and measurement station in Cameron Parish, Louisiana.

Petitioner hereby requests authority to make daily redeliveries of up to 100,000 Mcf of gas to Texas Gas at the Grand Chenier interconnection pursuant to its Rate Schedule X-63. It is explained that the aggregate maximum daily volume under such rate schedule remains unchanged but that utilization of the new delivery point would afford operating flexibilities on both the systems of Petitioner and Texas Gas.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19702 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-397-000]

Midwestern Gas Transmission Co.; Application

July 16, 1982.

Take notice that on July 1, 1982, Midwestern Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-397-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon its storage service to Peoples Gas Light and Coke Company (Peoples) and for a certificate of public concenience and necessity authorizing the use of the top gas capacity available for storage released by Peoples as system storage, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized to sell 100,000 Mcf of natural gas per day to Peoples under its Rate Schedule CD-1. Applicant further states that it provides Peoples a daily storage quantity of 15,333 Mcf and a total winter storage quantity of 1,149,975 Mcf under its Rate Schedule SS-1.

Applicant states that Peoples gave Applicant twelve months notice pursuant to their gas service contract dated August 15, 1972, that it elected to terminate such contract effective May 31, 1983. Applicant further states that it has entered into a letter agreement with Peoples dated June 28, 1982, for an earlier effective termination date.

Applicant requests authorization to abandon its gas storage service to Peoples to be effective the date the Commission's order granting the authorization sought herein but not before December 31, 1982. Applicant also requests authorization to sell to Peoples the top storage volume remaining in Peoples' account as of the aforestated date and to deliver such gas to Peoples on a mutually agreeable basis during the six months following the date of purchase. The sale to Peoples would be at the sum of Appliant's then effective Rate Schedule SS-1 commodity rate and gas rate, it is submitted.

In addition, Applicant requests authorization to use the top gas capacity available for storage released by Peoples and proposed to be abandoned as system storage for the benefit of Applicant's firm sales customers. Applicant proposes that such Commission authorization be concurrent with the authorization to abandon the storage service for Peoples. Applicant further proposes to operate system storage with a daily storage quantity of 15,333 Mcf and a winter storage quantity of 1,149,975 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes

that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19703 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-287-001]

Mississippi Fuel Co.; Amendment of Application for Approval of Rates

July 16, 1982.

Take notice that on June 14, 1982, Mississippi Fuel Company (Applicant), 1100 First National Center East, Oklahoma City, Oklahoma 73102, filed in Docket No. ST82-287-001 an amendment to its application filed pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it, Tennessee, System Fuels, Inc. and Mississippi Power & Light Company have entered into an agreement dated April 15, 1982, whereby Applicant agreed to transport and redeliver to Tennessee natural gas owned by Tennessee.

It is stated that under the agreement, Tennessee would pay to Petitioner 17.45 cents per Mcf until June 14, 1982, at which point Tennessee would pay a monthly rate determined in accordance with the provisions of paragraph (b) of Section 284.123 of the Commission's Regulations.

Petitioner asserts that because the elections otherwise available to an intrastate pipeline under Section 284.123(b)(1) continue not to be available to Petitioner inasmuch as Petitioner has no rate schedules on file with the Mississippi Public Service Commission (MPSC) covering city-gate service or transportation service and the MPSC has not taken into account the revenues received by Petitioner for the purposes of establishing transportation services to its intrastate customers, Petitioner herein requests to amend its transportation charge to provide for a rate of 20.27 cents per Mcf as a fair and equitable rate for the service rendered.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19704 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[GP82-44-000; FERC No. JD82-15339]

Grace Petroleum Corp.; Montana Board of Oil & Gas Conservation, Section 108 NGPA Determination for the Dewald Rice 23-10 Well; Request To Withdraw Final Well Category Determination

Issued: July 15, 1982.

On June 18, 1982, Grace Petroleum Corporation (Grace), 6501 North Broadway, Oklahoma City, Oklahoma 73116 filed with the Federal Energy Regulatory Commission (Commission) a request to reopen and withdraw the well category determination for the Dewald Rice 23-10 well (Dewald) pursuant to the Commission's authority under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. IV 1980).

As grounds for its request to reopen and withdraw the well category determination made under NGPA section 108, Grace states that the recognized enhanced recovery technique which Grace relied upon for continuing qualification of the Dewald well does not satisfy § 271.803(a) of the Commission's regulations. Specifically, Grace further states that the enhanced recovery technique (compression) was performed or installed by the purchaser of the gas not by the producer as the regulation requires.

Concurrently, Grace filed an adjustment request to permit it to retain stripper gas rates for gas produced from Dewald on the basis of compression subsequently installed by Grace.

With respect to the questions of refunds arising out of Grace's request to reopen and vacate well category determinations, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, on before August 20, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19705 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-392-000]

Natural Gas Pipeline Company of America; Application

July 16, 1982.

Take notice that on June 29, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-392-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited term sale of natural gas to Florida Gas Transmission Company (Florida Gas) on an interruptible basis for resale and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas on a best-efforts basis up to a total of 15,000,000 Mcf of gas to Florida Gas. The sale would be limited to those volumes which are not required by Applicant's existing customers, it is stated. Applicant states it would make such sales pursuant to a letter agreement dated June 14, 1982.

Applicant proposes to deliver gas at an existing interconnection between Florida Gas' 24-inch pipeline and Applicant's 30-inch pipeline located in the Wm. H. Smith Survey, Jefferson County, Texas, at a proposed point of interconnection between Applicant and Florida Gas located in Vermilion Parish, Louisiana, and at any other point mutually agreed to in writing by the parties.

In addition, Applicant proposes to install a tap and related facilities at the proposed Vermilion Parish delivery point. Applicant estimates the total cost of such facilities to be $384,000. Florida Gas would reimburse Applicant for all such costs, it is explained. Applicant also requests blanket authorization to add delivery points during the term of the agreement.

Applicant asserts that for every million Btu of gas sold it would charge Florida Gas a rate equal to Applicant's currently effective Rate Schedule DMQ–1, adjusted to reflect the actual DMQ–1 load factor for the twelve-month period ending February 28, 1982, minus the GRI surcharge, as set forth in that portion of the currently effective Sheet No. 5 of Applicant's FERC tariff.

The term of the agreement would run 365 days beginning on the date deliveries of gas commence, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19706 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA82–30–000]

Omega Minerals, Inc.; Application for Adjustment and Request for Interim Relief or in the Alternative An Interpretive Rule by the General Counsel

July 15, 1982.

Take notice that on June 22, 1982, Omega Minerals, Inc. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. IV 1980) and § 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment and interim relief. Applicant seeks permanent and interim relief from section 270.101(e) and Part 273 of the Commission's regulations.

Specifically, Applicant has drilled and completed the C. Mundine Haskett No. 1, No. 2, No. 3–C and 3–T wells (the 3–C and 3–T are dual completions), and the Chester Kiefer No. 4–C, No. 4–T and NO. 5–C and 5–T (the C and T designation indicate dual completions) in Zavala County, Texas. Applicant states that a contract for the sale of gas was negotiated with Valero Transmission Company (Valero). Applicant further states that due to the constraints of a limited staff, an independent attorney was engaged to be responsible for qualifying the subject gas for the NGPA section 102 price and that Valero paid the Applicant the section 102 price for the gas beginning with initial deliveries in July 1981. The Applicant, however, states that it learned in March of 1982 that the attorney had not filed the applications for determination with the jurisdictional agency and Omega, on April 5, 1982, filed the application with the jurisdictional agency. Applicant further states that on April 22, 1982, Valero requested that Applicant refund the difference, with interest, between the section 102 price and the section 109 price for sales of gas from the initial delivery until April 5, 1982. Applicant alleges that the denial of adjustment relief will cause it to suffer special hardship, inequity, and an unfair distribution of burdens because Applicant's capital costs cannot be recovered from Applicant's share of the gas sale revenues.

Alternatively, Applicant requests that the General Counsel issue an interpretive rule pursuant to section 1.42 of the Commission's Rules of Practice and Procedure that would allow the applicant to retain the monies claimed by Valero.

The procedure applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979 (44 Fed. Reg. 19861, March 30, 1979).

Any persons desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41(e). All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19707 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–377–000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

July 16, 1982.

Take notice that on June 16, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82–377–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Adamsville, Tennessee (Adamsville), in lieu of the Tri-County Utility District of McNairy, Hardin and Chester Counties, Tennessee (Tri-County), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to render natural gas service to Tri-County up to a maximum daily quantity of 1,290 Mcf for Tri-County's Adamsville, Tennessee, service area under its Rate Schedule GS–1. It is further stated that effective April 15, 1977, Tri-County sold its properties comprising the natural gas distribution system of its Adamsville, Tennessee, service area to Adamsville and assigned to Adamsville its rights and obligations in its gas sales contract with Applicant. Subsequently, Applicant states, it entered into a gas sales contract with Adamsville dated November 30, 1981, which provided, *inter alia*, for an initial termination date of November 1, 2000.

Applicant states that as a result of the Commission's rejection of this contract's filing with the Commission, Applicant and Adamsville have entered into a new gas sales contract dated June 3, 1982. Pursuant to this new gas sales contract, Applicant requests that it be authorized to serve Adamsville in lieu of Tri-County in the Adamsville, Tennessee, service area under its Rate Schedule GS–1.

It is asserted that the proposal would not affect Applicant's ability to render presently authorized service to the Adamsville, Tennessee, service area or to other areas. It is further asserted that the charge in ownership of the distribution properties would neither increase nor decrease the maximum daily quantity of 1,290 Mcf authorized for the Adamsville, Tennessee, service area.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Reguatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19712 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP80–8–001]

Texas Eastern Transmission Corp.; Petition To Amend

July 16, 1982.

Take notice that on May 17, 1982,[1] Texas Eastern Transmission Corporation (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–8–001 a petition to amend the order issued December 28, 1979, in Docket No. CP80–8 pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's regulations (18 CFR 157.7(b)) so as to authorize the construction of a single offshore project in excess of the single-project cost limitation of $3,500,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued December 28, 1979, in the instant docket, Petitioner was authorized to construct and operate each year gas purchase facilities with no single offshore project to exceed $3,500,000. Petitioner asserts it undertook the construction of approximately 4.02 miles of 8-inch pipeline and appurtenant facilities to connect the West Cameron Block 522 platform to an underwater tap in West Cameron Block 543, offshore Louisiana, which was estimated to cost $2,702,564. However, Petitioner has recorded $3,753,622 as the final actual cost of the project, $253,622 in excess of the offshore single-project limitation of $3,500,000 due to unforeseen contractor's extra work charges. Therefore, Petitioner requests an increase in the single project cost limitation from $3,500,000 to $3,753,622 for construction of facilities to connect the West Cameron Block 522 platform to an underwater tap in West Cameron Block 543.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19713 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL82–20–000]

Town of Highlands, N.C., et al.; Filing

July 15, 1982.

In the matter of The Town of Highlands, North Carolina, Haywood Electric Membership Corporation, and North Carolina Electric Membership Corporation v. Nantahala Power and Light Company.

Take notice that on June 30, 1982, The Town of Highlands, North Carolina (Highlands), Haywood Electric Membership Corporation (Haywood) and North Carolina Electric Membership Corporation (Coops) filed a complaint against Nantahala Power and Light Company (Nanthala) pursuant to Article III.4 of the Settlement Agreement in *Nantahala Power and Light Company*, Docket No. ER80–574–000, which was accepted by the Commission on November 16, 1981.

The complainants request that the Commission order the revision of Nantahala's treatment of wartime amortization in its PL–(COSAC) rate tariffs to conform with the Commission's Opinion No. 139 in *Nantahala Power and Light Company*, Docket Nos. ER76–828 and EL78–18, and order refunds of amounts collected since March 1, 1981 based on Nantahala's alleged improper treatment of wartime amortization.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

[1] The application was initially tendered for filing on May 17, 1982, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 21, 1982; thus, filing was not completed until the later date.

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19714 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-390-000]

Transcontinental Gas Pipe Line Corp; Application

July 16, 1982.

Take notice that on June 24, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-390-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities in West Feliciana and Pointe Coupee Parishes, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant seeks authorization to construct and operate in West Feliciana and Pointe Coupee Parishes, Louisiana, approximately 13.94 miles of 10-inch pipeline which would extend from the Roberta S. Towles #1 Well in the Raccourci Island Field, West Feliciana Parish, Louisiana, to Transco's main line at a point located in Pointe Coupee Parish, Louisiana.

Applicant estimates the cost of the facilities to be $6,733,000 which would be financed initially through short-term loans and available cash. Permanent financing would be undertaken as part of an overall long-term financing program at a later date, it is explained.

Applicant asserts that the proposed facilities would enable it to attach new gas supplies to be available commencing in early 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19715 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-125-003]

Trans-Niagara Pipeline; Amendment to Application

July 16, 1982.

Taken notice that on June 11, 1982, Trans-Niagara Pipeline (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-125-003 an amendment to the application filed in Docket No. CP82-125-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the construction and operation of certain pipeline and appurtenant facilities, and the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Company (Algonquin) by Applicant in lieu of Transco, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is submitted that on December 19, 1981, Transco filed in Docket No. CP82-125-000 an application requesting authorization to construct and operate its Transco Niagara Pipeline System for the purpose of making available to its system quantities of natural gas to be imported from Canada. Applicant asserts that Transco has assigned to Applicant all rights and interests in such proposed pipeline system, and pursuant to such assignment, Applicant has filed the instant amendment to the original applicantion.

Applicant states that it is a general partnership formed under the laws of the State of New York by Transco Canada Pipeline Company, an affiliate of Transco, TransCanada PipeLines Niagara, Ltd., an affiliate of TransCanada PipeLines Limited (TransCanada), and Texas Eastern Niagara, Inc., an affiliate of Texas Eastern. It is further submitted that while at the present time Applicant has no natural gas transmission operations and is not now subject to the jurisdiction of the Commission upon the construction and operation of the facilities proposed herein and the commencement of the transportation service proposed herein, Applicant would become a "natural-gas company" within the meaning of the Natural Gas Act and would be subject to the jurisdiction of the Commission.

Applicant specifically proposes to amend the original application filed in Docket No. CP82-125-000 so as to request authorization to construct and operate a new pipeline system, the Trans-Niagara Pipeline, in order to deliver to Transco, Texas Eastern, and Algonquin quantities of Canadian natural gas to be imported by Transco, Texas Eastern, and Algonquin, as well as to render firm and overrun transportation service for such shippers in accordance with a tariff and service agreements.

It is stated that the proposed pipeline facilities would consist of 42-inch diameter pipe with the exception of a dual 36-inch pipe to be used in crossing the Niagara River. Applicant states that the proposed Trans-Niagara System would interconnect at the United States-Canada border with the facilities of TransCanada, and at its southern terminus near Tamarack, Pennsylvania, with the facilities of Transco and Texas Eastern. The new system, it is submitted, would include a metering and regulating station and a compressor station of up to 49,000 horsepower near Lewiston, New York, and a compressor station of up to 36,000 horsepower and metering station at Leidy Storage Field, near Tamarack, Pennsylvania.

Applicant estimates the cost of the proposed facilities to be $424,275,000 which would be financed on a 75 percent debt-25 percent equity ratio which would involve a combination of bank loans of approximately $326,670,000, and the contribution of equity by Applicant's partners totalling

approximately $108,890,000 or a total of $435,560,000 (which includes provision for working capital as well as the cost of line pack quantities).

Applicant states that in two recent decisions the Commission has addressed the appropriateness of project financing for major new pipeline systems: *Trailblazer Pipeline Company et al.*, Opinion No. 138, 18 FERC paragraph 61, 244 (1982); and *Ozark Gas Transmission System*, Opinion No. 125, 16 FERC paragraph 61,099 (1981). Applicant asserts that it qualifies for project financing under the criteria set by the Commission in *Ozark* and *Trailblazer* and its tariff and rate design have been structured in conformance therewith. In that regard, Applicant states that it intends to seek fixed-rate debt financing, but if such financing cannot be arranged on satisfactory terms, Applicant proposes to include in its tariff an interest rate tracking provision to reflect the costs of variable interest rates as was approved by the Commission in *Trailblazer*, it is asserted. Applicant submits that application of a cost/benefit test as enunciated by the Commission in the *Ozark* decision clearly supports the appropriateness of project financing in the instant matter. *Ozark Gas Transmission System, supra*, 16 FERC at pp. 61,196–97. Moreover, Applicant contends that analyses of other factors identified in *Ozark* (magnitude of deliverable reserves, ability of sponsors to finance, unique risk of project) further affirm the appropriateness of using project financing for the Trans-Niagara Pipeline as does the project ownership structure which includes a TransCanada affiliate as a partner in the new pipeline. Because it meets the criteria of the *Ozark* decision, Applicant respectfully requests the opportunity to seek recovery of the partners' equity investments should the project ultimately fail. Applicant contends that in that regard, it is confronted with a risk element not present in *Ozark* or *Trailblazer* with respect to regulatory actions (in Canada or the United States) which may cause the reduction or cessation of shippers' transportation quantities, and since this risk element is beyond the control of Applicant or its shippers, Applicant requests that the Commission specifically approve the recovery of sponsors' equity in such event.

Applicant further proposes to render firm transportation service of up to 1,114,961 Mcf of natural gas per day for Transco, 201,961 Mcf of gas per day for Texas Eastern, and 101,961 Mcf of gas per day for Algonquin, as well as render additional transportation service if and to the extent available capacity exists on the Trans-Niagara system from time to time.

Applicant states that the proposed transportation service would be rendered in accordance with Applicant's tariff and separate service agreements to be entered into between Applicant and Transco, Texas Eastern and Algonquin. It is further stated that Applicant's proposed tariff for firm transportation service under Rate Schedule T has been designed using a two-part rate structure in which the demand rate is designed to recover the debt service charges, the operation and maintenance expenses, and taxes other than income. Applicant avers that shippers would furnish fuel gas based on the ration of each Shippers' transportation requirements to total throughput giving rise to the system fuel requirements of any day. It is submitted that the commodity rate is designed to recover the balance of the cost of service based upon transportation of 85 percent of the purchased quantities on an annual basis. In addition to the demand charge, Applicant explains, shippers would pay a minimum annual commodity charge based upon 75 percent of their respective annual contract quantities.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19716 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-244-001]

Trunkline Gas Co.; Extension Reports

July 15, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before August 10, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Dae filed
ST80-244-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77251	Southern Natural Gas Co.	*6/22/82
ST81-16-001	Colorado Interstate Gas Co., P.O. Box 1987, Colorado Springs, CO 80944	Southern Natural Gas Co.	6/18/82
ST81-29-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Austell Natural Gas System	6/28/82
ST81-34-001	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	Eastern New Mexico Natural Gas Association	6/30/82
ST81-40-001	Cities Service Gas Co., P.O. Box 25128, Oklahoma City, OK 73125	El Paso Natural Gas Co.	6/25/82
ST81-51-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Mississippi Valley Gas Co.	6/28/82
ST81-71-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transcontinental Gas Pipe Line Corp.	6/16/82

*This report was filed late and will be the subject of a separate order issued by the Director of OPPR.

[FR Doc. 82-19717 Filed 7-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-375-000]

United Gas Pipe Line Co.; Application

July 16, 1982.

Take notice that on June 14, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-375-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated March 16, 1981, to transport up to 20,000 Mcf of natural gas per day and redeliver said quantity, less 2.3 percent for fuel and company-used gas, for the account of Southern at the existing point of interconnection between United and Southern at Southern's Shadyside compressor station near St. Mary Parish, Louisiana, Morehouse Parish, Louisiana, and/or the outlet side of Applicant's measuring station at the interconnection between Southern's 20-inch south section 28 mainline and Applicant's 20-inch crossover in St. Martin Parish, Louisiana. Applicant asserts it would receive the gas from Sea Robin Pipeline Company (Sea Robin) for Southern's account at the measuring station at the onshore terminus of Sea Robin's existing pipeline system near Erath, Louisiana.

It is asserted that the transportation agreement would remain in full force and effect for a term of 15 years beginning on March 20, 1981, the day deliveries commenced under Subpart G of Part 284 of the Commission's Regulations and continuing from year to year thereafter until cancelled by either party upon proper notice.

It is asserted that Southern would pay Applicant an amount per Mcf equal to Applicant's transportation rate in effect from time to time in Applicant's northern or southern rate zone, as applicable, as such may be determined by Applicant based on rate filings made from time to time with the Commission, less any amount included in such transportation rate exclusive of the cost of gas attributable to fuel and unaccounted for gas. Applicant's present rate is 35.50 cents per Mcf in Applicant's northern rate zone and 28.16 cents per Mcf in Applicant's southern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19718 Filed 7-20-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-281; PH-FRL 2155-5]

Certain Companies; Pesticide and Feed Additive Petitions

Correction

In FR Doc. 82-17343 beginning on page 28451 in the issue of Wednesday, June 30, 1982, make the following correction:

On page 28452, column one, under "*PP 2F2683.* FMC Corp.", the chemical names of carbofuran and its carbamate metabolite were given incorrectly. They should have read as follows:

* * * carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate * * *

BILLING CODE: 1505-01-M

[A-2-FRL 2173-4]

Delegation of Prevention of Significant Deterioration Authority to the State of New York

AGENCY: Environmental Protection Agency.

ACTION: Notice of delegation of authority.

SUMMARY: The Environmental Protection Agency (EPA) is today delegating its authority for prevention of significant deterioration (PSD) review to the New York State Department of Environmental Conservation (NYSDEC), pursuant to Title 40, Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21). Effective immediately, NYSDEC will receive and process all PSD applications, with the exception of those from power plants and certain

other sources exempt from State permit requirements.

EFFECTIVE DATE: July 21, 1982.

ADDRESSES: Copies of the State's delegation request, correspondence between the State and EPA, and EPA's delegation agreement are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

On December 4, 1981 the New York State Department of Environmental Conservation (NYSDEC) submitted to the Region II Office of the Environmental Protection Agency (EPA) a request for delegation of technical and administrative review responsibilities for sources regulated under the EPA's prevention of significant deterioration (PSD) program requirements promulgated at 40 CFR 52.21. Based on a thorough review of this request and other pertinent information, EPA has determined that, with the exception of power plants, which do not fall under the permitting authority of NYSDEC, and sources exempted from permit requirements pursuant to Title 6, New York Code of Rules and Regulations (6 NYCRR), Section 201.6, "Exemptions," the State is capable of receiving delegation of this program. Therefore, effective immediately, full PSD review authority, with the exceptions noted, is delegated to NYSDEC. The conditions of this delegation are delineated in an April 19, 1982 letter from the Region II Administrator to the Commissioner of NYSDEC.

Effective immediately, all applications and other information required by 40 CFR 52.21 for sources (other than sources exempted under 6 NYCRR Section 201.6 and power plants) in the State of New York should be submitted to the appropriate regional office of the NYSDEC or its central office at 50 Wolf Road, Albany, New York 12233 (Attention: Division of Air, Bureau of Source Control). Power plants and § 201.6—exempt sources should continue to submit their applications to the EPA, Region II office at 26 Federal Plaza, New York, New York 10278 (Attention: Permits Administration Branch).

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

(Secs. 101, 165, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7465, and 7601))

Dated: July 8, 1982.

Jaqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 82–19742 Filed 7–20–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated. 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 Dallas** (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Irving American Bancshares, Corp. (The American Bank), Irving, Texas. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–19690 Filed 7–20–82; 8:45 am]

BILLING CODE 6210–01–M

Acquisition 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 of 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. *AmSouth Bancorporation*, Birmingham, Alabama; to acquire 100 percent of the voting shares or assets of Citizens Bank of Talladega, Talladega, Alabama. Comments on this application must be received not later than August 14, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation*, Des Moines, Iowa; to acquire 100 percent of the voting shares or assets of State Bank of Allison, Allison, Iowa. Comments on this application must be received not later than August 13, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *New Mexico Banquest Corporation*, Santa Fe, New Mexico; to acquire 50 percent or more the voting shares or assets of The Bank of Northern New Mexico, Las Vegas, New Mexico. Comments on this application must be received not later than August 14, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of the successor by merger to Roselle State Bank and Trust Company, Roselle, Illinois. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19691 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commended *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation*, Boston, Massachusetts (commercial financing; southeastern and midwestern United States): To engage through it subsidiary, Shawmut Credit Corp., in commercial finance activities including the making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company (including, without limitation, commercial loans, which may be secured by accounts receivable, inventory, equipment or other assets) and servicing such loans and other extensions of credit for others. These activities would be conducted from offices in Atlanta, Georgia and Chicago, Illinois. The Atlanta office will serve states in southeastern United States (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia) and the Chicago office will serve the midwestern states (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio and Wisconsin). Comments on this application must be received not later than August 14, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Northwestern Financial Corporation*, North Wilkesboro, North Carolina (mortgage banking activities; North Carolina): To engage, through its subsidiary, First Atlantic Corporation, in making, acquiring and servicing loans secured by real estate mortgages such as would be made by a mortgage banking company. These activities would be conducted from an office in Greensboro, North Carolina, serving the counties of Alamance, Forsyth, Guilford and Rockingham, North Carolina. Comments on this application must be received not later than August 14, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota (data processing activities; United States): To engage, through its subsidiary, First Computer Corporation, in providing bookkeeping or data processing services and storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable or billing services to the holding company, its subsidiaries and correspondents and customers of those subsidiaries, non-affiliated banks, thrifts and others on an indirect and direct contract basis. The activities will be conducted from the subsidiary's main office located in St. Paul, Minnesota, and regional centers located in Billings, Montana; Duluth, Minnesota; Fargo, North Dakota; Great Falls, Montana; Minot, North Dakota; Rapid City, South Dakota; Rochester, Minnesota; Sioux Falls, South Dakota; and Rothschild, Wisconsin; serving the continental United States. Comments on this application must be received not later than August 14, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; *de novo* office; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, BA Commercial Corporation, a Pennsylvania corporation, in the activities of making loans and other extensions of credit, and acquiring loans, participations in loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, inventory and accounts receivable financing; equipment financing; insurance premium financing; making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies; and making loans secured by real or personal property. In addition, BA Commercial Corporation also proposes to engage in the additional activities of servicing loans, participations of loans and other extensions of credit for itself and others in connection with extensions of credit made or acquired by BA Commercial Corporation. No credit-related insurance of any type will be offered by BA Commercial Corporation in connection with its lending activities. These activities will be conducted from a *de novo* office located in Cleveland, Ohio, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19689 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the

address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illini Community Bancgroup, Inc.*, Springfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American State Bank of Springfield, Springfield, Illinois. Comments on this application must be received not later than August 12, 1982.

2. *Mid-Iowa Bancshares Co.*, Algona, Iowa; to become a bank holding company by acquiring 80 percent of more of the voting shares of Iowa State Bank, Algona, Iowa. Comments on this application must be received not later than August 13, 1982.

3. *Purdue National Corporation*, Lafayette, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Purdue National Bank of Lafayette, Lafayette, Indiana. Comments on this application must be received not later than August 11, 1982.

4. *United Bancorporation, Inc.*, Rockford, Illinois, a Delaware corporation; to become a bank holding company by acquiring control of the voting shares of United Bancorporation, Inc. (Illinois Corporation), which owns 98.75 percent of United Bank of Rochelle, Rochelle, Illinois; S.B.A. Company which owns 98.33 percent of United Bank of Rockford, Rockford, Illinois; United Bank of Southgate, Rockford, Illinois; Oregon Corporation which owns 96.8 percent of United Bank of Ogle County, National Association, Oregon, Illinois; United Bank of Belvidere, Belvidere, Illinois; East Rvierside Inc., which owns 93.22 percent of United Bank of Loves Park, Loves Park, Illinois, and United Bank of Illinois, National Association, Rockford, Illinois. Comments on this application must he received not later than August 14, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Irving Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Irving American Bancshares, Corp. and thereby indirectly acquire The American Bank, Irving, Texas. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19692 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South La Salle Street, Chicago, Illinois 60690:

1. NBD Bancorp, Inc., Detroit, Michigan (mortgage banking activities; Ann Arbor, Michigan): To engage, through its subsidiary, NBD Mortgage Company, in mortgage banking activities, including the making and acquiring of mortgage loans for its own account and for the accounts of others, mortgage loans and other extensions of credit as would be made by a mortgage company. These activities would be conducted from an office in Ann Arbor, serving the Cities of Ann Arbor, Ypsilanti, Plymouth, Farmington and Novi and the Counties of Washtenaw, Monroe and Livingston and portions of Wayne, Oakland and Lenawee Counties. Comments on this application must be received not later than August 5, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *McLean Bank Holding Company*, Garrison, North Dakota (general lending activities; North Dakota): To engage in the activity of purchasing loans, including real estate mortgages, agricultural and commercial loans. These activities would be conducted from an office in Garrison, North Dakota, serving McLean, Mercer and Oliver Counties, North Dakota. Comments on this application must be received not later than August 15, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *West Coast Bancorp*, Encinco, California (finance and credit activities; California): To engage through its *de novo* subsidiary, West Coast Business Credit, Inc., in making or acquiring for its own account loans and other extensions of credit, such as would be made or acquired by a finance company, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets and servicing of these loans. These activities will be conducted from offices located in Encino and in Santa Ana, California, serving the State of California. Comments on this application must be received not later than August 5, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19730 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Proposed Acquisition of Pueblo Beneficial Industrial Bank, Colorado Springs Beneficial Industrial Bank, Trinidad Beneficial Industrial Bank

U.S. Bancorp, Portland, Oregon, has applied, pursuant to section 4(c)(8) of

the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pueblo Beneficial Industrial Bank, Pueblo, Colorado; Colorado Springs Beneficial Industrial Bank, Colorado Springs; and Trinidad Beneficial Industrial Bank, Trinidad, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of industrial banking. These activities would be performed from offices of Applicant's subsidiary in Pueblo, Colorado Springs and Trinidad, Colorado, and the geographic areas to be served are Pueblo, Colorado Springs and Trinidad, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 11, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19731 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Systems Hazard Analysis of Self-Tripping Presence Sensing Systems Chronic Stress in Office Work Survey; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Systems Hazard Analysis of Self-Tripping Presence Sensing Systems

Date: July 28, 1982.

Time: 8:30 a.m. to 5:00 p.m.

Place: Stewart Center, Room 326, Purdue University, West Lafayette, Indiana 47907.

Purpose: To review and discuss state of the art for mechanical power press systems which use a presence sensing device as the stroke actuator.

Additional information may be obtained from: Mr. John Etherton, Division of Safety Research, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505; Telephone: 304/291-4454 or FTS/923-4454.

Technical input from industry, organized labor, academia, other governmental agencies, and the public is invited.

Chronic Stress in Office Work Survey

Date: August 11, 1982.

Time: 10:00 a.m. to 4:00 p.m.

Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B-38, Cincinnati, Ohio 45226.

Purpose: To review the scope of a study to define and isolate sources of job stress and strain in office workers, and to define job factors that may intensify or buffer distress. Data collection will be conducted by contractual agreement at work sites in both private and public sectors.

Additional information may be obtained from: Ms. Barbara Cohen, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226; Telephone: 513/684-8386.

Dated: July 15, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-19679 Filed 7-20-82; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Suspension of Plats of Survey

1. Plats of survey of the lands described below were officially suspended in the Alaska State Office, Anchorage, Alaska, effective at 7:30 a.m. March 11, 1982.

Kateel River Meridian, Alaska

T. 9 S., R. 33 W.
T. 10 S., R. 33 W.
T. 10 S., R. 34 W.
T. 10 S., R. 35 W.
T. 11 S., R. 33 W.
T. 11 S., R. 34 W.
T. 11 S., R. 35 W.
T. 12 S., R. 32 W.
T. 12 S., R. 33 W.

2. The plats have been annotated in the lower left hand corner with the following statement: "Suspended March 11, 1982—File Group 226, Alaska, 9611.4 (922)."

Dated: July 6, 1982.

Francis D. Eickbush,

Chief, Division of Cadastral Survey, Anchorage, Alaska.

[FR Doc. 82-19677 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55074]

Montana; Realty Action, Modified Competitive Sale of Public Land in Treasure County, Montana

July 9, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 3 N., R. 38 E.,
Sec. 26, SE¼NE¼ and SW¼NW¼,
The area described contains 80 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Lee Wilson, the owner of the surrounding private land, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 25 air miles southeast of Hysham, Montana, and Interstate Highway 94. The land is isloated, with no legal access, is unusable by the general public, and is difficult and uneconomic to manage as part of the public lands system. The subject land has no unique values and has historically been used for livestock grazing. The sale, if consummated, will resolve this unauthorized use.

The proposed sale is consistent with the Bureau's planning system and Treasure County government officials

have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions is available for review at the Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Treasure County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on Wednesday, October 13, 1982, at 10 a.m.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporationi, subject to the laws of any State or the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable able of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,800 and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on October 13, 1982. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55074
October 13, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Mr. Lee Wilson, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Managment, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this relaty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Bill D. Noble,

Acting State Director.

[FR Doc. 82-19676 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-84-M

[W-4471-D]

Wyoming; Proposed Continuation of Withdrawals

July 9, 1982.

The Bureau of Land Management, U.S. Department of the Interior, purposes that the existing Public Water Reserves, withdrawn by the Executive and Secretarial Orders as indicated below, be continued in part as to the following described lands for a period of 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, U.S.C. 1714:

Sixth Principal Meridian, Wyoming

1. Public Water Reserve No. 12, withdrawn by Executive Order of December 5, 1913.

T. 43 N., R. 77 W.,
Sec. 26. W½SW¼, and SE¼SW¼;
Sec. 27. NE¼SE¼.

The area described contains 160 acres in Johnson County, Wyoming.

2. Public Water Reserve No. 18, withdrawn by Executive Order dated March 21, 1914.

T. 46 N., R. 76 W.,
Sec. 14, W½NW¼, and NW¼SW¼.
T. 39 N., R. 87 W.,
Sec. 21, NE¼SW¼.
T. 39 N., R. 88 W.,
Sec. 8, NW¼NW¼.

The area described contains 200 acres in Campbell and Natrona Counties, Wyoming.

3. Public Water Reserve No. 20, withdrawn by Executive Order dated June 24, 1914.

T. 34 N., R. 71 W.,
Sec. 33, SE¼NE¼.

The area described contains 40 acres in Converse County, Wyoming.

4. Public Water Reserve No. 36, withdrawn by Executive Order dated August 2, 1916.

T. 51 N., R. 78 W.,
Sec. 29, SE¼NE¼, and NE¼SE¼.

The area described contains 80 acres in Johnson County, Wyoming.

5. Public Water Reserve No. 58, withdrawn by Executive Order dated February 25, 1919.

T. 29 N., R. 82 W.,
Sec. 18, SW¼SE¼.

The area described contains 40 acres in Natrona County, Wyoming.

6. Public Water Reserve No. 107, withdrawn by Secretarial Order dated October 23, 1929.

T. 35 N., R. 84 W.,
Sec. 19, SW¼NE¼;
Sec. 33, S½NE¼.

The area described contains 120 acres in Natrona County, Wyoming.

7. Public Water Reserve No. 143, withdrawn by Executive Order 5672, dated August 3, 1931.

T. 45 N., R. 85 W.,
Sec. 2, lot 1.

The area described contains 39.76 acres in Johnson County, Wyoming.

8. Public Water Reserve No. 107, withdrawn by Secretarial Order dated February 3, 1932.

T. 36 N., R. 83 W.,
Sec. 5, N½SW¼, and SW¼SW¼;
Sec. 6, SE¼.

The area described contains 280 acres in Natrona County, Wyoming.

9. Public Water Reserve No. 107, withdrawn by Secretarial order of February 15, 1933, as modified February 25, 1933.

T. 46 N., R. 83 W.,
Sec. 5, SW¼NE¼.
T. 29 N., R. 85 W.,
Sec. 35, N½SE¼, and SW¼SE¼.

The area described contains 160 acres in Johnson County, Wyoming.

10. Public Water Reserve No. 107, withdrawn by Secretarial Order dated May 14, 1935, as modified June 28, 1937.

T. 33 N., R. 81 W.,
Sec. 26, NE¼NE¼.

The area described contains 40 acres in Natrona County, Wyoming.

11. Public Water Reserve No. 107, withdrawn by Secretarial Order dated May 25, 1950.

T. 57 N., R. 76 W.,
Sec. 28, SW¼SW¼.

The area described contains 40 acres in Sheridan County, Wyoming.

The purpose of the withdrawal is to protect existing permanent water sources. The lands are currently segregated from operation of the public land laws generally, including non-metalliferous mineral location under the mining laws, but not the mineral leasing laws. Upon the Secretary's approval of the proposed withdrawal, the lands will then be opened to non-metalliferous mineral location.

Notice is hereby given, that a public meeting may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire a meeting to be held on the proposal must submit a written request for a meeting to the undersigned on or before October 19, 1982. Upon the determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting, shall be published in the **Federal Register** and in at least one newspaper having a general circulation in the vicinity of lands involved, at least 30 days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before October 19, 1982.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-19678 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[AA-8103-5]

Alaska Native Claims Selection

Correction

In FR Doc. 82-17890, at page 28819, in the issue of Thursday, July 1, 1982, on page 28820, first column under **"Seward Meridian, Alaska (Surveyed),"** line 22 from the bottom of the page, correct "T. 31 N., R. 535 W.," to read "T. 31 N., R. 55 W."

BILLING CODE 1505-01-M

[F-19155-21]

Alaska Native Claims Selection

Correction

In FR Doc. 82-17891, at page 28821, in the issue of Thursday, July 1, 1982, on page 28822, first column, second full paragraph, designated as "b." correct "(EIN 21 D1, L)" to read "(EIN 21b D1, L)".

BILLING CODE 1505-01-M

Bureau of Reclamation

[INT-FES 82-26]

Tuscon Aqueduct Phase A Central Arizona Project, Arizona; Availability of Final Environmental Statement

Pursuant to Section 102(s)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on the environmental consequences of the construction and operation of Phase A of the Tucson Aqueduct and its associated electrical transmission system. Phase A of the aqueduct will convey Colorado River water from the terminus of the Salt-Gila Aqueduct in south-central Pinal County to the vicinity of Rillito in northern Pima County. Construction of the aqueduct is scheduled to being in 1983, with project completion scheduled for 1987.

This final EIS is in an abbreviated form consistent with the intent of the Council on Environmental Quality Regulations. Certain sections of the draft EIS have not been reproduced in the fianl EIS. A copy of both the draft and final EIS, therefore, must be used together for complete EIS coverage.

Copies of the final environmental statement (and the draft) are available for inspection at the following locations:

Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, (202) 343-4991

Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, (303) 234-3019

Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, NV 89005, (702) 293-8411

Arizona Projects Office, Bureau of Reclamation, Suite 2200—Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, (602) 261-3577

Libraries

Phoenix City Library, 12 East McDowell Road Phoeniz, ZA 85004

Tucson City Library, 200 South 6th Avenue, Tucson, AZ 85701.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director at the address listed above, at no charge. Please refer to the statement number above.

Dated: July 15, 1982.

Robert N. Broadbent,

Commissioner.

[FR Doc. 82-19641 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Master Plan for the Minnesota Valley National Wildlife Refuge, Carver, Dakota, Hennepin, and Scott Counties, Minnesota

Decision

I have evaluated the alternatives for the development and management of the Minnesota Valley National Wildlife Refuge presented in the Draft and Final Environmental Impact Statements and have reviewed the public comments. I find that the choice of the selected alternative is based on a thorough analysis in relation to the relevant environmental, social and economic conditions. I have decided to recommend this alternative.

Background

The Minnesota Valley National Wildlife Refuge was authorized by the U.S. Congress with the passage of Public Law 94–466, the Minnesota Valley National Wildlife Refuge Act (MVNWRA). The Minnesota Valley NWR is divided into six different units totalling 9,315 acres. These units include Long Meadow Lake, Black Dog Lake, Bloomington Ferry, Upgrala, Chaska Lake, and Louisville Swamp. The Act was passed to protect important fish and wildlife habitat while also providing the opportunity for wildlife-oriented recreation and environmental education in a metropolitan area.

The Selected Plan

The selected plan is environmentally preferable to other alternatives considered. Also, this is the plan which, by far, received the greatest support during the EIS review process. The overall objective of the selected plan (Alternative C) is to provide a high degree of wildlife-oriented recreation and wildlife management while continuing to provide basic protection for the natural resources of the refuge. All the alternative plans considered attempt to balance the sometimes-conflicting needs for conservation of the Minnesota River valley's wildlife resources and development of its public use opportunities. With this in mind, the selected plan first addresses the need to conserve and protect the resource but of all the alternatives considered it provides the highest degree of wildlife-oriented recreation and wildlife management.

The major recreational development will consist of a wildlife interpretation and environmental education center and the Minnesota Valley State Trail. The center, mandated in P.L. 94–466, is to function as a focus for environmental activities centering on the Minnesota River valley as a natural resource. It will emphasize wildlife and how people can enjoy the refuge/valley. The State Trail is mandated by state statutes and will be developed by the Minnesota Department of Natural Resources (DNR). The MVNWRA also mandated its inclusion, therefore the corridor for the trail is included in all alternatives. Secondary trails and access points will also be included to provide increased public use opportunity.

Included in the select plan are wildlife management practices which would improve the quality and diversity of habitat present. There are two major components of the wildlife management plans for the Minnesota Valley National Wildlife Refuge. These are 1) the restoration or addition of water control structures to maintain or restore floodplain wetlands and 2) the management and monitoring of non-wetland vegetation to encourage diversity of habitat. Some minor wildlife management practices would also include organic food production areas for wildlife, moist soil units and the conversion of an old gravel pit to a marsh complex. The integration of recreational activities and wildlife enhancement practices would also facilitate the interpretation and demonstration of many ecological principles and wildlife management techniques.

Other Alternatives

Alternative A would have provided for the acquisition of refuge lands with a minimal amount of develoment for public use. Refuge public use would have been concentrated in the Long Meadow Lake unit and the Louisville Swamp unit. The only recreational development would have been the State Trail and the Wildlife Interpretive Center. The majority of refuge land would have been a sanctuary with minimal public use. Also, minimal effort would have been made to manage lands to obtain diversified vegetative communities. Wildlife management would have been passive and would have limited the refuge's capability of meeting wildlife management objectives.

Alternative B, is very similar to the selected plan. However, public use opportunities decrease from the selected plan on the refuge in threee of the units—Long Meadow Lake, Bloomington Ferry, and Upgrala. These include the deletion of some trails, trail accesses, and a wildlife interpretation facility. This alternative does not include the conversion of a small portion of existing agricultural lands to organic food production areas for wildlife, the addition of a moist soil unit, and the conversion of an old gravel pit to a marsh complex.

In the No Action Alternative (Alternative D), there would have been no development by the Fish and Wildlife Service within the lower Minnesota River valley except the minimum required for resource protection. Public uses would have been limited to those not requiring improvements, such as hunting. Wildlife management activities would have been limited to signing, patroling, and protecting the resources. Congress recognized the lower Minnesota River valley as a unique environmental resource having great value for wildlife, environmental education, and wildlife-oriented recreational opportunities. To further protect the valley, Congress recommended joint acquisition of federal, state, and local governments of the lower Minnesota River valley. Without federal development, the responsibility for public use of the resource would have been left to local units of government. Therefore, most of the public use activities on proposed refuge lands as illustrated in Alternatives A–C would not have been developed.

The Minimization of Environmental Harm

All practicable means to avoid or minimize adverse environmental effects have been incorporated into the project. In avoiding adverse effects, part of the environmental analysis was conducted by entering the location of each feature (i.e., trail, water control structure, etc.) into a computer. Then each alternative was evaluated by comparing the subject feature with the relevant resource data. The following data variables were compared with each alternative: Soils, high water table, slope, land use, archaeological sites, hydrological features, flood levels, vegetative communities, wetlands.

The computer analysis isolated potential problem areas. Following computer analysis, problem areas were field checked and modifications made to reduce environmental impacts.

Basis for Decision

Congress, in establishing the refuge declared in its statement of findings that "the Lower Minnesota River Valley, which provides habitat for a large number of migratory waterfowl, fish, and other wildlife species, is a unique environmental resource" Sec. 2. (a.1). It clearly states an intention to preserve, conserve, protect, and interpret the wildlife and natural resources of the river valley. "Conserve" is defined in Sec. 3 of the Act "* * * to assure to the maximum extent practicable the continued population of fish and wildlife."

In addition, the legislation mandates that the refuge be developed and administered in accordance with the National Wildlife Refuge System Administration Act, Sec. 4 (b3). The direction given in the Act provided the foundation upon which the selected plan was developed. The selected plan is consistent with national policies, statutes, and administrative directives. The selected plan received the greatest support of all alternatives by the public. Therefore, the Fish and Wildlife Service will proceed, as funding permits, with acquisition, development, and

management of the refuge in accordance with the selected plan.

Date: July 9, 1982.

Harvey K. Nelson,

Regional Director, U.S. Fish and Wildlife Service, Region 3, Twin Cities, Minnesota.

[FR Doc. 82-19685 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 0983, Block 252, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19673 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Mobil Oil

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1477, Block 81, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 9, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19675 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Interior.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2026, Block 638, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19674 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

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 conditons set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated the effective notice to be issued hereafter.

By the Commisson, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79868. By decision of June 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RUSSELL D. FLORY, d.b.a. RUSSELL FLORY TRUCKING, of Springdale, AR, of Permit No. MC–154966 issued to EARNEST H. KIENE and LAWRENCE E. KIENE d.b.a. KIENE BROTHERS, of Huntsville, AR authorizing: Food and related products, between points in the U.S. under continuing contract with Swift Dairy & Poultry Company of Huntsville, AR. Applicant's representative: Russell D. Flory, 1807 Stone St., Springdale, AR 72764. TA lease is sought. Transferee is not a carrier.

MC–FC–79881. By decision of June 30, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOYCE TRUCKING COMPANY (a corporation) of Chicago Heights, IL, of Certificate No. MC–98025 (Sub-2) issued to LINCOLN TRANSFER COMPANY, INC., of Lincoln, IL, authorizing: General commodities (except classes A and B explosives), between (A) points in Woodford, Piatt, Mason, McLean, Fulton, DeWitt, Cass, Moultrie, Shelby, Christian, Sangamon, Menard, Morgan, Macon, Logan, Tazewell, and Peoria Counties, IL, and (A) points in (A) above, on the one hand, and, on the other, points in IL. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. TA lease is not sought. Transferee is a carrier.

MC–FC–79897. By decision of July 8, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RUSS BOB REALTY CO. of Tiverton, RI of Certificate No. MC–43647 issued October 29, 1976, to DIXIE WAREHOUSING, INC., of Tiverton, RI authorizing the transportation by irregular routes of *household goods,* (1) between points in Newport County, RI, on the one hand, and, on the other, points in CT, DE, MD, MA, NH, NJ, NY, PA, and RI, and (2) between points in CT, MA, NY, and RI, on one hand, and, on the other, points in CT, ME, MD, MA, NJ, NY, PA, RI, and DC. Applicant's representative is Mark D. Russell, 348 Pennsylvania Bldg., 425 13th St., NW. Washington, D.C. 20004.

MC–FC–79903. By decision of July 8, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TREADWAY TRUCKING, INC., of Oakman, AL, of Certificate No. MC–156530 issued to Treadway Trucking, Inc., of Jasper, AL, authorizing *forest products, coal and coal products, lumber and wood products, pulp, paper and related products, petroleum products, metal products, and building materials,* between points in AL, TN, GA, MS, FL and LA. Applicant's representative: Gerald D. Calvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203–3668. TA lease is sought. Transferee is not a carrier.

MC–FC–79904. By decision of July 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PATTERSON FARMS TRUCKING, INC., of Garnett, KS, of Certificate No. MC–151788 (Sub-3), issued to MEL JARVIS CONSTRUCTION CO., INC., of Salina, KS, which authorizes the transportation of *food and related products,* between points in KS, on the one hand, and, on the other, points in U.S. Mel Jarvis Construction Co., Inc., has agreed to request in writing cancellation of its Certificate No. MC–151788 (Sub-2), which duplicates the authority to be transferred, and our approval is so conditioned. This request must be received prior to the issuance of the Effective Notice in this proceeding. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601.

Note.—Transferee is not a carrier. TA has been filed.

MC–FC–79912. By decision of July 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ACTION TRANSFER, INC., of Denver, CO of Certificate No. MC–121195 (Sub-3), issued to WARREN H. CLARK, DOING BUSINESS AS COLORADO MOTOR EXPRESS, of Wheat Ridge, CO, which authorizes the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and foodstuffs requiring refrigeration), between Denver, CO, and points in Mesa County, CO. Representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264; and Edward C. Hastings, 666 Sherman St., Gold Suites, Denver, CO 80203.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19655 Filed 7–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

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** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statues and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simlifying 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 (of, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume. No. OP1–121

Decided: July 12, 1982.

By the Commission Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1622800, filed July 6, 1982. Applicant: E.L.K. EXPRESS, INC., 33507 Janesville Drive, Route 5, Mukwonago, WI 53149. Representative: Richard C. Alexander, 711 North Plankinton Ave., Milwaukee, WI 53203., (414)–273–7410. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–152

Decided: July 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 58852 (Sub-5), filed July 1, 1982. Applicant: SALEM MOTOR TRANS., INC., 121 Webster Ave., Chelsea, MA 02150. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108; 617–742–3530. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162733, filed June 30, 1982. Applicant: RAY ALLEN, d.b.a. RAY ALLEN TRUCKING, P.O. Box 24552, Houston, TX 77119. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (5) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–111

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Willians not participating.)

MC 162844, filed July 6, 1982. Applicant: S & S TRANSPORTATION COMPANY, INC., Route 1, Box 197X, Temple, TX 76501. Representative: James B. Smith (same adddress as applicant) (817) 947–5945. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162855, filed July 6, 1982. Applicant: COMPLETE TRANSPORT SERVICES, INC., P.O. Box 174, Hazelwood, MO 63042. Representative: Donald D. Orbin, 3725 Estates Dr., Florissant, MO 63033; (314) 731–5615. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI)

Volume No. OP4–256

Decided: July 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162567, filed June 21, 1982, previously noticed in the **Federal Register** issue of July 8, 1982, and republished this issue. Applicant: ADAMS TRUCKING, INC., 1470 East Kentucky Ave., Woodland, CA 95695. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111; (415) 986–1414. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to show this proceeding as being that of a "fitness-only" application.

MC 162757, filed July 1, 1982. Applicant: DONALD YOUNG, d.b.a. D.C. YOUNG TRUCKING, Route 3A, Litchfield, NH 03108. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841; (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162777, filed July 1, 1982. Applicant: S. ALLEN SCHREIBER, 160 Thornberry Dr., Pittsburgh, PA 15235. Representative: S. Allen Schreiber (412) 242–5250. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 162797, filed July 6, 1982. Applicant: JIM STOVER d.b.a. STOVER TRUCKING, 191 East Main, Box 232, Ft. Pierre, SD 57532. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101; (605) 339–3629. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil*

conditioners, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–260

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162857, filed July 6, 1982. Applicant: SIX-WAY FORWARDING, INC., 60 John Hay Ave., Kearney, NJ 07032. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904; (201) 572–5551. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162867, filed July 8, 1982. Applicant: CHARLES E. CLIFTON, d.b.a. CLIFF'S TRUCKING COMPANY, 663 E. Iowa St., St. Paul, MN 55106. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036; (202) 223–5900. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *general commodities* (except classes A and B explosives and household goods), between Oakdale, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commecing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of part (2) of this application is to substitute motor service for abandoned rail service.

Volume No. OP4–262

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 162866, filed July 7, 1982. Applicant: BILLY D. BURROWS, Route 1, Box 162, Rusk, TX 75785. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767; (512) 472–1101. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19661 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc 82–16780, appearing at page 26929 in the issue for Tuesday, June 22, 1982, make the following correction.

On page 26935, column one, paragraph two, line 10, now reading "products, and (3) machinery, on the one" should be corrected to read "products, and (3) machinery, between points in St. Louis County, MO., and points in IL, on the one".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–186

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 156416 (Sub-3–2TA), filed July 8, 1982. Applicant: B & C TRUCKING, INC., 2425 Durby, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Furniture* from Batesville and Lexington, MS, to Peoria and Bloomington, IL; Waco, TX; and Ocilla, GA. Supporting shipper: B. & B. Furniture Manufacturing Co., Inc., P.O. Box 963, Batesville, MS 38606.

MC 145906 (Sub-3–5TA), filed July 12, 1982. Applicant: GENERAL TRUCKING COMPANY, INC., P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1005, Columbia, TN 38401. *Contract carrier*, irregular routes; *General Commodities (except new or used household goods, class A and class B explosives)* between points in the U.S. under continuing contract(s) with CE Cast Division of Combustion Engineering, Pittsburgh, PA. Supporting shipper: CE Cast Division, Combustion Engineering, 305 Mt. Lebanon Blvd., Pittsburgh, PA 15234.

MC 155722 (Sub-3–2TA), filed July 9, 1982. Applicant: HORRELL ENTERPRISES, INC., d.b.a. HORRELL TRUCKING CO., 210 Hemingway Road, Louisville, KY 40207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Salt* from the facilities of Morton Salt, Division of Morton-Norwich Products, Inc. at Louisville, KY to points in IN. Supporting shipper: Morton Salt, Division of Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606.

MC 162884 (Sub-3–1TA), filed July 9, 1982. Applicant: QUINCY CORPORATION d.b.a. QUINCY FARMS, Rt. 4, Box 245, Quincy, FL 32351. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Contract*, irregular: *paper articles* from Albertville, AL to points to FL and GA, under account with Keyes Fibre Company of Waterville, ME. Supporting shipper: Keyes Fibre Company, Upper College Ave., Waterville, ME 04901.

MC 162894 (Sub-3–1TA), filed July 9, 1982. Applicant: U.S. CARPET

CARRIERS, INCORPORATED, P.O. Box 904, Calhoun, GA 30701. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425—13th Street, N.W., Washington, DC 20004. *Floor coverings, materials and supplies* used in the manufacturing, distributions, sales and installation thereof from GA to points in the U.S. (except AK and HI). Supporting shipper(s): There are 30 statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 162893 (Sub-3–1TA), filed July 9, 1982. Applicant: WHITLEY TRUCKING COMPANY, 3820 Crestridge Drive, Charlotte, NC 28210. Representative: Buster Howard Whitley, 3820 Crestridge Drive, Charlotte, NC 28210. *Contract*—Irregular—*cotton yarn mop heads* from Charlotte, NC to Dallas, TX Los Angeles, CA San Francisco, CA and Chicago, IL, under continuing contract(s) with White-Piedmont Mop, Inc. Supporting shipper: White-Piedmont Mop, Inc., 321 Atando Avenue, Charlotte, NC 28210.

MC 140484 (Sub-3–31TA), filed July 13, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Paper and paper products,* between Portage County, OH, on the one hand, and, on the other, points in WI, MA, NY and PA. Supporting shipper: Chemtrol Adhesives, Inc., 180 Lena Dr., Aurora, OH 44202.

MC 140800 (Sub-3–2TA), filed July 12, 1982. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Building, Nashville, TN 37219. *General commodities (except Classes A & B explosives, commodities in bulk, in tank vehicles and household goods),* between points in AR, SC, NJ, PA, KY, MN, TN and WI on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Gould, Inc., 10 Gould Center, Rolling Meadows, IL; Brown Boveri Electric, Inc., 167 Overland Drive, Columbia, SC; Milwaukee Plastics, Inc., 4044 North 31st Street, Milwaukee, WI 53216; and Hoeganaes Corporation, River Road, Riverton, NJ 08077.

MC 162623 (Sub-3–1TA), filed July 12, 1982. Applicant: GRAHAM ENTERPRISES, 1613 Winchester, Suite 230, Memphis, TN 38116. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. (1) *Tortillas, corn chips and cheese puffs,* between the facilities of Nacho's Inc., at or near Memphis, TN, on the one hand, and, on the other, Kansas City, KS; Los Angeles, CA; Minneapolis, MN; Windsor Locks, CT; Seattle and Tacoma, WA; Cleveland, OH; points in the respective commercial zones of the points just listed; and points in the states of TX, OK, AR, MO, MS, AL, GA, FL, LA and KY; and (2) *corrugated boxes and displays; materials, supplies and equipment used in the manufacture, distribution and sale of corrugated boxes and displays; cornstarch, and paper rolls,* between Memphis, TN and points in its commercial zone, and McGehee, AR, on the one hand, and, on the other, St. Louis, MO; Jackson, MS; La Grange, GA; Tuscaloosa, AL; and Cleveland, OH; and points in their respective commercial zones. Supporting shippers: Nacho's, Inc., 1886–H, E. Brooks Road, Memphis, TN 38116, and Midland Color Corp., 8489 Summit Cove, Olive Branch, MS 38654.

MC 156944 (Sub-3–3TA), filed July 13, 1982. Applicant: LARRY E. MORGAN, d.b.a. MORGAN TRUCKING, Route 1, Box 419–D, Arden, NC 28704. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Spring Water, bottled and in bulk, and Orange Juice, bottled,* from Avery's Creek, NC including commercial zone, to points in FL, GA, TN, KY, VA, SC and NC and return. *Orange Juice Concentrate, in bulk,* from Lake Wales, FL including commercial zone, to Avery's Creek, NC including commercial zone. Supporting shipper: Arcadia Dairy Farms, Inc., P.O. Box 631, Arden, NC 28704.

MC 162933 (Sub-3–1TA), filed July 13, 1982. Applicant: ELLIS ROBERTS TRUCKING, Rt. 1, Box 61, Remlap, AL 35133. Representative: Ellis or Carole Roberts (address same as above). *Metal building studs; metal expansion joints and anchor slot for concrete, metal stakes for screed, and coiled and flat steel, pressed woodboard, plastic laminate, glue and countertops* between AL, FL, GA, NC, SC, TN, KY, MS, LA, TX, AR, MO, and IN. Supporting shippers: Chapman Industries, Inc., 3033 35th Ave., No., Birmingham, AL 35207, and Plastic Clad Corp., 120 Cleage Dr., Birmingham, AL 35217.

MC 161634 (Sub-3–2TA), filed July 13, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, Suite 460, 400 Wendell Court, P.O. Box 43386, Atlanta, GA 30336. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contact:* Irregular: *Textile mill products,* from Putnam and Rockville, CT, Chickamauga, Swainsboro, and Trion, GA, Fall River, MA, East Rutherford, NJ, Concord, NC, Kenyon and Warwick, RI, Blacksburg, Graniteville, Greenville, Lyman, and Orangeburg, SC, and Elizabethton, TN to Cleburne and Sweetwater, TX, under continuing contract with Walls Industries, Inc. of Cleburne, TX. Supporting shipper: Walls Industries, Inc., 1905 North Main Street, Cleburne, TX 76031.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–22TA), Filed July 12, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Such commodities as are dealt in or used by manufacturers of computers or data processing equipment* between points in the U.S. (except AK and HI) under a continuing contract with the Storage Technology Corporation. Supporting shipper: Storage Technology Corporation, P.O. Box 306, Broomfield, CO.

MC 48374 (Sub-4–2TA), Filed July 12, 1982. Applicant: FERNSTROM STORAGE AND VAN COMPANY, Rosemont, IL 60666. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Contract* Irregular, *Furniture* from Lenoir, NC to points in the U.S. (except AK and HI) under a continuing contract with Stacy-Taylor, Inc., Rt. 2, Box 420, Lenoir, NC.

MC 144201 (Sub-4–5TA), Filed July 12, 1982. Applicant: V.M.P. ENTERPRISES, INC., 10542 West Donges Ct., Milwaukee, WI 53224. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. *Buses,* in driveaway service, between North Vernon, IN, on the one hand, and, on the other, Chicago, IL, St. Paul, MN, and Topeka, KS. An underlying ETA seeks 120 days authority. Supporting shipper: Lawson National Distributing Co., 8401 Westheimer, Suite 110, Houston, TX 77063.

MC 144945 (Sub-4–1TA), Filed July 12, 1982. Applicant: A & L TRANSPORT, INC., 11800 S. Halsted Street, Chicago, IL 60628. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Metal, machine and automobile parts* between points in OH, on the one hand, and, on the other, points in IL, on and north of IL Hwy. 64. Supporting shipper: Terrel Tool Co., Harvey, IL 60424.

MC 151813 (Sub-4–2TA), Filed July 12, 1982. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd Street, Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract*

Irregular: (a) *Petroleum, petroleum products, chemicals and chemicals products;* and (b) *Refractories and refractory products; also, Equipment, Materials and Supplies, used or useful in the manufacture, sale, distribution and installation of refractories and refractory products;* between points in IL and IN on the one hand, and, on the other, points in the United States (except AK and HI) under continuing contracts with Calumet Refining, Division of Calumet Industries, Inc. and V.J. Mattson Co. Supporting shippers: Calumet Refining, Division of Calumet Industries, Inc., 14000 Mackinaw, Chicago, IL 60633 and V.J. Mattson Co., 6450 South Austin Avenue, Chicago, IL 60638.

MC 161070 (Sub-4–2TA), filed July 12, 1982. Applicant: MIKE BOGENREIF AND KEVIN BOGENREIF (a partnership, d.b.a. BOGENREIF & SON, Big Stone City, SD 57216. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Fertilizer,* between points in the Minneapolis, MN commercial zone on the one hand, and, on the other, points in Roberts and Grant Counties, SD, for 270 days. Supporting shippers: Equity Cooperative Association, P.O.B. 5, Wilmont, SD 57279; Cargill, Inc., P.O.B. 590, Milbank, SD 57252.

MC 162613 (Sub-4–1TA), filed July 12, 1982. Applicant: CERTIFIED SAND & GRAVEL, 230 South Michigan Avenue, Coldwater, MI 49036. Representative: John J. Morad, 30600 Telegraph Road, Suite 3250, Birmingham, MI 48010. *Contract* irregular: *Transporting sand* from points in Coldwater, MI to points in Marion, IN and *limestone* from points in Marion, IN to points in Litchfield, MI and return empty to points in Coldwater, MI under contract with Michigan South Central Power Plant of Litchfield, MI.

MC 162913 (Sub-4–1TA), filed July 12, 1982. Applicant: MARCUS TRUCKING, INC., 6909 W. 64th Place, Chicago, IL 60638. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525. *General commodities* between points in the Chicago Commercial Zone on the one hand, and, on the other, points in the Midwest, namely OH, IN, MI, WS, IA and MO for prior or subsequent movement by rail. Supporting shipper: Transmart Inc., 3700 W. 47th St., Chicago, IL 60632.

MC 162914 (Sub-4–1TA), filed July 12, 1982. Applicant: LANCER TRANSPORTATION SERVICES, INC., 552 South Washington, Naperville, IL 60540. Representative: Daniel O. Hands, 42 North Dee Road, Park Ridge, IL 60068. *Railroad car parts* from Kenosha, WI and points in its Commercial Zone to points in Chicago, IL and points in its Commercial Zone. Supporting shipper: Miner Enterprises, 1200 East State Street, Geneva, IL 60134.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 120419 (Sub-5–4TA), filed July 9, 1982. Applicant: SERVICE TRANSFER, INC., P.O. Box 460, Henryetta, OK 74437. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center 5101 North Classen Boulevard, Oklahoma City, Ok 73118. *Malt beverages* from San Antonio, TX; Memphis, TN; and Belleville, IL to points in OK. supporting shipper(s): Best Sales Company, Inc., P.O. Box 568, Lawton, OK 73502.

MC 154621 (Sub-5–2TA), filed July 9, 1982. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71201. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Contract; Irregular. *Chemicals and related products (except in bulk)* between the facilities of Angus Chemical Company at or near Sterlington, LA on the one hand, and, on the other, points in the U.S. (except AL and HI), under continuing contract(s) with Angus Chemical Company of Northbrook, IL.

MC 156336 (Sub-5–2TA), filed July 9, 1982. Applicant: Osceola Waste Materials, Inc., P.O. Box 752, Osceola, AR 72370. Representative: Thomas B. Staley 1550 Tower Building, Little Rock, AR 72201. *Beer and Malt Beverages* between St. Louis, MO and Phillips County, AR. Supporting shipper: Coco Distributing Company, P.O. Box 2491, West Helena, AR 72342.

MC 162692 (Sub-5–1TA), filed July 9, 1982. Applicant: SUPERPORT TRANSPORT, INC., 406 Carol Street, Lockport, LA 70374. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806. *Contractor's machinery and equipment; Machinery, equipment, materials, and supplies, used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials and supplies used in, or in connection with, the construction, operations, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up therof,* between all points in the states of LA and TX on the one hand and on the other, points in AL, AR, CA, FL, GA, KS, MD, MS, NC, OK, SC, VA, WY, and Wash. D.C. Supporting shipper(s): 16.

MC 162726 (Sub-5–1TA), filed July 9, 1982. Applicant: ROSS HOWE, d.b.a. ROSS HOWE TRUCKING, Route 2, Box 57, Canadian, TX 79014. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Drilling Mud* from points in WY to points in TX north of I–40. Supporting shippers: Love Company, P.O. Box 448, Canadian, TX 79014 and Winkler Mud Co., Inc., P.O. Box 163, Perryton, TX 79070.

MC 162860 (Sub-5–1TA), filed July 8, 1982. Applicant: MOBILE EXPRESS OF TEXAS, INC., P.O. Box 8167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Mobile Homes and/or Parts Thereof* between Longview, TX on the one hand, and, on the other, points in AL, MS, LA, TN, KY, AR, MO, OK, KS, NM. Supporting shipper: Hairgrove Industries, Inc. Sundowner Travel Homes Division, P.O. Box 6195, Longview, TX 75604.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19660 Filed 7–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Application

Correction

In FR Doc 82–15931, appearing at page 25628 in the issue for Monday, June 14, 1982, make the following correction.

On page 25629, first column, first paragraph, line five, "MN" should be corrected to read "NM".

BILLING CODE 1505–01–M

[Sixth Revised ICC Order No. 80; Under Service Order No. 1344]

St. Louis Southwestern Railway Co. et al.; Rerouting Traffic

July 19, 1982.

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company; Iowa Railroad Company; North Central Texas Railway; Enid Central Railway; South Central Arkansas Railway, Okarche Central Railway, and North Central Oklahoma Railway Inc.

In the opinion of J. Warren McFarland, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly traffic

offered for movement via its lines, because of an embargo of its lines.

Rerouting authority previously granted in Reroute Order No. 63, was continued in Reroute Order No. 80, and should be extended for those carriers which have indicated that tariff modifications in progress could not be completed by the expiration of that order. This matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and therefore requires this action by the Commission.

It Is Ordered

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company (RI), being unable to transport promptly traffic offered for movement via its lines because of an embargo of its lines, that lines interim operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

St. Louis Southwestern Railway Company
Cadillac & Lake City Railway Company
Chicago and North Western Transportation Company
Iowa Railroad Company
North Central Texas Railway Inc.
Enid Central Railway Inc.
South Central Arkansas Railway Inc.
Okarche Central Railway Inc.
North Central Oklahoma Railway Inc.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be rerouted, before rerouting.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., July 10, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 9, 1982.
Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82-19654 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-61)]

Seaboard Coast Line Railroad Co., Abandonment—Darlington County, SC; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Seaboard Coast Line Railroad Company to abandon a portion of a line of railroad known as the Robinson Spur of its Hamlet Subdivision of its Savannah Division, extending from railroad milepost SJ-307.46 near Robinson, SC, to milepost SJ-312.54 at Hartsville SC, a distance of 5.08 miles, in Darlington County, SC, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The 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. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19656 Filed 7-20-82; 8:45 am]

BILLING CODE 7035-01-M

Washington; Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

July 17, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of the notice

No. 43970, North Pacific Coast Freight Bureau, for and on behalf of Union Pacific Railroad Company (CNE-NC 4171), reduced rates on barley and wheat, from Clarke and Hinkle, OR, to Columbia River Ports in Oregon and Washington, in Supplement 84 to North Pacific Coast Freight Bureau, Agent, Tariff ICC NPCF 4010-A. Grounds for relief: Market Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19657 Filed 7-20-82; 8:45 am]

BILLING CODE 7035-01-M

Water Carrier Temporary Authority Applications

The following were filed with the Regional Office. Petition for Reconsideration is to be filed, within 20 days of this publication with the Regional Office noted in each caption summary. Replies to petition may be filed within 20 days of the date petition is filed.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

WC–1352–TA, filed July 8, 1982. Applicant: GERALD B. BRISSMAN d.b.a. MARINE TOWING & SALVAGE CO., 9591 Sutter Park Lane, Houston, TX 77086. Representative: Gerald B. Brissman, (same as address above). Contract: *Partially Assembled Jack up Rig Legs and Derrick Parts (Oilfield—Offshore Equipment)* Inter-Coastal Waterways between Houston, TX and MS—Gonzales Shipyard on the Pearl River. Supporting shipper: Dolphin-Titan International, Inc., 333 Clay St., Houston, TX 77002.

WC–1353–TA, filed July 8, 1982. Applicant: SAND DOLLAR MARINE, INC., 4440 Chastant Street, Suite B, Metairie, LA 70002. Representative: C. Theodore Alpaugh, III, 1300 Hibernia Bank Bldg., New Orleans, LA 70112. Transporting *general commodities* by water between all points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19659 Filed 7–20–82; 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 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. OP1–120

Decided: July 12, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 124411 (Sub-26), filed July 6, 1982. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *denatured grain alcohol,* between points in CO, IA, IL, IN, KS, KY, MN, MO, ND, NE, OH, SD, and TN.

MC 134781 (Sub-7), filed July 6, 1982. Applicant: FAST FREIGHT TRANSFER, INC., P.O. Box 2163, Hialeah, FL 33012. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340, (404) 491–1696. 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 Great Marketing Company, of Norcross, GA.

MC 145830 (Sub-2), filed July 1, 1982. Applicant: ATCO, INCORPORATED, P.O. Box 7111, Pine Bluff, AR 71611. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201, (501) 375–9151. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AR, on the one hand, and, on the other, points in AL, AR, IL, IN, KS, IA, LA, MS, MO, NE, OK, TN, TX and KY.

MC 153021 (Sub-4), filed July 2, 1982. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting (1) *building materials,* (2) *chemicals and related products, and (3) machinery,* between points in the U.S. (except AK and HI).

MC 155051 (Sub-1), filed July 1, 1982. Applicant: COATS & CLARK SALES CORPORATION, 2915 Northeast Parkway, Doraville, GA 30340. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in Chester County, PA, on the one hand, and, on the other, points in Clayton, Cobb, DeKalb, Fulton and Gwinnett Counties, GA, under continuing contract(s) with SCM Allied Coated Products Group, Allied Paper Division, SCM Corporation, of Phoenixville, PA.

MC 158471 (Sub-1), filed July 6, 1982. Applicant: EDDIE EDWARDS TRUCKING, INC., 1337 Broadway, Lorain, OH 44052. Representative: A. Charles Tell, 100 E. Broad Street, Columbus, OH 43215. Transporting *general commodities* (except household goods and classes A and B explosives), between points in IL, IN, KY, MD, MA, MI, MO, NY, NJ, NC, OH, PA, SC, TN, VA, WV, and WI.

MC 159220 (Sub-5), Filed July 2, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara Street, Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th Street, N.W., Suite 800, Washington, DC 20036; (202) 785–3420. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Rosina Food Products, Inc., of Buffalo, NY.

MC 162181 (Sub-1), Filed July 2, 1982. Applicant: MOMPER EXPRESS, INC.,

2431 West Main St., Fort Wayne, IN 46808. Representative: Robert B. Hebert, 777 Chamber of Commerce Building, Indianapolis, IN 46204; (317) 639–4511. Transporting *building materials,* between points in Morris County, NJ, and Huntington, Wells and Allen Counties, IN, on the one hand, and, on the other, those points in and east of ND, SD, NE, CO, OK and TX.

MC 162380 (Sub-1), Filed July 6, 1982. Applicant: CMM TRANSPORTATION, INC., Abbott Park, North Chicago, IL 60064. Representative: Edward G. Bazelon, 29 South LaSalle Street, Chicago, IL 60603; (312) 236–9375. 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 Anderson Clayton Foods of Dallas, TX, a division of Anderson, Clayton & Company, of Houston, TX.

Volume No. OP2–154

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 36222 (Sub-16), Filed July 2, 1982. Applicant: CREWE TRANSFER, INC., Route 1, Box 209, Crewe, VA 23930. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235; 804–745–0446. Transporting *scrap metal, iron, steel, lead, silver, copper, cadmium, and metal alloy,* between points in the U.S. (except AK and HI), under continuing contract(s) with Frank H. Nott, Inc., of Richmond, VA.

MC 148263 (Sub-3), Filed July 7, 1982. Applicant: FLEETWOOD TRUCKING COMPANY, Route #1, Spalding, MI 49826. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503; 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, MI, MN, and WI, under continuing contract(s) with Les-Cove, Inc., of Iron Mountain, MI.

MC 161032 (Sub-1), filed July 2, 1982. Applicant: DELTA VAN & STORAGE, INC., 4604 Eisenhower Avenue, Alexandria, VA 22034. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036; (202) 785–0024. Transporting *household goods,* between points in MD, VA, and DC.

Volume No. OP3–110

Decided: July 13, 1982

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 9325 (Sub-84), filed July 6, 1982. Applicant: K–LINES, INC., P.O. Box 1549, Lake Oswego, OR 97034. Representative: Michael D. Crew, 205 Riviera Plaza, Portland, OR 97201; (503) 221–1529. Transporting *commodities in bulk,* between points in OR, WA, CA, ID, MT, CO, NV, NM, AZ, WY and UT.

MC 110325 (Sub-187), filed July 6, 1982. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant) (213) 640–1800, ext. 693. 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 Siemens-Allis Incorporated, and its subsidiaries of Atlanta, GA.

MC 115724 (Sub-16), filed July 9, 1982. Applicant: PHILLIPS TRUCK LINES, INC., 4500 N. Sewell, Suite #5, Oklahoma City, OK 73118. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154; (405) 424–3301. Transporting (1) *fabricated metal products,* (2) *transportation equipment,* (3) *machinery* and (4) *electrical machinery, equipment and supplies,* between points in the U.S. (except AK and HI).

MC 116254 (Sub-330), filed July 8, 1982. Applicant: CHEM–HAULERS, INC., 118 East Mobile Plaza, P.O. Box 339, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant) (205) 766–9111. Transporting *such commodities* as are dealt in or used by grocery stores, between points in FL and GA, under continuing contract(s) with Jewel T Discount Grocery, of Barrington, IL.

MC 126545 (Sub-15), filed July 7, 1982. Applicant: GLENERY, INC., 173 Hickory St., Kearny, NJ 07032. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20423; (202) 785–0024. 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 Coastal Transportation Company of Philadelphia, PA.

MC 143515 (Sub-8), filed July 7, 1982. Applicant: P & W CHARTER SERVICE, INC., 1810 S. 11th St., Union Gap, WA 98903. Representative: Randy Ammerman, P.O. Box 2455, Yakima, WA 98907; (509) 575–3655. Transporting *passengers and their baggage,* in the same vehicle, in charter operations, between points in WA and OR, on the one hand, and, on the other, points in the U.S. (except HI), under continuing contract(s) with Senior Citizens Roaming Around the Map, Inc., of Pendleton, OR.

MC 148705 (Sub-7), filed July 6, 1982. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402; (612) 333–1341. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Weinstein International Corp., and Iowa Park Industries, both of Minneapolis, MN.

MC 149115 (Sub-2), filed July 6, 1982. Applicant: RONALD D. JERNIGAN d.b.a. RONNIE JERNIGAN TRUCKING, Route 5, Box 35, Minden, LA 71055. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902; (501) 782–1001. Transporting *sand* and *gravel,* between points in Bossier, Caddo, Webster, Bienville and Red River Parishes, LA and Panola, Rusk, Harrison and Marion Counties, TX.

MC 153984, filed July 6, 1982. Applicant: CHESS HESTER TRUCKING COMPANY, P.O. Box 567, Russellville, AL 35653. Representative: Carl E. Johnson, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203; (205) 251–2881. Transporting *fertilizer,* between points in AL, on the one hand, and, on the other, points in TN and MS.

MC 157204 (Sub-4), filed July 8, 1982. Applicant: SUR–WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202; (904) 632–2300. 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 Calabrain International Corporation, of New York, NY.

MC 159214 (Sub-1), filed July 6, 1982. Applicant: D & L TRANSFER CO., P.O. Box 12311, 1346 Jasper, North Kansas City, MO 64116. Representative: J. C. Phillips (same address as applicant) (816) 842–7365. Transporting *electrical materials, industrial adhesives, food grade starches, paint and industrial chemicals,* between points in Clay County, MO, on the one hand, and, on the other, points in CO and IL.

MC 160505, filed July 7, 1982. Applicant: MIKE J. LAWRENCE, P.O. Box 139, Doyle, CA 96109. Representative: Robert G. Harrison, 4299

James Dr., Carson City, NV 89701; (702) 882–5649. Transporting (1) *refractory materials, equipment, supplies, and products,* (2) *building materials,* (3) *construction materials,* (4) *lumber and wood products,* (5) *pipe,* and (6) *metal products,* (a) between points in OR, WA, CA, NV, WY, MT, and ID, and (b) between points in OR, WA, CA, NV, WY, MT, and ID, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, in WA, MT, and ID.

MC 162474, filed June 14, 1982. Applicant: GUIDELINE TRUCKING, INC., 4307 Midway Ave., Grants Pass, OR 97526. Representative: Gerald R. Brown (same address as applicant) (503) 476–9730. Transporting *building material,* between points in WA, OR, ID, UT, AZ, CA, NV, TX and CO.

MC 162845, filed July 6, 1982. Applicant: JIM SPARLIN, d.b.a. JIM SPARLIN'S R. V. TRANSPORTING, 1505 Fernwood Dr., Modesto, CA 95350. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakerfield, CA 93306; (805) 872–1106. Transporting *transportation equipment,* between points in San Bernardino and Riverside Counties, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, WY, and TX.

MC 162854, filed July 7, 1982 Applicant: JUBILEE ESCORTED TOURS, 2255 St. Route 56 N.W., London, OH 43140. Representative: Judith M. Olsen (Same address as applicant) (614) 852–0029. As a *broker,* at London, OH, in arranging for the transportation of *passengers and their baggage,* in the same vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–259

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 152357 (Sub-3), filed July 6, 1982 Applicant: R. G. STINE TRUCKING, INC., 15946 Mills Dr., Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702; (714) 667–8107. Transporting (1) *food and related products,* between points in CA, on the one hand, and, on the other points in OR, WA, CO, UT, AZ, NV, NM, TX, ID, MT, IL, KS, MN, TN and GA, and (2) *petroleum and related products, and chemicals and related products,* between points in CA, on the one hand, and, on the other points in OR, WA, CO, UT and AZ.

MC 154907 (Sub-5), filed July 7, 1982 Applicant: THE BUCK COMPANY, 631 W Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503; (616) 459–6121. 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 Seaboard Allied Milling Department, Cargill, of Shawnee Mission, KS, and Midland Glass Company, Inc., of Cliffwood, NJ.

MC 162827, filed July 6, 1982 Applicant: LAKESIDE TRANSPORT, INC., 1515 East Ave., P.O. Box 177, Erie, PA 16512. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219; (412) 471–1800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Jamestown Scrap Corp., of Jamestown, NY, Marleys Industries, Inc., of Syracuse, NY, Corry Iron & Metal Corp., of Corry, PA, and Penn Iron & Metal Company, Inc., of Erie, PA.

MC 162847, filed July 7, 1982 Applicant: OWEN G. ANDERSON AND FREDERICK W. Heimann d.b.a. L & K SERVICES, Route 3, Box 357J, Waco, TX 76708. Representative: Charles E. Munson, P.O. Box 1945, Austin, TX 78767; (512) 478–9808. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in McLennan and Bell Counties, TX, on the one hand, and, on the other, points in TX.

Volume No. OP4–261

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 135046 (Sub-26), filed July 9, 1982 Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. Dupont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 191113; (215) 365–5141. Transporting *rubber and plastic products,* between Chicago, IL, points in Kendall County, IL, points in Le Sueur County, MN, and points in Payne County, OK, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK and TX.

MC 144626 (Sub-19), filed July 9, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Sagninaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112; (817) 457–0804. 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).

MC 161426, filed July 6, 1982. Applicant: RYAN TRANSFER CORPORATION, P.O. Box 820A, Green Bay, WI 54305. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956; (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, MI, MN, and WI.

MC 162796, filed July 6, 1982. Applicant: RON MARTINKO TRUCKING, INC., 25440 Sherwood, Warren, MI 48091. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684; (616) 941–5313. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Walker Wire and Steel Co., of Ferndale, MI.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82–19662 Filed 7–20–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

Agency Forms submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted two proposals for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTIONS: The proposed information collections are for use by the Commission in connection with the following investigations:

(1) Investigation No. 332–143, The Economic Impact of Foreign Export Credit Subsidies on the Commuter Aircraft Industry;

(2) Investigation No. 332–144, The Economic Impact of Foreign Export Credit Subsidies on Certain U.S. Industries (Civil Aircraft, Heavy Electrical Equipment, and Self-propelled rail vehicles).

SUMMARY OF PROPOSALS: The following summarizes the information collection proposal submitted to OMB for investigation Nos. 332–143 and 332–144:

(1) Number of forms submitted: nine.

(2) Title of forms: Questionnaire for Producers of Civil Aircraft; Questionnaire for Importers of Civil

Aircraft; Questionnaire for Purchasers of Civil Aircraft; Questionnaire for Producers of Heavy Electrical Equipment; Questionnaire for Importers of Heavy Electrical Equipment; Questionnaire for Purchasers of Heavy Electrical Equipment; Questionnaire for Producers of Self-propelled Railcars; Questionnaire for Importers of Self-propelled Railcars; Questionnaire for Purchasers of Self-propelled Railcars.

(3) Type of request: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: businesses (U.S. producers, importers, and purchasers of civil aircraft, heavy electrical equipment, and self-propelled railcars).

(6) Estimated number of respondents: 242.

(7) Estimated total numbers of hours to complete the forms: 3,630.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 350(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments and questions about the proposals should be directed to David Reed, the designated reviewer for OMB (tel. no. 202–395–7231).

If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise David Reed of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19736 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-406-9]

Canned Mushrooms From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) and scheduling of a hearing to be held in connection therewith.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, following receipt on June 30, 1982, of a petition filed by the American Mushroom Institute, instituted investigation No. TA–406–9 under section 406(a) of the Trade Act of 1974 to determine, with respect to imports of mushrooms, prepared or preserved, other than frozen, provided for in item 144.20 of the Tariff Schedules of the United States, which is the product of the People's Republic of China, whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2) of the Trade Act defines such market disruption to exist whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Vera A. Libeau, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0368.

SUPPLEMENTARY INFORMATION:

Public hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on Tuesday, August 24, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on Wednesday, August 11, 1982.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Fourteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Wednesday, August 18, 1982. All parties submitting prehearing briefs and other documents shall serve copies on other parties of record in accordance with the requirements of § 201.16 of the rules (19 CFR 201.16, as published in 47 FR 6190 (Feb. 10, 1982)). Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data" and submitted in accordance with the procedures set forth in §§ 201.6 and 201.8(d) of the Commission's rules (19 CFR 201.6, 201.8(d), as published in 47 FR 6188 (Feb. 10, 1982)).

Copies of prehearing briefs and other written submissions will be made available for public inspection in the Office of the Secretary. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m., on August 13, 1982, in Room 117 of the U.S. International Trade Commission Building.

Inspection of the petition.—A copy of the petition in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing procedures and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR 201).

Issued: July 12, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 19738 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-117]

Certain Automotive Visors; Request for Public Comments on Recommended Termination of Two Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of Toyota Motor Sales Co., Ltd., of Japan, and Toyota Motor Sales, U.S.A., Inc., as respondents in the above-captioned investigation, on the basis of a settlement agreement.

SUMMARY: On May 13, 1982, complainant Prince Corporation (Prince), Toyota Motor Sales Co., Ltd. (TMS), Toyota Motor Sales, U.S.A., Inc. (TMS–USA), of California, and the Commission investigative attorney filed a joint motion to terminate the above-captioned investigation with respect to TMS and TMS–USA on the basis of a settlement agreement entered into between Prince, TMS, and TMS–USA.

On June 8, 1982, the presiding officer recommended that the joint motion be granted. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public. A nonconfidential synopsis of the settlement agreement is set forth below.

DEADLINE: All comments must be received on or before August 20, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–117 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain automotive visors, which are alleged to infringe certain claims of U.S. Letters Patent Nos. 3,926,470 and 4,227,241, owned by complainant Prince. The alleged effect or tendency of these unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The settlement agreement between Prince, TMS, and TMS–USA is based on a paid-up limited license agreement which became effective May 1, 1982, between TMS and Prince. Under the agreement, Prince agrees to accept a certain lump-sum payment for a paid-up, nonexclusive, irrevocable, limited license under and during the life of the two U.S. patents in issue. The limited license allows the importation into the United States of Toyota motor vehicles equipped with visor assemblies, and of replacement visor assemblies as disclosed and claimed in the subject patents. Similar rights are granted with respect to counterpart patents or patent applications in Canada, the United Kingdom, and the Federal Republic of Germany. The lump-sum payment is in full settlement of all claims between Prince and TMS or TMS–USA arising out of the Commission investigation and a related federal court action in Michigan. TMS and TMS–USA consent to the validity of the patents in issue. The agreements are in compromise of disputed claims, and TMS and TMS–USA admit no liability.

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: July 12, 1982.
By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82–19737 Filed 7–20–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–174 and 701–TA–175]

Certain Commuter Airplanes From France and Italy

Determination

On the basis of the record [1] developed in investigations Nos. 701–TA–174 and 175 (Preliminary),[2] the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[3] by reason of imports from France and Italy of certain commuter airplanes,[4] as provided for in item 694.41, of the Tariff Schedules of the United States (TSUS), upon which subsidies are alleged to be paid.

Background

On May 27, 1982, a countervailing duty petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce, respectively, by counsel on behalf of Commuter Aircraft Corporation, of Youngstown, Ohio. The petition alleged that certain commuter airplanes imported from France and Italy receive, directly or indirectly, bounties or grants within the meaning of section 701 of the Tariff Act of 1930 (the Act).

Accordingly, the Commission instituted a preliminary investigation under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission investigations and of the conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on June 9, 1982 (47 FR 25077). The conference was held in Washington, D.C. on June 23, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on these cases in public session on July 7, 1982.

Views of Chairman Alfred E. Eckers and Commissioners Paula Stern, Michael J. Calhoun, and Veronica A. Haggart

We have determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports of commuter airplanes from France and Italy.[5] The reasons for our determination are discussed below.

Domestic Industry

Prior to consideration of the impact of the imports under investigation on the affected domestic industry, the Commission must first define the appropriate scope of that industry. According to section 771(4)(A) of the Tariff Act of 1930, the domestic industry consists of "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[6] The term "like product" is defined by statute as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"[7]

A brief discussion of the market for the aircraft under consideration is essential for establishing a context for our definition of the appropriate like product and the relevant industry.[8]

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] It is the view of Commissioner Calhoun that the Commission's analysis of the impact of imports of these commuter airplanes should be given one investigation number, not two. The analysis concerns one imported product which will be exported from one country.

[3] Commissioner Frank determines that there is a reasonable indication that the establishment of an industry in the United States is materially retarded.

[4] For purposes of this investigation, "commuter airplanes" are airplanes having a seating capacity of less than 60 seats.

[5] Although the petition alleged material injury, threat of material injury, and material retardation of the establishment of an industry, the petitioner's case relied solely on the claim of material retardation. Transcript of staff conference at 7. For reasons to be discussed below, material injury and threat of material injury are not at issue in these cases.

[6] 19 U.S.C. 1677(4)(A).

[7] 19 U.S.C. 1677(10).

[8] Information on the commuter airline industry is derived generally from the Report, the petition, and the transcript of the Commission's staff conference held June 23, 1982.

There are at present over 250 commuter airlines providing service in the United States. These airlines typically operate short-haul, low-passenger-density routes over distances from 100 to 300 miles, providing service to small- and medium-size communities not served by the larger airlines. The aircraft used vary greatly, depending in large part on the performance characteristics and size of airplane suited to the routes operated by each carrier. These airplanes differ significantly in size and in other ways from the larger aircraft, usually powered by jet engines, that are used by the major national and international air carriers.

The Airline Deregulation Act of 1978 (ADA) [9] has greatly increased the market opportunities for commuter airlines. Passage of the ADA permitted tha major airlines to reduce or abandon service to many air service markets that offer too little traffic to be profitable when using large jet aircraft. Commuter airlines have assumed service to many of these markets. Specifically, the ADA has aided in establishing a market for larger commuter aircraft capable of seating 30 to 60 passengers. Prior to 1978, Civil Aeronautics Board and Federal Aviation Administration regulations effectively limited the feasibility of operating commuter aircraft of this size. As a result, few manufacturers produced these aircraft. The ADA now permits commuter airlines ot operate airplanes with up to 60 seats, and there is increasing interest among commuter air carriers in purchasing these airplanes.

Tremendous increases in the cost of fuel necessitate that any new aircraft designed to satisfy this market be efficient to operate.[10] Recently developed turboprop engines can provide better than 25 percent greater fuel efficiency than previously available engines. In addition, technological advances in the kinds of materials used in constructing the airframe and the techniques for bonding components together can reduce the weight of an aircraft, thus increasing fuel efficiency.

The allegedly subsidized import is the ATR–42, which is among the airplanes being developed to take advantage of this new market. It is being developed by a consortium of the French company Societe Nationale Industrielle Aerospatiale and the Italian company Societa Aerospaziale Italiana.[11] It is a pressurized, twin-turboprop aircraft designed to carry 42 to 49 passengers, depending on seat placement and pitch. A stretched version of the airplane can increase the capacity to 54 and 58 passengers. The respondents allege that it utilizes advanced, highly efficient technology in its avionics system and in the construction of its airframe. In addition, its turboprop engines are of a modern design providing high fuel efficiency.

Petitioner Commuter Aircraft Corporation's projected product, the CAC–100, which is planned to be in production by late 1984, is a pressurized 50-passenger aircraft using four turboprop engines. A stretched version accommodating 60 passengers will also be available. The petitioner alleges that the CAC–100 will take advantage of technological advancements in avionics, engine design, and the techniques and materials used in the construction of the airframe.

Both the petitioner and the respondents are in general agreement on the characteristics and uses that they contend define a like product.[12] The parties contend that 40- to 60-seat airplanes constitute a distinctly identifiable segment of the market and do not in any significant way compete with smaller commuter airplanes. Additionally, they contend that the like product would be pressurized and would incorporate advanced technology. Under the definition used by the parties only one U.S.-designed airplane—petitioner's CAC–100—would qualify as a like product, and therefore CAC would constitute the entire relevant U.S. industry.[13]

The record suggests that domestic aircraft other than the CAC–100 may also have characteristics and uses that make them competitive with the ATR–42 in the view of many potential purchasers. There is information available suggesting that smaller airplanes of from 30–40 seats may be competitive with the ATR–42.[14] The seating capacity of an aircraft is a major consideration in a purchaser's decision. Other specifications, such as weight, power capability and other performance characteristics, dimensions, cargo capacity, and pressurization also play a part in determining whether the characteristics and uses of a particular aircraft are suitable for a buyer's needs.[15] There is not sufficient information on the record to allow us to make an adequate comparison of various aircraft with the ATR–42 based on these specifications.

For the purposes of these preliminary investigations,[16] we find the like product definition as developed by the parties to be appropriate based on the information available. Therefore, we determine that the domestic industry consists of CAC.

No Material Retardation of the Establishment of a Domestic Industry

Petitioner's position in these investigations rests on the claim that sales of the ATR–42 in the United States have resulted in material retardation of the establishment of an industry in the United States. Since the industry

[9] Pub. L. 95–504, 92 Stat. 1705 (Oct. 24, 1978).

[10] *See* Transcript of staff conference at 101.

[11] The ATR–42 is still in the developmental stage, so no aircraft have actually been produced or imported. The producers of the ATR–42, however, have obtained commitments from three commuter airlines in the United States to purchase 17 airplanes. Respondents argue that the petition should be dismissed because, since there are no actual imports, the domestic industry cannot be injured (or its establishment materially retarded) "by reason of imports" within the meaning of section 701 of the Tariff Act of 1930, 19 U.S.C. 1671. The Department of Commerce considered the same arguments in deciding the sufficency of the petition, and nevertheless concluded that the investigation should proceed. The Commission has generally taken the position that it does not possess the discretion to reconsider Department of Commerce determinations regarding the sufficiency and scope of a petition. See Sodium Gluconate from the European Communities, Inv. No. 701–TA–79 (Preliminary), USITC Pub. 1169, at 8–9 (1981). Morever, we believe this remedial statute ought to be construed to apply when sales have been made in the United States of allegedly subsidized articles to be imported in the future. In an industry—like the aircraft industry—in which sales are made well in advance of production and delivery, effective relief, if warranted, would be frustrated if an investigation could proceed only after the first imports have entered this country.

[12] Petition at 31–34; Transcript of staff conference at 38–41, 57, 131; petitioner's post-conference brief at 11; respondents' post-conference brief at 5.

[13] While the two airplanes possess some obvious dissimilarities in design, the most prominent of which being the number of engines and the placement of the wings, these differences are not considered significant enough by the parties to make the CAC–100 unlike the ATR–42 for purposes of analysis under the statute.

[14] A domestic producer of an airplane in that size range, Fairchild Industries, has expressed the opinion that "a simple demarcation line of 40–60 seats would not provide the Commission with an accurate picture of the domestic industry in the United States. The ATR–42 competes with our 34-passenger aircraft." Submission by George S. Attridge, Senior Vice President, Fairchild Industries (June 28, 1982). Asked at the staff conference whether a 36-seat aircraft would be competitive with the 42-seat ATR–42, counsel for petitioner responded that he "would suspect it would be." Transcript of staff conference at 56. The president of one U.S. commuter airline, testifying on behalf of the respondents, stated that his company considered nine different aircraft, with differing passenger capacities, before deciding to purchase the ATR–42. He stated that at the time his firm began its search for an appropriate airplane, it had not yet defined the size of airplane it needed. Transcript of staff conference at 89.

[15] Staff report at A–8; transcript of staff conference at 88; submission by George S. Attridge, Senior Vice President, Fairchild Industries (June 28, 1982).

[16] It is the view of Commissioner Calhoun that the Commission's analysis of the impact of imports of these commuter airplanes should be given one investigation number, not two. The analysis concerns one imported product which will be exported from one country.

definition we have adopted includes only a single firm that has yet to begin production of commuter airplanes, material retardation, not material injury or threat of material injury, is the proper issue to be considered.

Commission precedent establishes that when a domestic industry has not yet undertaken production, it must show, as a threshold matter, that it has made a substantial commitment to commence production.[17] We find that, based on the record developed, the nascent commuter airplane industry represented by CAC has made a substantial commitment to commence production of commuter aircraft in the United States. CAC has obtained substantial loans and loan guarantees from private lenders and federal, state, and local government agencies, and has negotiated for further financing for working capital.[18] It owns 95 acres of land bordering the Youngstown, Ohio airport on which it plans to build its manufacturing facility, and has obtained rezoning and arranged for utility connections. Construction of the 225,000-square-foot plant, projected to cost $14 million, is now underway and is projected to be completed by the end of 1982. CAC employs a staff of engineers and technicians, and has contracted for assistance from outside consulting firms. Design specification for the CAC–100 have been developed and published, and CAC has begun initial efforts to market the airplane. Actual production of the airplane is slated to begin by 1984.

Although CAC has demonstrated a commitment to begin production, the record does not provide a reasonable indication of a causal link between the allegedly subsidized sales of the ATR–42 in the United States and any difficulties CAC may be experiencing in becoming established as a producer of a competitive aircraft.

In the aircraft industry, it is common for sales of a newly designed airplane, like the ATR–42 and the CAC–100, to take place far in advance of actual production.[19] For example, orders have already been taken for the ATR–42, even though no models presently exist and none are projected to be completed until late 1984 or early 1985. Airlines must therefore make their purchase decisions on the basis of a number of factors in the absence of the actual performance experience of the airplane. Among these factors are the performance characteristics of the airplane, operational costs, pressurization, quality of technology used, reputation and proven record of the seller, the seller's ability to provide service, the acquisition cost, and financing.[20] Because of the high debt-to-equity ratio of most commuter airlines, a new equipment decision can often determine the success or failure of a carrier. Often, the cost of a single aircraft exceeds the net worth of the airline itself.

The buyer's ability to evaluate the performance and quality of a new aircraft is therefore essential and is acutely dependent on the availability of detailed technical specifications regarding the airplane. Without such specifications a buyer could not be expected to commit itself to a purchase, and the negotiation of the sale would not proceed to the question of financing. A seller who does not provide detailed specifications cannot be said to be in head-to-head competition for the sale.[21, 22]

Information obtained by the Commission establishes that to date CAC has made very limited efforts to market the CAC–100. Calls on potential customers have been relatively few, and detailed specification documents have not been provided. CAC has informed the Commission that it did not have preliminary detailed specifications ready to supply to its customers until after May 15, 1982, a date subsequent to the orders from Wright, Ransome, and Command for the ATR–42.[23] In addition, confidential marketing documents submitted by CAC indicate that as of early 1982 CAC was aware that other manufacturers were making better sales presentations and that CAC needed aircraft specification and performance documents in order to compete effectively. Representatives of the three U.S. airlines that have purchased the ATR–42 have all told the Commission that the CAC–100 was never seriously considered at the time of their purchasing decisions. Prominent among the reasons given for the lack of consideration was CAC's failure to provide specification documents. Responses to the Commission's purchaser questionnaires further confirm that other potential purchasers have not been provided with firm, reliable data on the CAC–100.

Based on the record of this investigation, we find no reasonable indication that the allegedly subsidized sales of the ATR–42 have resulted in material retardation of the establishment of CAC as a U.S. producer. The limited nature of CAC's sales efforts, particularly the unavailabiliity of specification documents, has seriously restricted CAC's access to the market and has prevented it from competing for sales to date.

Views of Commissioner Eugene J. Frank

Based upon the record of Preliminary Investigations Nos. 701–TA–174–175 on Certain Commuter Airplanes from France and Italy, I have determined there is a reasonable indication that the establishment of an industry in the United States is being materially retarded, because of allegedly subsidized imports of commuter airplanes from France and Italy. The

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[17] Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751–TA–5, USITC Pub. 1234 (1982); Motorcycle Batteries from Taiwan, Inv. No. 731–TA–42, USITC Pub.1228 (1982); Synthetic L-Methionine from Japan, Inv. No. 751–TA–4, USITC Pub. 1167 (1981); Regenerative Blower/Pumps from West Germany, Inv. No. AA1921–140, T.C. Pub. 626 (1974) (Views of Commissioner Moore). *CF.* Certain Ultra-Microtome Freezing Attachments, Inv. No. 337–TA10, USITC Pub. 771 (1976).

[18] The loan guarantee by the Economic Development Administration of the Department of Commerce is contingent on CAC's receiving at least 25 orders for the CAC–100. Report at A–15 and A–17.

[19] Commissioner Calhoun notes that commuter airlines, especially the successful ones, generally make their equipment acquisition decisions two to three years in advance of actual delivery of the equipment. Such decisions are most often based upon market forecasts and anticipated needs, the added assurance of equipment availability, and the likelihood of the manufacturer making price, warranty or some other concessions. The manufacturers of commuter airplanes make an effort to secure sales of their product several years prior to its delivery, largely to help finance the substantial capital outlay necessary for production and to test the marketability of the product.

[20] Although U.S. purchasers indicated that financing was not a major factor in their decisions to buy the aircraft, there is information on the record that indicates that variations in financing terms could result in signifiacnt differences in the overall cost of an airplane. Report at A–31 through A–37. Article entitled "Commuter Aircraft Ruling Nears" appearing in *The Journal of Commerce* on July 6, 1982, and submitted by Congressman Lyle Williams, 19th Ohio District. Commissioner Calhoun does not join in this footnote.

[21] Commissioners Calhoun and Haggart note that because of the industry custom of purchasing airplanes well in advance of production, a manufacturer, such as CAC, entering the market for the first time may face unique problems in achieving buyer acceptance. For example, the financial stability of the company may be more closely scrutinized by the buyer. In addition, the inability of the purchaser to evaluate the company's track record in constructing and servicing airplanes would be an important factor in determnining whether to purchase a plane from a newly-established manufacturer. This is not to say that a well-designed and aggressively marketed airplane introduced by a new manufacturer could not be successful in the marketplace. However, in establishing causality, we must be careful not to attribute to imports the market entry difficulties typically faced by new entrants.

[22] Chairman Eckes notes that, with regard to causation of any material retardation, it remains unclear in this investigation as to the suitability of petitioner's product to the needs of the marketplace, notwithstanding the availability of specifications.

[23] *See* memorandum of July 9, 1982, from Woodley Timberlake, investigator, to the record.

reasons for my determination are discussed in the following sections.

Domestic Industry

The appropriate scope of the industry is defined in large measure by agreement of both the petitioner and respondent in these preliminary investigations. Both parties have agreed that the industry considered in these investigations of *certain* commuter airplanes is essentially all 40- to 60-passenger seats commuter airplanes. Some information suggested by some authorities was: that seats are not the only criteria to be applied or that only 40- to 60- passenger seats commuter aircraft is too rigid an industry definition, I do not concur based on all factors I evaluated. I believe evidence presented indicates a segment of the market can be considered as an industry. Comments by some commuter airline executives indicate that this is the segment of the market they really considered in decisions to purchase aircraft for their airlines. They relied heavily on seats available being 40 to 60 seats.

The commuter aircraft industry management in the past has frequently underestimated the number of seats required according to investigations' record. The Airline Deregulation Act of 1978 has stimulated commuter airline industry expansion into many of the smaller- and medium-sized cities or towns where major airlines abandoned their airline service. Major airlines generally wanted to concentrate on longer-haul markets served usually by their larger *jet* aircraft. However, all aircraft *to a certain extent* compete with one another just as all items purchased in the economy compete. Hence, even a "smaller" commuter aircraft with 34 or even fewer seats in a "theoretical" sense may compete with a 40 to 60 passenger seats larger commuter aircraft. However, with pilot and crew costs rising, continuing restrictions on number of flights because of air controller availabilities and aircraft technical or other advancements, it is my opinion that larger aircraft with at least 40 to 60 passenger seats represents the domestic industry. There is considerable interest shown by commuter airlines in stretched aircraft versions and extra space to ease in conversion to freight capacity. To have such capacity flexibility and interchangeability, a larger 40- to 60-passenger seats aircraft is desirable or almost mandatory.

There is a considerable difference between *listing* many types of commuter aircraft when a commuter airline is considering purchase and is uncertain what criteria should be applied in a final selection. Each airline may list different requirements depending on intended routes. Some routes may require four-engine commuter aircraft because of air speed, power needs, take-off, safety, "over-water" regulations or other requirements, length of flights, airport and mountain elevations, servicing flexibility and flights to such service centers (even on three engines), and other features. In preliminary investigations, frequently all the technical requirements or factors are not adequate evaluated or compared. Hence, this lack of data should not blemish preliminary determinations that are based on low threshold requirements.

Some airlines and aircraft manufacturers, especially in the evolving commuter aircraft industry since 1979, do not have rigid specification for necessary planes. This does not mean that the overall commitment to competing in this industry is any less real on a low threshold definition of what is adequate competition or sales effort. In final investigations, more analysis can be completed of: technical matters, market sizes and definitions, injury and material retardation, foreign subsidies, and possible *forthcoming* minimum "allowable" interest rate "arrangements" and payment terms that may be agreed upon by certain European Community and North American continent exporters of commuter aircraft in their export sales efforts. It is imperative to note again that in these preliminary investigations, the petitioner (Commuter Aircraft Corporation—CAC) which is developing the 50-seat CAC–100 and the respondents (a consortium of the French company Societe Nationale Industrielle Aerospatiale and the Italian company Societa Aerospaziale Italiana) which developing the ATR–42 that is a 42- to 49-seat aircraft are both agreed on the type of aircraft which represents the industry covered by these investigations. It is important to note there are plans to provide for "stretched" versions of each of these aircraft. The CAC–100 could possibly be expanded up to a 59- or 60-seat version, and the ATR–42 could be expanded to a 54- to 58 passenger seat capacity. Hence, commuter aircraft passenger revenues could be enhanced if there were more actual passengers per plane. Whether other commuter aircraft manufactures in the United States will, in the future, stretch their existing aircraft or offer a new planned aircraft to fit this agreed industry definition is not the conjectural concern of the Commission. I accept the industry definition which for some reasons was agreed upon in these investigations by both the petitioner and respondent.

Material Retardation of the Establishment of a Domestic Industry

I determine that there were sales of aircraft (the ATR–42) prior to the Commissioners' investigation, briefing, determination, and vote, on Wednesday, July 7, 1982, and the following factors were known or existed:

1. These are preliminary investigations where low-threshold criteria or "standards" apply according to numerous statements and Congressional intent.[24]

2. Retardation standards are still in a state of evolution relative to each industry and type of situation.[25]

3. Alleged interest rate "subsidies" implications were derived by staff research and were presented in the preliminary "staff" report which was to be reorganized according to staff comments to me and my involved staff. These comments were made to me prior to the Commission's final vote on this investigation. There were what I now consider to be major errors in the texts and tables related to ATR–42 interest payment differentials and related statistics which were only found, noted, and corrected by the Commission staff after the July 7, 1982 Commission vote on this preliminary investigation. These corrections, I believe, now should be included in the staff report which should become the (Commission) Report if accepted as corrected by the Commission. The transcript of the Preliminary Hearing conducted on June 23, 1982, on pages 121 and 122 indicated, according to Mr. Walker, that the respondent (consortium) offered 10.4 percent interest over eight years to "people who have signed options before November 15 (1981) and entered into contract before May 15 (1982). The current rates of interest that are being offered are 12.75 percent, not 10.4 percent in keeping with the contested arrangement."

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[24] See my views on low-threshold preliminary determinations in U.S. I.T.C. Publication 1259, June 1982, Frozen French Fried Potatoes from Canada, pp. 12–15.

[25] General Counsel U.S.I.T.C. Memorandum GC–F–215 to the Commission of July 2, 1982, including discussion of views of Commissioner Moore in Investigation No. 337–TA–10 (1976) and the Salmon Gill Fish Netting of Manmade Fibers from Japan, Investigation No. 751–TA–5 U.S.I.T.C. Publication 1234 (1982). I conclude that it has been demonstrated that CAC has taken substantial steps and made an affirmative commitment toward establishing production.

4. There had been a CAC first class mailing of a very large specification booklet on the CAC–100. This mailing began on or about May 1, 1982, and went to 30 to 40 commuter airlines. Hence, commuter airlines had reasonably adequate information on the CAC–100 and could evaluate it more fully if they desired and needed to do so.

5. It is understood that the CAC–100 actually has an "internal" stretching capacity in terms of passenger seats. The present version of the CAC–100 by changing passenger seating arrangements can accommodate up to 59 seats.

6. Both planes it is understood rely on: Pratt and Whitney turboprop engines, technical advances in materials utilized to construct the air frame and bond the components together. Essentially, based upon details provided in a June 28, 1982, post-conference brief filed on behalf of CAC and containing confidential business information, there was considerable documentation illustrating, in my estimation, that the CAC–100 technology was not based on "old" technology. Hence, I conclude both planes (the CAC–100 and ATR–42) are similar in the use of advanced technology and avionics. These are some of the factors repeatedly stated as necessary for an aircraft to be seriously considered by purchasing commuter airlines. Other lists of factors to be evaluated in reaching conclusion and decisions in commuter aircraft purchases seem to be now equally available and indicative of advanced technologies being utilized in both planes. On June 14, 1982, the Commission recorded receipt of Copy No. 60 of "Preliminary Detailed Specifications" for the CAC–100, attached to Mr. Graham's letter of June 9, 1982. This is the full revised May 1, 1982, (but Confidential) detailed specification. However, the May 1, 1982, booklet referred to above was a shorter technical details booklet of approximately 50 or 60 pages according to CAC. Based on all of the above, I conclude adequate details for this type of aircraft at this stage of development were available to numerous commuter airlines on or shortly after May 1, 1982. The fact that some commuter airlines did not have *detailed* specifications earlier did not preclude these airlines from re-evaluating their options to purchase the ATR–42 and/or to enter into discussions relative to the CAC–100 for first time or to supplement or replace their purchases of or options on the ATR–42. Hence, some or all of the *estimated* 21 ATR–42 planes "sold" to U.S. airlines might have been reconsidered if the actual contract dates and terms permitted. The fact that some U.S. commuter airlines had options, etc. to purchase the ATR–42, in my opinion, materially reduced the potential for sales of the CAC–100 to other U.S. airlines on or after May 15, 1982. These U.S. commuter airlines' decisions, if U.S. and/or world market size for the 40- to 60-passenger seat commuter aircraft is as restricted as some experts contend, materially retarded CAC establishment of a U.S. 40- to 60-passenger commuter aircraft industry. CAC has shown its substantial commitment to building the CAC–100 and has made adequate investment and sales efforts based upon standard approaches used by private enterprise companies engaged in the overall aircraft manufacturing industry. It is realized that when a new U.S. industry is being created, the strength of the new entrant(s) will be questioned if such a corporation(s) is not a major established corporation. Capital, in my opinion, will probably be available for well-conceived products where experienced management exists. Such experience can come from management at other aircraft companies or in consortiums.

7. It is of little value to indicate to a petitioner that more sales efforts should have been made, more detailed specifications should have been provided, or that such efforts should now be made and to refile with the appropriate U.S. Government Commissions and/or Departments later. In the interim, additional orders and time will be lost to this potential industry's establishment which is allegedly materially injured by reason of alleged subsidies resulting from below U.S. market interest rates offered to U.S. commuter airlines. Foreign interest rates for similar credit risk situations, in my opinion, may also be alleged to be subsidized and may preclude potential CAC–100 sales in foreign markets. These foreign sales are not particularly discussed in this investigation or my opinion, but are involved in the viability of CAC under the circumstances described above.

Conclusion

The negative determination in this case will probably result in the loss of a potential 1,100 construction jobs and an eventual potential 1,600 jobs in the Youngstown, Ohio, area not including indirect jobs. This, in my opinion, results from comments or decisions to end or retard further these preliminary investigations and not allow them to answer fundamental questions which I believe beg to be answered. No shield on the sufficiency and timing of sales information can, in my judgment, be raised in these particular preliminary investigations, which should have been judged on a low-threshold basis.

I determine that there is a reasonable indication that the establishment of an industry in the United States is being materially retarded because of allegedly subsidized imports of commuter airplanes from France and Italy.

Issued: July 12, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–19741 Filed 7–20–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–118]

Certain Sneakers With Fabric Upper and Rubber Soles

Notice is hereby given that the prehearing conference and hearing scheduled for July 19, 1982 (47 FR 26258, June 17, 1982) are cancelled. At the request of the parties, the prehearing conference is rescheduled for September 7, 1982 at 9:00 a.m. in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing shall commence immediately thereafter.

The Secretary shall publish this Notice in the **Federal Register.**

Issued: July 9, 1982.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 82–19739 Filed 7–20–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–108]

Certain Vacuum Bottles and Components Thereof; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Direct Import, Inc.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Direct Import, Inc., on the basis of a joint motion filed by complaint Union Manufacturing Co., respondent Direct Import, and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof.

The joint motion to terminate the investigation as to Direct Import, Inc., included an affidavit by Lester H. Kaneta, president of Direct Import, Inc. In his affidavit, Mr. Kaneta stated that Direct Import has not imported any vacuum bottles in commercial quantities for resale or any other purpose, and is not currently importing into or selling in the United States any accused vacuum bottles. Mr. Kaneta also stated that Direct Import will not import or sell the allegedly infringing vacuum bottles in the United States, unless and until there is a final decision by the Commission or a court that the vacuum bottles do not infringe complainant's trademark.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0350.

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19740 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-183 (Final)]

Potassium Permanganate From Spain; Final Countervailing Duty Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation.

SUMMARY: As a result of a final determinination by the United States Department of Commerce that the government of Spain is providing its producer and exporter of potassium permanganate with certain benefits which constitute a subsidy within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–183 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of potassium permanganate provided for in item 420.28 of the Tariff Schedules of the United States. This investigation will be conducted to the provisions of part 207, subpart C, of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76458).

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Johnson, Office of Industries, U.S. International Trade Commission, Room 109, 701 E Street, NW., Washington, D.C. 20436; telephone 202–523–0127.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1982, the Department of Commerce published its final determination that the government of Spain has provided its sole producer and exporter of potassium permanganate with a net subsidy of 0.74 percent of the f.o.b. value of the imported merchandise. The Commerce investigation commenced as a result of a petition filed on November 10, 1981, by counsel on behalf of the Carus Chemical Co., of La Salle, Illinois. At the time of the filing Spain was not a "Country under the Agreement" and was not entitled to a preliminary material injury investigation by the Commission. A preliminary negative determination was made by the Department of Commerce, effective the date that Spain became a "Country under the Act," in accordance with section 102(a)(2) of the Trade Agreements Act of 1979. In such circumstances, the U.S. International Trade Commission is given 75 days from the date of the final affirmative determination in which to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of the imports that have been found by the Commerce Department to be subsidized.

A staff report containing preliminary findings of fact will be available to all interested parties on July 30, 1982.

Service of documents.—Any interested person may appear in this investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with section 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than August 11, 1982.

The Secretary will compile a service list from the entries of appearance filed in this final investigation. Any party submitting in connection with this investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submission.—Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission on or before August 18, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential business treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on August 12, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.) on July 30, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on August 5, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before August 9, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for rule

201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76472).

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19735 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-52 (Final)]

Sheet Piling From Canada; Final Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that there is a reasonable basis to believe or suspect that exports of sheet piling from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-52 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of sheet piling of iron or steel provided for in items 609-96 and 609.98 of the Tariff Schedules of the United States. This investigation will be conducted according to the provisions of Part 207, subpart C, of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76458).

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission, Room 341, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0296.

SUPPLEMENTARY INFORMATION:

Background: On January 4, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731-TA-52 (Preliminary), that there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, by reason of imports of sheet piling from Canada which was allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before September 7, 1981.

A staff report containing preliminary findings of fact will be available to all interested parties on August 31, 1982.

Service of documents.—Any interested person may appear in this investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with § 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than August 11, 1982.

The Secretary will compile a service list from the entries of appearance filed in this final investigation and from the Commission's record in the preliminary investigation. Any party submitting a document in connection with this investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before September 24, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential business treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on September 16, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 9:30 a.m., e.d.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) on September 3, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., e.d.t., on August 31, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before September 13, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76472).

Issued: July 16, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19734 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-122, Order 11]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Second Notice of Hearing on Relief, Bonding, and the Public Interest and Schedule for Filing Written Submissions

Notice is hereby given that the hearing scheduled before Administrative Law Judge Donald K. Duvall, the designated presiding officer, in connection with the above-styled investigation, at 10 a.m. on Monday, July 12, 1982, in Suite 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007, is cancelled and rescheduled to commence at 10 a.m., Friday, July 30, 1982. The purpose of this hearing is to create an administrative record, to be certified to the Commission, concerning the appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond in the event that the Commission determines that there is a violation of section 337 and that relief should be granted.

Parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. Presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainants, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and the interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has sixty (60) days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Persons making oral presentations on remedy, bonding, and the pubic interest will be limited to fifteen (15) minutes. The presiding officer may in his discretion expand the aforementioned time limits upon receipt of a timely request to do so.

The parties to the investigation and interested government agencies are encouraged to file briefs on the issues of remedy, bonding, and the public interest. The complainants and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions, including briefs, on the questions of remedy, bonding, and the public interest must be filed no later than the close of business on July 29, 1982. Written requests to appear at the hearing must be filed with the Office of the Secretary by July 28, 1982.

Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request in camera treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments containing confidential information approved by the Commission for in camera treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the Federal Register of May 19, 1982, 47 FR 21638.

The Secretary shall publish this notice in the Federal Register.

Issued: July 19, 1982.

Judge Donald K. Duvall,

Presiding Officer.

[FR Doc. 82-19693 Filed 7-20-82; 10:57 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Decree Amendments Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 21, 1982 a proposed consent decree amendment in *United States* v. *Alabama By-Products Corporation*, Civil Action No. 77-M-1455-S was lodged with the United States District Court for the Northern District of Alabama, and that on June 30, 1982 a proposed consent decree amendment in *United States, et al.* v. *Keystone Coke Company and Alabama By-Products Corporation*, Civil Action No. 81-0165, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed decree amendments provide for the extension of certain final compliance dates pursuant to the Steel Industry Compliance Extension Act of 1981 (42 U.S.C. 113(e)). See generally, 46 FR 62537.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Alabama By-Products Corporation*, D.J. Ref. 90-5-2-1-88.

The proposed Alabama amendment may be examined at the office of the United States Attorney, Northern District of Alabama, 200 Federal Building, 1800 Fifth Avenue, Birmingham Alabama, and at the Region 4 Office of the Environmental Protection Agency, Atlanta, Georgia. The proposed Pennsylvania amendment may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, United States Courthouse, 601 Market Street, Philadelphia,

Pennsylvania 19106, and at the Region 3 Office of the Environmental Protection Agency, Philadelphia, Pennsylvania. Copies of both the Alabama amendment and the Pennsylvania amendment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-19687 Filed 7-20-82; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Abate Improper Disposal of Hazardous Wastes

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 29, 1982, a proposed consent decree in *United States* v. *Bridgeport Rental & Oil Services, Inc., et al.*, Civil Action No. 80-3267, was lodged with the United States District Court for the District of New Jersey. The proposed decree provides for remedial activities with respect to a facility used for the storage and disposal of oil and hazardous wastes in southwestern New Jersey.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Bridgeport Rental & Oil Services, Inc.*, D. J. Ref. 90-7-1-157.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey 07102; at the Region II Office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York 10007; and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice (Room 1515), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-19686 Filed 7-20-82; 8:45 am]

BILLING CODE 4410-10-M

Antitrust Division; United States v. Society of Authors' Representatives Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedure and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States of America* v. *Society of Authors' Representatives*, Civil Action No. 82-CIV-4445. The complaint in this case alleges that the Society of Authors' Representatives, an association of literary agencies, engaged in a conspiracy to fix rates for services provided by its members, and to restrict advertising and the solicitation of clients by its members in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendant from directly or indirectly continuing or renewing the kind of conspiracy alleged in the complaint.

Public comment is invited within the statutory 60-day comment period. Such comment, and response thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212-264-0390).

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Civil No. 82-CIV-4445.

Filed: July 8, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant, Society of Authors' Representatives, and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be without prejudice to Plaintiff and Defendant, Society of Authors' Representatives, in this or any other proceeding.

Dated:

For Plaintiff: William F. Baxter, *Assistant Attorney General*, Mark P. Leddy, Ralph T. Giordano, *Attorneys, Department of Justice.*

Rebecca Meiklejohn, Ruth Dicker, *Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Telephone: (212) 264-0654.*

For Defendant: John S. Siffert, Fulop & Hardee, *One Dag Hammarksjold Plaza, New York, New York 10017, Telephone: (212) 940-8306.*

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Civil No. 82-CIV-4445.

Filed: July 8, 1982.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on ———, 1982, and Defendant, the Society of Authors' Representatives, having appeared by its attorneys, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by either party in respect to any such issue:

Now therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against Defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, association, corporation, or other business or legal entity.

(B) "Rates" means remuneration or reimbursement, including commissions, fees, or other charges, for any service rendered by any member of Defendant.

(C) "Defendant" means the Society of Authors' Representatives.

III

This Final Judgment applies to Defendant and to each of its officers, directors, employees, agents, successors and assigns and to all other persons, including members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Fixing, establishing or maintaining any rates or schedule of rates.

(B) Urging, recommending or suggesting that any of its members adhere to any rates or to any schedule of rates.

(C) Including in any instructional course or any material published or distributed by Defendant any recommended or suggested rates or report on customary rates or ranges thereof.

(D) Threatening or taking any punitive action against any person where such action is based upon that person's failure or refusal to adhere to any rates or any schedule of rates.

Provided, however, that nothing in this Section IV shall be construed to prevent Defendant from requiring its members to charge no rates for reading and rendering an opinion on manuscripts.

And further provided, however, that nothing in this Section IV shall be construed to prohibit Defendant from entering into an agreement with the Writers' Guild of America or any other labor organization, within the meaning of Section 6 of the Clayton Act (15 U.S.C. 7) and the Norris-LaGuardia Act (29 U.S.C. 101–115), pursuant to which Defendant undertakes to recommend to its members that they enter into an agreement with any such labor organization if the terms of that agreement do not violate the federal antitrust laws by virtue of the exemption provided in Sections 6 and 20 of the Clayton Act and the Norris-LaGuardia Act.

V

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from adopting, promulgating, publishing or seeking adherence to any constitutional provision, bylaw, rule, regulation, canon or code of ethics, statement of principle, contract, plan or program that prohibits or restricts or delineates as proper or improper:

(A) Advertising or the content and form of advertising; or

(B) Solicitation of any member's or any other person's clients.

Provided, however, that nothing in this Section V shall be construed to prevent Defendant from:

(1) Prohibiting its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law; or

(2) Prohibiting its members from soliciting clients in violation of applicable state or federal law.

VI

Defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Amend its Canon of Ethics Nos. 8, 10 and 11 and the pamphlet published by it entitled "The Literary Agent" to eliminate therefrom any language that is contrary to or inconsistent with any provision of this Final Judgment and amend such other of its statements of principles, contracts and material published or distributed by it that contain language that is contrary to or inconsistent with any provision of this Final Judgment to eliminate such language therefrom, and send copies of all such amended documents to each of its members and employees.

(B) Cause a copy of a letter in the form attached hereto as Exhibit A, covering at least one-fourth of the page in size, to be published in the Authors' Guild Bulletin and Dramatists' Guild Bulletin.

VII

Defendant is ordered and directed:

(A) Within sixty (60) days after the date of entry of this Final Judgment, to mail a copy of this Final Judgment to each of its members.

(B) To provide a copy of this Final Judgment to any person upon his application to Defendant to become a member.

(C) Within ninety-five (95) days from the date of entry of this Final Judgment, to file with this Court and serve upon Plaintiff an affidavit concerning the fact and manner of its compliance with Paragraph (A) of this Section VII.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant made to its principal office, be permitted:

(1) Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of Defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assitant Attorney General in charge of the Antitrust Division made to Defendant's principal office, Defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by Defendant to Plaintiff, Defendant represents and identifies in writing the material in any such information or documents to which a claim for protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure", then ten (10) days' notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Defendant is not a party.

IX

This Final Judgment shall have full force and effect for a period of ten (10) years from the date of its entry. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and direction as may be necessary or appropriate for the construction or carrying out of the Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Entered:

United States District Court Judge.

Exhibit A

To: Authors' Guild Bulletin and Dramatists' Guild Bulletin.

Gentlemen: On ———. 1982, the Department of Justice filed *United States* v. *Society of Authors' Representatives.* No. —, a civil antitrust action under Section 1 of the Sherman Act. The complaint alleges that the Society of Authors' Representatives ("SAR") has engaged in an agreement to eliminate competition by fixing the rates (commissions and other fees) its members charge authors, by prohibiting its members from advertising and by prohibiting its members from soliciting each other's clients.

Prior to the taking of any testimony and without admission by any party with respect to any issue, the SAR consented to the entry of a Final Judgment terminating the lawsuit. The Court found that the settlement was in the public interest and entered a Final Judgment on 1982. A copy of the Final Judgment is available for inspection at the offices of the SAR.

In accordance with the provisions of the Final Judgment, we are informing interested parties that any previous announcements made by the SAR which eliminated competition in any of the above ways have been withdrawn. The judgment reaffirms that

each of the SAR's members may charge any commission or fee it wishes. In addition, members may solicit each other's clients and may advertise. The judgment, however, does not preclude the SAR from requiring its members to charge no fees for reading and rendering opinions on manuscripts. Nor does the judgment prevent the SAR from prohibiting its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law or from engaging in the solicitation of clients in violation of applicable state or federal law.

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Proposed Final Judgment.

Competitive Impact Statement.

Civil No. 82–CIV–4445.

Filed: July 8, 1982.

The United States of America, pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), submits this Competitive Impact Statement in connection with the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On ———, 1982, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act, 15 U.S.C. 4, alleging that the defendant Society of Authors' Representatives ("SAR") and unnamed co-conspirators had, beginning at least as early as 1976 and continuing until the filing of the complaint, engaged in a continuing combination and conspiracy to fix the rates (commissions and other fees) members of the SAR charge for their services, to prohibit advertising by members of the SAR, and to prohibit members of the SAR from soliciting each other's clients, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The complaint also alleges that as a result of the combination and conspiracy, competition among literary agencies has been restrained and authors seeking and using the services of literary agencies have been deprived of the benefits of free and open competition.

The complaint seeks and adjudication that the alleged combination and conspiracy is illegal, and an injunction enjoining the defendant from continuing or renewing the alleged combination or conspiracy and prohibiting the defendant from fixing rates and from restricting advertising or the solicitation of clients by its members.

The Court's entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings to construe, modify or enforce the Judgment, or to punish violations of any of its provisions.

II

Description of Practices Giving Rise to the Alleged Violation of the Antitrust Laws

The SAR, organized under the provisions of the New York Not-For-Profit Corporation Law, is an association of approximately 54 literary agencies which have their principal places of business in New York City. Among the members of the SAR are some of the leading literary agencies in the country.

The primary services offered by literary agencies are the negotiation of the sale of rights to an author's work and the collection of money due the author. The clients of literary agencies are authors of material for publication in books and magazines and for presentation in theaters, motion pictures and on television. The authors represented by members of the SAR are located throughout the United States and in foreign countries. The purchasers of literary material to whom the members of the SAR sell their clients' works include publishers of books and magazines, theatrical producers and motion picture and television studios. They are located throughout the United States and in foreign countries.

In 1928, the SAR adopted a set of Rules that required its members to charge specified rates for their services. That set of Rules was replaced in 1966 by a Code of Ethics that recommended that members of the SAR charge specified rates for certain of their services. Then, in 1976, the SAR adopted a Canon of Ethics that prohibited its members from advertising and from soliciting each other's clients. During the 1970s, the SAR continued to engage in conduct that had the effect of fixing the rates its members charged for their services. It stated in "The Literary Agent," a pamphlet it publishes, that certain rates were "standard" or "customary" and identified in the pamphlet "maximum" rates charged by literary agencies. In addition, members of the SAR, acting under its auspices, have recently discussed their rates with each other and have exchanged information relating to current and future rates. The SAR has also established a Committee on Ethics and Practices to enforce the requirements and proscriptions contained in the Rules, Code of Ethics and Canon of Ethics.

III

Explanation of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment, in the form they negotiated, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it shall not constitute an admission by either party with respect to any issue of fact or law.

The proposed Final Judgment enjoins any direct or indirect continuation or renewal of the kind of conspiracy alleged in the complaint. Specifically, it prevents the defendant from fixing or recommending adherence to any rates or from engaging in certain specified conduct that would tend to have the effect of fixing rates. It does not, however, prevent the SAR from requiring that its members charge no rates for reading and rendering an opinion on manuscripts. It also does not prohibit the SAR from entering into an agreement with the Writers' Guild of America or any other labor organization, pursuant to which the SAR recommends to its members that they enter into an agreement with any such labor organization if the terms of that agreement do not violate the federal antitrust laws by virtue of the exemption provided in Sections 6 and 20 of the Clayton Act and the Norris-LaGuardia Act.

The proposed Final Judgment also enjoins the defendant from restraining advertising or the solicitation of clients by its members but permits it to prohibit its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law or from soliciting clients in violation of applicable state or federal law.

The proposed Final Judgment contains several provisions relating to the defendant's compliance with its terms. It requires the defendant to amend certain of its documents so as to eliminate language inconsistent with the provisions of the Final Judgment, to distribute copies of all amended documents to its members and employees, and to place an announcement of its abandonment of restraints on rates, advertising and solicitation in two trade publications. It also requires the defendant to send copies of the Final Judgment to its members and to applicants for membership. The proposed Final Judgment also provides methods of determining and securing the defendant's compliance with its terms. It specifies that it will be effective for ten years from the date of its entry.

The last provision states that entry of the Final Judgment is in the public interest. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditional upon a determination by the Court that it is in the public interest.

The government believes that the proposed Final Judgment is fully adequate to prevent the continuation or recurrence of the violation of Section 1 of the Sherman Act alleged in the complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended 15 U.S.C. 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to Ralph T. Giordano, Chief, New York Office, Antitrust Division, United States Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212–264–0390). These comments and the Department's responses to them will

be filed with the Court and published in the Federal Register.

All comments will be given due consideration by the Department of Justice. The Department remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Additionally, the proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court at any time during the life of the Final Judgment for interpretation, modification, or enforcement of its provisions.

VI

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the government was a full trial on the merits and on relief. The government considers the proposed Judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the government in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b). Dated: New York, New York.

Respectfully submitted,

Rebecca Meiklejohn, Ruth Dicker, Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Tel. No.: (212) 264–0654.

[FR Doc. 82–19681 Filed 7–20–82; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office; Public Access to the Interim Document Card File

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of limited provisional access to an additional in-process file.

1. Notice of access and background

This notice is issued to inform the public that limited provisional public access to the Interim Document Card File will be allowed. In its notice of October 14, 1981 (46 FR 198) the Copyright Office published a policy decision regarding public access to in-process files. The general policy of the Office is to deny direct public access to in-process files and to any work (or other) areas where they are kept. Access to information contained in in-process files may be obtained by anyone upon request to the Information and Reference Division, in accordance with established procedures.

The Copyright Office recognizes that some members of the public wish to conduct searches of certain in-process files in order to obtain up-to-date information. The notice of October 14, 1981, as an exception to the general policy of denying direct public access to in-process files and to the work areas containing them, announced permission to direct access by members of the public to certain files, namely the Master Index Card File and the Temporary Title Card File. The Interim Document Card File is now added to them as a file to which direct public access is permitted.

2. Description of file

The Interim Document Card File provides preliminary information concerning documents submitted for recordation (and titles of copyrighted works contained in them) prior to the preparation of the official record in catalog card and mircrofilm form. Each card contains the remitter's name and as many titles as can be contained on a single card.

The file is maintained in daily chronological sequence by date of receipt of the document. The file is added to daily—with separations between each day's cards—until cards representing 60 days' receipts have been accumulated. On the 61st day the first day's cards will be discarded. The file is presently located in the Master Index Unit, Room LM–436, James Madison Memorial Building.

3. Access to file

Direct access by members of the public to the Interim Document Card File is permitted under the following conditions:

1. Hours of public access to the above file shall be from 10:00 a.m. to 11:00 a.m. Monday through Friday, on days when the Copyright Office is open for business.

2. Cards may not be removed from the file.

3. The Copyright office reserves the right to deny direct access to the Interim Document Card File in the case of any person who violates the stated conditions of the privilege.

Dated: July 8, 1982.

David Ladd,

Register of Copyrights.

[FR Doc. 82–19667 Filed 7–20–82; 8:45 am]

BILLING CODE 1410–03–M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, September 14, 1982 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., July 14, 1982.

Charles H. Atherton,

Secretary.

[FR Doc. 82–19682 Filed 7–20–82; 8:45 am]

BILLING CODE 6330–01–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Grants to Dance Companies) to the National Coucil on the Arts will be held August 9–14, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, inlcuding discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 14, 1982.

[FR Doc. 82–19683 Filed 7–20–82; 8:45 am]

BILLING CODE 7537–01–M

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, August 6, 1982 from 9:00 a.m.—5:30 p.m. and on Saturday, August 7, 1982 from 9:00 am—5:30 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on Friday, August 6, 1982 from (9:00 a.m.—1:00 p.m. and 4:30 p.m.—5:30 p.m. and on Saturday, August 7, 1982 from 2:15 p.m.—5:00 p.m. Topics for discussion will include Program Review and Guidelines for Theater, Museum, Challenge, Advancement and Visual Arts Fellowship Programs; state and local arts programs and relationships; and arts education.

The remaining sessions of this meeting on Friday, August 6, 1982 from 2:30 p.m.—4:30 p.m. and on Saturday, August 7, 1982 from 9:00 a.m.—2:15 p.m. and 5:00 p.m.—5:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential FY 1984 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council & Panel Operations National Endowment for the Arts.

[FR Doc. 82-19671 Filed 7-20-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on August 11, 1982, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss seismic design margins for nuclear power plants.

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: *Wednesday, August 11, 1982—1:00 p.m. until 2:30 p.m.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19756 Filed 7-20-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on August 11, 1982, Room 1046, at 1717 H Street, NW., Washington, DC. The Subcommittee will hold discussions with the NRC Staff regarding the format and contents for, and approach to, the next NRC Long-Range Research Plan for Fiscal Years 1985 through 1989.

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: *Wednesday, August 11, 1982—8:30 a.m. until 1:00 p.m.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this matter.

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. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19757 Filed 7-20-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Watts Bar Nuclear Plant; Meeting

The ACRS Subcommittee on Watts Bar Nuclear Plant will hold a meeting on August 10, 1982, Room 1046, at 1717 H Street, NW., Washington, D.C. The Subcommittee will complete the review of the application of Tennessee Valley Authority for an operating license for the Watts Bar Nuclear Plant.

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 except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, August 10, 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 be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Tennessee Valley Authority, 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, Staff Engineer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19758 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR–36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications to increase the required number of operable safety injection actuation signal sensors. This amendment also changes the TS, in the area of administrative controls, to indicate the establishment of a separate training department and other organizational changes.

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 issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated April 12, 1982 and May 21, 1981 as supplemented December 11, 1981, (2) Amendment No. 61 to License No. DPR–36 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 Wiscasset Public Library Association, High Street, Wicasset, Maine. 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 14th day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–19754 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Workshop on Nuclear Power Plant Aging; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting

SUMMARY: The study of plant aging is part of the NRC's long-range research program to improve the safety of nuclear power plants. The intent of the workshop is to encourage participation by interested persons to define the problem, discuss the state of knowledge on aging phenomena and identify future research activities necessary to understand time-related degradation and its influence on plant safety.

DATE: August 4 and 5, 1982.

ADDRESS: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Aggarwal, Program Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 443–5946.

SUPPLEMENTARY INFORMATION: The workshop will examine the effects of aging on components important to the safety of nuclear power plants. Although emphasis is on electric, mechanical and structural components such as containment structures, cranes, pumps, valves, electric switches, sensors, cables, power sources, distribution equipment and actuation devices, discussions will also include reactor vessels, steam generators and piping.

Persons or organizations who wish to present technical papers should send an abstract to Benjamin E. Bader, Division 9446, Sandia National Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87185 by July 23.

There is no registration fee.

Dated at Rockville, Maryland, this 14th day of July 1982.

For the Nuclear Regulatory Commission.

William F. Anderson,

Acting Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 82–19759 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Atomic Safety and Licensing Board; Tennessee Valley Authority; Evidentiary Hearing and Prehearing Conference

July 19, 1982.

In the matter of United States Department of Energy Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant), Docket No. 50–537.

Please take notice that a Prehearing Conference and an Evidentiary Hearing will be held in this licensing proceeding before an Atomic Safety and Licensing Board (Board), pursuant to the Atomic Energy Act of 1954 as amended (the Act), and the regulations set forth in Title 10, Code of Federal Regulations (CFR), Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice."

A Prehearing Conference will commence on August 23, 1982 at 8:30 a.m. at the Executive Seminar Center Building, 301 Broadway, Oak Ridge, Tennessee. An Evidentiary Hearing will commence immediately following the Prehearing Conference that same day and will continue until completion of taking evidence on the issues and contentions admitted for the purpose of a limited work authorization (LWA–1) hearing, pursuant to 10 CFR 50.10(e).

The Clinch River Breeder Reactor Plant (CRBRP), a demonstration scale liquid metal fast breeder reactor (LMFBR), was originally authorized by Congress in 1970. In April, 1975, the Project Management Corporation (PMC) and the Tennessee Valley Authority (TVA) filed a § 104(b) application with the U.S. Nuclear Regulatory Commission (NRC) for a license to construct and operate the proposed CRBRP. The Application and Environmental Report (ER) were docketed on April 11, 1975. The Preliminary Safety Analysis Report (PSAR) was docketed on June 13, 1975. Legislation enacted by Congress in January 1976, authorized realignment of responsibilities of the participants in the project. The license application was accordingly amended in May 1976, to recognize that the U.S. Energy Research and Development Administration (ERDA) had overall responsibility for managing the design, construction, and operation of the CRBRP. The NRC Staff conducted a review of the CRBRP between 1975 and 1977. The Staff issued a Final Environmental Statement (FES) in February, 1977, which recommended the grant of a Construction Permit and issued a Site Suitability Report (SSR) in March 1977, which stated that the site was suitable from the standpoint of radiological health and safety.

On April 20, 1977, President Carter announced the Administration's decision to cancel the CRBRP. ERDA then requested suspension of the hearings and this request was granted by the Board on April 25, 1977.

On October 1, 1977, ERDA became the Department of Energy (DOE) as a result of PL 95–91, Department of Energy Organization Act and Executive Order 12009.

On January 11, 1982, the Applicants filed a motion to lift the suspension of the hearings and to set a prehearing conference. In light of President Reagan's policy statement on October 8, 1981 directing government agencies to proceed with completion of the CRBRP, and the Commission Order of December 24, 1981, the Board determined that there was no longer any reason for the suspension. Therefore, on January 18, 1982, the Board issued an order lifting the suspension and setting a date for a prehearing conference. (47 FR 3228)

A prehearing conference was held on February 9–10, 1982 at Oak Ridge, Tennessee. The schedule governing the proceeding was established in the Prehearing Conference Order of February 11, 1982. A conference with the parties was held in Bethesda, Maryland on April 5–6, 1982 to consider the admissibility of proposed contentions, and April 20, 1982 to determine the scope of the issues to be considered at the LWA–1 hearing.

The evidentiary hearing commencing August 23, 1982 will cover contentions 1(a), 2(a)–(d), (f)–(h), and 3(b)–(d), as limited in the Board's Order dated April 22, 1982, and contentions 4, 5, 6, 7, 8 and 11(b)–(d) as set out in the Order dated April 14, 1982. These contentions are as follows:

Contention 1(a) challenges the low probability of anticipated transients without scram (ATWS) or other CDA initiators, sufficient to enable CDAs to be excluded from the envelope of DBAs.

Contentions 2(a)–(c) question the validity of the Staff's postulated radiological source term for site suitability analysis.

Contention 2(d) questions whether the design of the containment is adequate to reduce calculated offsite doses to an acceptable level.

Contentions 2(f)–(h) question the validity of the codes used by Applicants and Staff.

Contention 3(b) questions Applicants' and Staff's analyses of potential accident initiator sequences and events.

Contention 3(c) alleges that accidents associated with core melt-through following loss of core geometry and sodium-concrete interactions have not been adequately analyzed.

Contention 3(d) challenges the analysis of the ways in which human error can initiate, exacerbate or interfere with the mitigation of CRBRP accidents.

Contention 4 addresses the health and safety consequences of acts of sabotage, terrorism or theft directed against the CRBR or supporting facilities.

Contention 5 questions the suitability of the site slected for the CRBR.

Contention 6 alleges that the SER and FES do not include an adequate analysis of the environmental impact of the CRBRP fuel cycle.

Contention 7 alleges inadequate anlyses of alternatives.

Contention 8 alleges inadequate analyses of unavoidable adverse environmental effects and the costs associated with decommissioning.

Contentions 11(b)–(d) assert residual health and safety consequences if the CRBRP merely complies with current requirements for radiation protection of the public health.

This evidentiary hearing will be conducted by a Board which has been duly designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Gustave A. Linenberger, Jr., Dr. Cadt H. Hand, Jr., Members, and Marshall E. Miller, Esq., Chairman.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene, may request in writing permission to make a limited appearance pursuant to the provisions fo 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, at times, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform in writing the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than twenty (20) days from the date of publication of this notice in the **Federal Register**. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are germane and within the scope of the hearing as specified above. A member of the public does not have a right to participate in this evidentiary hearing unless granted the right to intervene as a party or the right of limited appearance.

Written limited appearance statements may be submitted to the Board at any time prior to closing the record in this phase of the proceeding. Oral statements will only be received at times designated by the Board in order not to interfere with the taking of evidence in this adjudicatory proceeding. Oral limited appearance statements may be made on August 23, 1982, immediately following the final prehearing conference, and at such other times as the Board shall specify. Both oral and written statements will be made a part of the official record of this proceeding.

Is is so ordered.

Dated at Bethesda, Maryland, this 19th day of July 1982.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 82-19819 Filed 7-20-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Privacy Act of 1974; System of Records; Annual Publication

In accordance with section 552a(e)(4) of the Privacy Act of 1974 the Postal Rate Commission hereby publishes notice of the existence of its System of Records. The System of Records was last published in full text in the **Federal Register** on September 22, 1977 (42 FR 48228). No changes have occurred since the last full text publication and the System of Records remains in effect as previously published.

David F. Harris,

Secretary.

[FR Doc. 82-19746 Filed 7-20-82; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18881; File No. SR-Amex-82-5]

American Stock Exchange, Inc.; Self-Regulatory Organization Amendment of Exchange Rule 423 on COD Orders

Comments requested on or after August 11, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 19, 1982, the American Stock Exchange 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 for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Rule 423 on collect on delivery (COD) orders to require that member organizations, with certain exceptions, accept COD orders only when the customer or its agent and the member organization or its agent utilize the facilities of a depository for the confirmation, acknowledgement, and book entry settlement of all depository eligible transactions.

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

(a) *Purpose.* In 1980, a Joint Committee was formed by the Securities Industry Association and the New York Stock Exchange to study certain operating problems that exist with respect to COD trading by institutions. Briefly, trading on a COD basis is a courtesy which brokers normally extend only to their institutional customers. Arrangements are generally made with the broker whereby payment for the securities purchased by the institution (or by its investment manager) is to be made to the broker upon delivery of the securities to an agent of the institution, generally a custodian bank.

The major problem on which the Joint Committee focused was the frequent rejection of these deliveries, which is considered to be one of the most significant operational problems facing the securities industry today. Attempted deliveries of securities by brokers to their customers' agents in exchange for payment are often rejected ("DK'ed") because the agent has not received the customer's instructions to accept the securities. This problem is usually the result of a lost or delayed mailing of the confirmation and/or instructions to the customer or agent, a problem which increased significantly in periods of high volume, The costs incurred by brokers as a result of these DK's are quite significant.

The Joint Committee has recommended that, with certain exceptions, brokers be permitted to accept COD orders only when the customer or its agent and the broker or its agent (i.e., clearing firm) utilize the facilities of a registered securities depository for the confirmation, acknowledgement, and book entry settlement of all transactions in depository eligible securities. In the Joint Committee's view, the electronic confirmation, acknowledgement, and book entry settlement of COD trades offered by a depository is a far more efficient method for the processing of these trades than the conventional method utilizing the mails or private delivery systems. The Joint Committee believed that the use of depositories should reduce the number of DK's thereby significantly reducing costs. Moreover, the use of depositories will reduce the physical delivery and receipt of securities through book entry settlement.

The NYSE amended its Rule 387 on COD orders last December. The Amex now proposes to amend its comparable rule (Rule 423) to require that member organizations, with certain exceptions, accept COD orders only when the customer or its agent and the member organization or its agent utilize the facilities of a depository for the confirmation, acknowledgement, and book entry settlement of all depository transactions.

The proposed Rule provides an exemption for COD transactions between a member organization and a customer where one party to the trade and its agent are not members of a registered securities depository. Thus, persons not currently participating in a depository will not be required to become participants and will be exempted from the Rule. However, where both parties to a transaction or their agents are members of a depository they will be required to utilize the depository's electronic processing system. In addition, COD transactions that are not to be settled in the United States will be exempted.

In order to allow sufficent time for those affected to make any necessary adjustments, the rule change is not scheduled to take effect until January 1, 1983. By that time, all five registered

securities depositories are expected to either have in place a linkage with the Depository Trust Company's existing Institutional Delivery System [1] or to have developed a comparable system of their own.

(b) *Basis.* The proposed amendment is consistent with Section 6(b) of the Exchange Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange has determined that the proposed additional requirements will have no impact on competition among broker-dealers, since brokers not currently participating in a depository will not be required to become participants. Moreover, the proposal has been designed to assure fair competition among registered securities depositories.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change from Members, Participants, or Others

No written Received comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approved 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 there of with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). 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 within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 9, 1982.

George A. Fitzsimmons,

Secretary.

American Stock Exchange, Inc.—Proposed Amendment of Rule 423

It is proposed that Amex Rule 423 be amended as set forth below.

Arrows (► ◄) indicate words to be added.

COD Orders

Rule 423. No member or member organization shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased is to be made to the member or member organization upon delivery of the securities to an agent of the customer, or whereby payment for securities sold is to be made by the member or member organizations to an agent of the customer upon receipt of the securities from such agent, unless all of the following procedures are followed:

(1) The member or member organization shall have received from the customer prior to or at the time of accepting the order, the name and address of the agent and the name and account number of the customer on file with the agent to which the securities are to be delivered or from which they are to be received, as the case may be;

(2) Each order accepted from the customer pursuant to such an arrangement has noted thereon the fact that it is a payment on delivery (POD) or collect on delivery (COD) transaction;

(3) The member or member organization delivers to the customer a confirmation, or in lieu thereof delivers to the customer all relevant data customarily contained in a confirmation, with respect to the execution of the order, in whole or in part, not later than the close of business on the next business day after any such execution; and

(4) The member or member organization has obtained an agreement from the customer that the customer will furnish his agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and that in any event the customer will assure that such instructions are delivered to his agent no later than:

(i) in the case of a purchase by the customer where the agent is to receive the securities against payment (COD), the close of business on the fourth business day after the date of execution of the trade as to which the particular confirmation or relevant data relates; or

(ii) in the case of a sale by the customer where the agent is to deliver the securities against payment (POD), the close of business on the third business day after the date of execution of the trade as to which the particular confirmation or relevant data relates.

►(5) The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.◄

* * * Commentary

.01 A confirmation with respect to a COD or POD transaction pursuant to this Rule must set forth all of the information normally contained on customer confirmations, including name and account number of customer, date of entry of order, security, amount, price, and any specific instructions relating thereto. If the order has been only partially executed, the confirmation should show the number of shares or units which remain to be executed.

.02 Under subparagraph (3) of this Rule, the member organization must assure that the confirmation is physically delivered to the customer no later than the close of business on the next business day after the date of execution, regardless of whether the order has been fully executed or only partially executed. Thus, the mailing of confirmations may not be sufficient to assure compliance with this Rule. If the customer's office is so located that physical delivery of the confirmation

[1] An electronic communications system utilized by DTC, banks, brokerage houses and certain customers to facilitate the confirmation and acknowledgement of COD trades.

cannot be made within the specified time period, the member organization must make other arrangements to assure that the customer actually receives the relevant information by the close of business on the day following the date of execution. This may be accomplished by telegram, teletype, telephone or similar means of communication, followed by delivery or mailing of the written confirmation. In case the relevant information concerning a confirmation is furnished to a customer by telephone communication, the member or member organization should prepare and preserve a memorandum of such conversation as evidence of delivery of the required information.

.03 The agreement by the customer to furnish his agent with instructions for receiving or delivering securities upon receipt of information concerning executions must likewise provide for actual delivery of such instructions within the time period specified in subparagraph 4 of this Rule. Again, if such instructions cannot be hand delivered, wire communications must be used.

►.04 The following transactions shall be exempt from the provisions of paragraph (5) of this Rule:

(1) Transactions that are to be settled outside of the United States.

(2) Transactions wherein both a member organization and its agent are not participants in a securities depository.

(3) Transactions wherein both a customer and its agent are not participants in a securities depository.

.05 The exemptions contained in .04(2) and (3) of this Commentary shall be periodically reviewed by the Exchange in order to determine their continued necessity.

.06 For the purposes of this rule, a "securities depository" shall mean a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission pursuant to Section 17A(b)(2) of the Act.

.07 For the purposes of this rule, "depository eligible transactions" shall mean transactions in those securities for which confirmation, acknowledgement and book entry settlement can be performed through the facilities of a securities depository as defined in Commentary .06 of this rule.

.08 Rule 423(5) and Commentary .04, .05, .06, and .07 shall become effective January 1, 1983.◄

[FR Doc. 82-19640 Filed 7-20-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18882; File No. SR-MSE-82-6]

Midwest Stock Exchange, Incorporated; Self-Regulatory Organizations

Relating to the use of the facilities of a securities depository in respect to the confirmation, acknowledgement and book entry settlement of securities transctions. Comments requested on or before August 11, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1982 the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have 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

Arrows indicate additions (► ◄)

Article XV

►Rule 5(a) No member organization shall accept an order from a customer pursuant to an agreement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless the following procedure is followed:

The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.

* * * Interpretations and Policies

.01 The following transactions shall be exempt from the provisions of this Rule:

(1) Transactions that are to be settled outside the United States.

(2) Transactions wherein both a member organization and its agent are not participants in a securities depository.

(3) Transactions wherein both a customer and its agent are not participants in a securities depository.

.02 The exemptions contained in .01(2) and (3) of these Interpretations and Policies shall be periodically reviewed by the Exchange in order to determine their continued necessity.

.03 For the purposes of this rule, a "securities depository" shall mean a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission pursuant to Section 17A(b)(2) of the Act.

.04 For the purposes of this rule, "depository eligible transactions" shall mean transactions in those securities for which confirmation, acknowledgement and book entry settlement can be performed through the facilities of a securities depository as defined in Rule 5.03.

.05 Rule 5 and Interpretations and Policies .01, .02, .03 and .04 become effective January 1, 1983.◄

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Bais for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed of the proposed rule change is to establish the requirement that members may not accept orders from their customers or from the customer's agent unless they utilize the facilities of a securities depository in respect to the confirmation, acknowledgement and settlement of securities transactions. The rule provides exceptions for transactions that are settled outside the United States, and also for transactions wherein (i) both a member organization and its agent are not participants in a securities depository, and (ii) both a customer and its agent are not participants in a securities depository. Therefore, persons who are not existing participants in a securities depository will not be required to become participants.

The proposed rule change is designed to remedy "don't know rejected trades" (attempted deliveries of securities against payment that are rejected because the receiver says it has no instructions from its customers to accept such securities), a problem which is exacerbated during periods of high volume.

The change will contribute to the uniform treatment of securities transactions in that other national securities exchanges and the National

Association of Securities Dealers have submitted, or will soon submit, similar rule changes for approval.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it will foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated believes that no burdens will be placed on competition as a result of the proposed rule change. Rather, the Exchange believes that the rule change will assure fair competition among securities depositories.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). 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 within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 9, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19639 Filed 7-20-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[(Delegation Order No. 51) (Rev. 6)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This delegation order is revised to redelegate the authority to sign proofs of claim and other documents to the Chiefs of sections or units responsible for preparing proofs of claim. The text of the delegation order appears below.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Antony C. Allevato, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 7539, OP:C:O, Washington, D.C. 20224, (202) 566-4654 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

William Wauben,

Acting Assistant Commissioner (Collection).

[Order No. 51 (Rev. 6)]

Delegation Order

Date of issue: July 20, 1982.

Effective Date: July 20, 1982.

Subject: Authority to Sign Proofs of Claim and Other Documents.

1. Pursuant to the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.7701-9 and 26 CFR 301.6871, the authority to sign proofs of claim and other documents asserting the obligations incurred under the Internal Revenue laws (including taxes, penalties and interest), in order to claim and collect such obligations in any proceeding under the Bankruptcy Act, Bankruptcy Code and any receivership, decedent's estate, corporate dissolution, or other insolvency proceeding is hereby redelegated to the following officers:

Chief, Special Procedures Staff
Chief, Technical and Office Compliance Branch
Chief, Technical and Office Compliance Group in streamlined districts

2. The authority in Section 1 may be redelegated but not lower than the following:

Special Procedures Officers
Advisors no lower than grade 12
Advisor/Reviewers no lower than grade 12
Chief, of sections or units responsible for preparing proofs of claim no lower than grade 8.

This order supersedes Delegation Order No. 51 (Rev. 5), issued September 29, 1980.

James I. Owens,

Deputy Commissioner.

[FR Doc. 82-19752 Filed 7-20-82; 8:45 am]

BILLING CODE 4830-01-M

National Productivity Advisory Committee; Meeting

July 13, 1982.

The Subcommittee on Research, Development and Technological Innovation of the National Productivity Advisory Committee will meet from 9:30 a.m. till 12:30 p.m. on August 6, 1982 in the IBM Board Room, 50th floor, Citicorp Building, 153 East 53rd Street, New York, New York.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-19670 Filed 7-20-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., July 22, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 21670, *Frontier, Airlines, Inc., Subsidy Mail Rates.* (OGC)
3. Docket 38459, Second year subsidy rate for Atlantic Southeast Airlines for provision of essential air service at Brunswick, Georgia. (BDA)
4. Dockets 40272 and 40273, Republic Airlines' notice to suspend service at Iron Mountain and Ironwood, Michigan. (BDA, OCCCA)
5. Docket 40205, Simmons Airlines' 30-day notice of intent to suspend its service at Manitowoc, Wisconsin. (Memo 948-A, BDA)
6. Dockets 40634 and 40635, Applications of United Air Carriers, Inc. d.b.a. Overseas National Airways (ONA) for certificate authority to engage in scheduled interstate and overseas air transportation between all points in the United States, its territories and possessions, and for authority between points in the United States and a point or points in Belgium, the Netherland, Luxembourg and the Federal Republic of Germany. (BDA, BIA, OGC)
7. Docket 40625, Application of Jeffrey D. Haddock and Ronald A. Watson, d.b.a. Valdez Airlines, under expedited procedures, for a section 401 certificate. (Memo 1319-A, BDA)
8. Bumping of subsidized airlines under section 419 of the Act. (OGA, BDA)
9. Docket 40432, *Bergt-AIA-Western-Wien Acquisition and Control Case.* (OGC)
10. Docket 40545, CAB Recommendations to the FAA concerning slot allocations under the Interim Operations Plan. (OGC, BDA, OEA, OCCA)
11. Docket 26348, Institutional Control of Air Carriers Investigation. (BALJ, BDA)
12. Docket 39675, Application of Air Tungaru Corp. for an amendment to its section 402 permit. (Memo 1400, BIA, OGC, BA J)
13. Docket 40676, Application of Northwest Airlines, Inc. for an exemption to engage in foreign air transportation between Billings, Montana and Calgary, Alberta, Canada. (BIA)
14. Report on Canada. (BIA)
15. Negotiations with China. (BIA)

STATUS: 1-12 Open 13-15 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1062-82 Filed 7-16-82; 4:55 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, July 26, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish branches:

First American Bank of Palm Beach County, North Palm Beach, Florida, for consent to merge, under its charter and title, with First American Bank of Broward County, Hollywood, Florida and to establish the four approved offices of First American Bank of Broward County as branches of the resultant bank.

First American Bank of Palm Beach County, North Palm Beach, Florida, for consent to merge, under its charter and title, with Merritt Square Bank, Titusville, Florida, and to establish the four offices of Merritt Square Bank as branches of the resultant bank.

Maine Savings Bank, Portland, Maine, for consent to merge, under its charter and title, with 1st Consumers Savings Bank, Augusta, Maine, and to establish the five offices and one approved but unopened office of 1st Consumers Savings Bank as branches of the resultant bank.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Bank of Santa Maria, Santa Maria, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,305—Farmers Bank of the State of Delaware, Dover, Delaware

Memorandum and Resolution re: Banco Regional, Bayamon, Puerto Rico

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Feldstein, Gelpi & Hernandez, Old San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum and resolution re: Proposed amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would remove (or, in the alternative, increase) the current $150,000 ceiling on the amount of savings deposits of a corporation, partnership, association, or other organization which may be held by an insured nonmember commercial bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Bank Supervision:

Memorandum re:

First Pennsylvania Bank, N.A., Bala-Cynwyd, Pennsylvania

First Pennsylvania Corporation, Philadelphia, Pennsylvania

Report of Actions Taken Under Delegated Authority

Reports of the Director, Division of Liquidation:

Memorandum re:

American Bank & Trust Company, Orangeburg, South Carolina

Mohawk Bank & Trust Company, Greenfield, Massachusetts
Sale of Residential Mortgage Loans to the Federal National Mortgage Association (FNMA)
Memorandum re:
The Morrice State Bank, Morrice, Michigan, Termination of Field Liquidation Office
Report of the General Counsel:
Memorandum re:
Reports of Actions Approved Under Delegated Authority: Settlements of Claims and Attorneys' Fees Approved for Payment
Reports of the Director, Office of Corporate Audits:
Memorandum re:
Office of Corporate Audits Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority
Audit Report re:
Project Review of the Accounts Receivable Subsystem—Interim Audit Report #2, dated June 1, 1982

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 19, 1982.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[S 1063–82 Filed 7–19–82; 2:29 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 26, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Notice of acquisition of control:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Reports of committees and officers:

Report of the Director, Office of Corporate Audits:
Audit Report re: Banco Credito y Ahorro Ponceno, San Juan, Puerto Rico, dated December 16, 1981

Discussion Agenda:

Application for consent to establish a branch:

Riverhead Savings Bank, Riverhead, New York, for consent to establish a branch in the vicinity of the intersection of Ponquogue and Fanning Avenues, Village of Hampton Bays, Town of Southampton, New York.

Request for rescission of conditions previously imposed in granting Federal deposit insurance:

Fidelity Management Trust Company, Boston, Massachusetts.

Request for relief from adjustment for violations of the Truth in Lending Act:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No 45,272–NR—United States National Bank, San Diego, California
Case No 45,274–L—Northeast Bank of Houston, Houston, Texas
Case No 45,300–SR—Crown Savings Bank, Newport News, Virginia

Appeal from an initial partial denial of a request for records pursuant to the Freedom of Information Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 19, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1064–82 Filed 7–19–82; 2:30 pm]

BILLING CODE 6714–01–M

federal register

Wednesday
July 21, 1982

Part II

Department of Health and Human Services

Public Health Service

Health Maintenance Organizations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule amends the Public Health Service regulations on qualification of health maintenance organizations (HMOs). Changes are made in the procedural requirements for entities to obtain qualification as federally qualified HMOs. These changes include requirements relating to Freedom of Information requests and deletion of the fair hearing provision. Adoption of these amendments will update the requirements for HMOs seeking Federal qualification.

EFFECTIVE DATE: This rule is effective on August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: On June 8, 1977, interim regulations were published in the **Federal Register** (42 FR 29400-01, 14-16), to amend 42 CFR Part 110, Subpart F, issued under Title XIII of the Public Health Service Act (the Act). On October 27, 1981, an NPRM was published in the **Federal Register** (46 FR 52566-9) concerning the qualification of HMOs. The Secretary invited comments by December 28, 1981. Two persons submitted comments on the NPRM.

The comments received, responses thereto, and the changes made, if any, are summarized below:

1. One commenter requested that the Department reconsider its position that inpatient psychiatric services are a supplemental rather than a basic health service. The basic health services are not described in these regulations. The Department will consider this comment in any proposed changes to 42 CFR Part 110, Subpart A, which specifies at § 110.102 those services which are basic health services.

2. The other commenter questioned the Department's proposed change in the footnote to § 110.604(a) regarding the release of documents submitted in connection with a qualification application. The commenter suggested that a policy that did not provide an "advance" ruling or allow the applicant to withdraw such documents when requested by the public under the Freedom of Information Act (FOIA) could cause competitive harm to the HMO. As noted in the Notice of Proposed Rulemaking (46 FR 52567), Department policy and practice do not normally provide for advance rulings as to whether application material may be released to the public. Also, an applicant cannot withdraw a document after an FOIA request has been made. After the document has been submitted to the Department, whether it may be released is determined by applicable law, which does not give the applicant the discretion to retrieve a document.

This commenter also suggested that the Department utilize the Federal Criminal Code (18 U.S.C. 1905) rather than the FOIA to determine which information is releasable. The commenter appears to misunderstand the relationship between the FOIA and 18 U.S.C. 1905. Because both statutes apply to the Department's disclosure of information, each decision by the Secretary whether to disclose information must be made consistent with both laws. Under 18 U.S.C. 1905, employees of the Department are prohibited from disclosing information that is not authorized by law which relates to:

> The trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association * * *"

Because the statute prohibits the disclosure of this information, the Secretary will not release any information that he concludes falls within the scope of 18 U.S.C. 1905 unless that release is otherwise authorized by law. To the extent that the Secretary has received trade secrets and privileged or confidential commercial or financial information which he concludes is not prohibited from disclosure under 18 U.S.C. 1905, this information may still be exempted from release under the FOIA if the Secretary concludes that the release would impair the Department's ability to obtain similar information or its disclosure is likely to cause substantial harm to the competitive position of the organization submitting the information. The Secretary has decided to note 18 U.S.C. 1905 along with FOIA in the discussion of the disclosure of Government records at footnote 2 of § 110.604.

The commenter also noted that there are no HMO regulations specifically addressing procedures for release of documents contained in a request for a service area expansion by a qualified HMO, and he suggested that the Department extend its submission requirements for qualification applicants to applicants for a service area expansion as well. The same standards that apply to the release of documents submitted in connection with a qualification application apply to all documents submitted to OHMO, including those submitted for a service area expansion. The Secretary does not believe it is necessary to state explicitly that these standards apply to service area expansion.

3. The Secretary had proposed deleting the entire requirement in § 110.603(b)(3) that each regional component of an HMO sign its assurances within one year from the date of the signing by the first component. The Secretary had intended only to delete the requirement that these assurances be signed within one year. In order to correct this inadvertent deletion, the Secretary has now restored the requirement in § 110.603(e) that each regional component sign its assurances.

4. The Secretary had proposed to modify the requirement in § 110.604(b) that an applicant for qualification list certain financial, proprietary and managerial relationships with its contractors so that the provision would be consistent with section 1318 of the Act (added by the HMO Amendments of 1978). However, since section 1318 of the Act, which requires an HMO to disclose certain transactions with a "party in interest," does not require this disclosure in connection with an application for qualification and since that information relating to a qualification applicant's financial, proprietary and managerial relationships may be requested under § 110.604 (formerly § 110.604(a)), § 110.604(b) is not necessary. Therefore, the Secretary has reconsidered the proposal and has deleted § 110.604(b).

Executive Order 12291

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

Regulatory Flexibility Act

The Department of Health and Human Services certifies that these regulations will have no significant impact on a substantial number of small entities, including HMOs, small businesses, small organizational units, and small governmental jurisdictions. In fact, several changes in these rules reduce the paperwork burden and reporting requirements on the HMO applicants.

Office of Management and Budget Clearance: Reporting and Recordkeeping Requirements

The Department is required to submit to the Office of Management and Budget (OMB) for review and approval the application form described at § 110.604. This application form has been approved through September 30, 1982, OMB number 0937–0103.

List of Index Terms for the Federal Register Thesaurus

In accordance with 1 CFR § 18.20 the Secretary sent the Director of the **Federal Register** a list of index terms for 42 CFR Part 110. These terms, which have been included in the **Federal Register** Thesaurus of Indexing Terms, follow:

List of Subparts in 42 CFR Part 110

Grant programs-health, Health care, Health facilities, Health insurance, Health maintenance organizations, Loan programs-health.

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

Dated: May 11, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: July 1, 1982.

Richard S. Schweiker,

Secretary.

Subpart F is revised to read as follows:

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Subpart F—Qualification of Health Maintenance Organizations

Sec.

110.601 Applicability.
110.602 Definitions.
110.603 Requirements for qualification.
110.604 Application requirements.
110.605 Evaluation and determination of qualification.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318 of the Public Health Service Act, as amended, 95 Stat. 572–578 (42 U.S.C. 300e–300e17).

Subpart F—Qualification of Health Maintenance Organizations

§ 110.601 Applicability.

The regulations of this subpart apply to any entity seeking a determination by the Secretary under section 1310(d) of the Act that it is a qualified health maintenance organization (HMO).

§ 110.602 Definitions.

In addition to the terms defined in § 110.101 of this part, as used in this subpart:

"Operational qualified "HMO" means an HMO which the Secretary has determined provides basic and supplemental health services to all of its members in accordance with Subpart A of this part and is organized and operated in accordance with Subpart A of this part.

"Preoperational qualified HMO" means an entity which the Secretary has determined will, when it becomes operational, be a qualified HMO.

"Transitionally qualified HMO" means an entity which operates a prepaid health care delivery system and which the Secretary has determined meets the requirements of § 110.603(b). A transitionally qualified HMO is considered a "qualified HMO" for the purpose of compliance by an employer with the requirements of section 1310 of the Act and Subpart H of this part. Under these requirements, the employer must include the HMO in its health benefits plan so long as the HMO's qualification has not been revoked under section 1312(b) of the Act and § 110.904(d) of this part.

§ 110.603 Requirements for qualification.

Upon the basis of an application submitted in accordance with this subpart and any additional information and investigation (including site visits) that the Secretary may require:

(a) The Secretary will determine that the applicant is an operational qualified HMO upon finding that it meets the requirements of Subpart A of this part and if it provides written assurances satisfactory to the Secretary, within 30 days of the date of the Secretary's determination, that it:

(1) Provides and will provide basic health services (and any contracted for supplemental health services) to its members;

(2) Provides and will provide these services in the manner prescribed by section 1301(b) of the Act and Subpart A of this part;

(3) Is organized and operated, and will continue to be organized and operated, in the manner prescribed by section 1301(c) of the Act and Subpart A of this part;

(4) Under arrangements which will safeguard the confidentiality of patient information and records, will provide access to the Secretary and the Comptroller General or any of their duly authorized representatives for the purpose of audit, examination or evaluation to any books, documents, papers, and records of the entity relating to its operations as an HMO, and to any facilities operated by the entity; and

(5) Will continue to comply with any other assurances which the entity has given to the Secretary under §§ 110.203(b), 110.303(h), and 110.403(b).

(b) The Secretary may determine that an applicant is a transitionally qualified HMO upon finding that it currently is organized and is providing prepaid health services as described in this paragraph and if it provides written assurances satisfactory to the Secretary, within 30 days of the date of the Secretary's determination, that it will:

(1) With respect to all new group and individual (non-group) contracts which it enters into after the date of the Secretary's determination, provide basic health services (and any contracted for supplemental health services) to members enrolled under these contracts and will provide these services in the manner prescribed by Subpart A of this part, and with respect to these members, will be organized and operated in accordance with § 110.108 of this part.

(2) With respect to its group and individual contracts which are in effect on the date of the Secretary's determination and which are renewed or renegotiated during the period approved by the Secretary under paragraph (b)(2)(iii) of this section in accordance with the plan so approved:

(i) Provide at least those services specified in the following sections of this part (except that these services may be limited as to time and cost):
§ 110.102(a)(1) (physician services);
§ 110.102(a)(2) (outpatient services and inpatient hospital services);
§ 110.102(a)(3) (medically necessary emergency health services); and
§ 100.102(a)(6) (diagnostic laboratory and diagnostic and therapeutic radiologic services);

(ii) Be organized and operated in accordance with § 100.108 (except that it need not assume full financial risk for the provision of basic health services as required by § 100.108(b), and need not abide by the limitations on insurance of § 100.108(b)(1) and (3)) and provide that payment for basic health services shall be in accordance with § 100.105 (except

that it need not comply with (A) the requirement for a community rating system of § 100.105(a)(3), (B) the limitations on copayments of § 100.105(a)(4), and (C) the requirement of § 100.106(b) that supplemental health services payments which are fixed on a prepayment basis be fixed under a community rating system);

(iii) Implement a time-phased plan acceptable to the Secretary which specifies definite steps for meeting, at the time of renewal of each group or individual contract, but not to exceed 3 years from the date of the Secretary's determination, all the requirements of Subpart A of this part; and

(iv) Upon completion of the time-phased plan, (A) provide basic and supplemental health services to all of its members, (B) provide these services to all of its members in the manner prescribed by Subpart A of this part, and (C) be organized and operate in the manner prescribed by Subpart A of this part.

(c) The Secretary may determine that an applicant is a preoperational qualified HMO if it provides, within 30 days of the Secretary's determination, satisfactory assurances that it will become operational within 60 days following that determination and will, when it becomes operational, meet the requirements of Subpart A of this part. Upon notification by the applicant to the Secretary that it has become operational, the Secretary will, within 30 days of this notification, make a determination whether the applicant is an operational qualified HMO. In the absence of this determination, the organization is not an operational qualified HMO even though it becomes operational.

(d) If the Secretary determines that an applicant meets the requirements for qualification and the applicant fails to sign its assurances within 30 days following the date of the determination, then the Secretary will notify the applicant in writing that its application is considered withdrawn and that is not a qualified HMO.

(e) An HMO which has more than one regional component, as described in § 100.105(b)(3)(iii), will be considered qualified for those regional components for which assurances have been signed in accordance with this section.

§ 100.604 Application requirements.

An applicant seeking a determination that it is a qualified HMO under this subpart shall apply to the Secretary in the form and manner which the Secretary prescribes.[1] The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute and the regulations of this part. The applicant must provide a complete description of how the applicant meets or will meet the requirements of Subpart A of this part and applicable sections of the Act.[2] An applicant receiving a denial may not submit a new application for qualification until at least four months after the date of this notice of that determination.

§ 100.605 Evaluation and determination of qualification.

(a) The Secretary will evaluate applications submitted under this subpart and will obtain any additional necessary information, employing site visits, public hearings or any other appropriate procedures. If an application is incomplete, the Secretary will notify the applicant and provide it with an opportunity to furnish the missing information within 60 days of the date of the notice. Following the evaluation of all relevant information, the Secretary will determine whether the applicant meets the appropriate requirements of §§ 100.603 and 110.604, section 1301 of the Act, and Subpart A of this part.

(b) Upon finding that an applicant (1) does not appear to meet the requirements for qualification and (2) appears to be able to meet the requirements within 60 days, the Secretary will issue to the applicant a notice of intent to deny qualification and a summary of the basis for this preliminary finding. Within 60 days of the date of this notice, the applicant may respond in writing to the issues or other matters which were the basis for the Secretary's preliminary finding, and may revise its application to remedy any defects identified by the Secretary.

(c) The Secretary will notify each applicant for qualification under this subpart of the determination and the basis for the determination.

(d) Upon the denial of an application for qualification under this subpart, the Secretary will notify the applicant in writing and provide the applicant an opportunity to request a reconsideration of the determination. A request for reconsideration must be submitted in writing, within 60 days following the date of the notification of denial, be addressed to the officer or employee of the Department of Health and Human Services who has denied the application, and set forth the grounds upon which the reconsideration is requested, specifying the material issues of fact and of law upon which the applicant relies. Reconsideration will be based upon the record compiled during the qualification review proceedings, materials submitted in support of the request for reconsideration, and other relevant materials available to the Secretary. The Secretary will provide written notice of the reconsidered determination to the applicant. The notice will set forth the basis for the determination.

(e) The Secretary will publish on a monthly basis in the **Federal Register** the names, addresses, and descriptions of the service areas of the newly qualified HMOs. A cumulative list of qualified HMOs may be obtained by writing the Document Control Unit, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, or by visiting that Office between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Interested persons should contact that Office between 8:00 a.m. and 4:30 p.m., Monday through Friday, to make an appointment to obtain additional information regarding qualified HMOs.

[FR Doc. 82-19643 Filed 7-20-82; 8:45 am]

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[1] Application forms and instruction may be obtained by writing the Office of Health Maintenance Organizations, Division of Qualification, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

[2] Applicants should be aware that provisions of the Freedom of Information Act, 5 U.S.C. 552, may require disclosure of certain official Government records. Regulations of the Department of Health and Human Services, 45 CFR Part 5, provide exceptions to disclosure. Applicants submitting material which they feel is covered by these exceptions should label the material "privileged" and include a concise explanation of the applicability of 45 CFR Part 5. Upon receipt of a request for information under the Freedom of Information Act, the Secretary will examine the information and determine whether it is subject to disclosure. As part of this determination, the Secretary will decide whether information may not be disclosed under 18 U.S.C. 1905. Under this statute, the Department may not disclose any information not authorized by law that relates to certain confidential information such as trade secrets, processes and confidential financial information.

federal register

Wednesday
July 21, 1982

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants Endangered Status for United States Population of the Ocelot

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for U.S. Population of the Ocelot

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Due to an inadvertent oversight, the U.S. population of the ocelot (*Felis pardalis*), a species which occurs in extreme southeastern Texas, and which may wander into Arizona from Mexico, is not officially listed as an Endangered species, although all populations which occur in foreign countries are listed. This is because of the special circumstances that this species was listed pursuant to the 1969 Endangered Species Conservation Act, which had separate procedures and separate lists for foreign and domestic species. When the current 1973 Endangered Species Act repealed the 1969 Act, this species was carried forward onto the 1973 combined list but without completing the procedures for listing species which occur within the U.S.

On July 25, 1980, a proposed rulemaking was published to list the U.S. population of the ocelot, and which sought to correct the oversight which resulted in its inadvertent exclusion when the foreign populations were listed. At that time, the Governors of Texas and Arizona were notified of the proposed action, and asked to submit any data, comments, or opinions they might have. All data received as a result of the proposal have now been analzed, and the Service is hereby adding the U.S. population of the ocelot to the List of Endangered Fish and Wildlife.

No Critical Habitat is determined in this rulemaking on the ocelot because such a designation would not be in the best interests of conservation of the species.

DATES: This rulemaking becomes effective on August 20, 1982.

ADDRESSES: All questions pertaining to this rulemaking should be addressed to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All data and other materials related to this rulemaking are available for public examination during normal business hours at the Service' Office of Endangered Species, Suite 531, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Washington, D.C. (703/235–1975).

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1980, the Service published a proposed rulemaking in the Federal Register (45 FR 49844) to list the U.S. population of the ocelot (*Felis pardalis,*) and four other species, which, due to an oversight, were not legally listed despite the fact that foreign populations of these same species were officially on the List of Endangered Fish and Wildlife. The proposal pointed out that the Endangered Species Conservation Act of 1969, under which these five species were originally listed, required that the governors of any State in which an Endangered species occurs must be notifed when such a species is proposed for listing. The five species enumerated in the proposal had been placed on the list as Endangered "foreign" species under the 1969 Act, and none of the governors of the States in which they are resident was contacted at the time. Thus the native populations were never legally listed pursuant to the criteria and procedures of the 1969 Act. The 1969 Act has since been repealed by the Endangered Species Act of 1973. Because the "foreign" and "native" species lists of the 1969 Act were combined into a single list of "Endangered species" under the 1973 Act, the oversight was not discovered until some time later. When it was realized that the populations of these species in the U.S. were not officially listed, the Service published its July 25, 1980, proposal in an attempt to rectify the original error, and to gather sufficient data to warrant listing these U.S. populations. As a result of this proposal, the Service now has sufficient data to warrant a final rulemaking on the ocelot, and is herewith proceeding with a final rulemaking to list the U.S. population of this species as Endangered.

In the proposal, the public and all interested parties were asked to submit views, comments, data, etc., either in support of, or in opposition to, the proposal. The Service has received only two letters that contain comments pertaining to the ocelot. A summary of the contents of these letters as they pertain to the ocelot is as follows:

National Association for Sound Wildlife Programs. In a letter dated October 26, 1980, Dr. John D. Parrot, President of the Association, opposed the listing of any of the five species contained in the proposal. His points specifically pertaining to the ocelot may be summarized as follows:

1. that there is no scientific documentation that the species throughout its range is Endangered or Threatened in the wild;

2. that there is ample evidence that the species has been exterminated in the wild in the U.S.; and

3. that if it has not been exterminated, there is at least no evidence that it maintains any semblance of a viable population in the wild in the U.S.

The Service disagrees with all three of the Association's comments. The Service listed the ocelot as Endangered in 1972, based upon the best scientific and commercial data available. Evidence obtained since 1972, shows that throughout vast areas of Latin America, habitat has been destroyed, and the status of the ocelot continues to deteriorate. Ocelots at present *do* continue to survive in south Texas on about 50,000 acres of public and private land. Estimates of their numbers range from 12 to 60 animals (IUCN Red Data Book, 1982), and they are threatened by both habitat destruction, and killing as unwanted predators. The population, however, is still viable and is known to breed within its restricted range.

The Association's primary concern seems to be that listing the ocelot (as well as the other species in the proposal) in the U.S. as an Endangered species will somehow affect the activities of captive-breeders of this species. Listing of the native population of the ocelot, however, will not significantly change permit requirements for captive-breeders of ocelots. Since the majority of the captive breeding stock has come from the more numerous listed foreign populations, permits to import, export, sell in interstate commerce, etc., have inevitably been required for such captive-breeders of this species regardless of the listed status of the native population. Such permit requirements will continue unchanged under the new regulations, although any breeding done henceforth with native populations would be subject to new permit requirements.

Office of the Governor, State of Texas. In a letter dated November 26, 1980, the Governor of the State of Texas fully supported listing the ocelot (as well as the other species in the proposal).

Although the Governor of Arizona was notified of the proposed action, no response was received from the State. The Service therefore assumes Arizona has no objections to listing the ocelot as Endangered.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states:

General. (1) The Secretary shall by regulation determine whether any species is

an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

The Service's findings relative to the above five factors for the U.S. population of the ocelot are as follows:

Factor number (1) poses the greatest threat to the survival of the ocelot in the U.S. This species at one time inhabited brushland in the southwestern U.S. as far north as the Texas panhandle and central Arizona.

The clearing of brush in the Texas Rio Grande region to grow citrus crops, vegetables, and cotton, began in the 1920's and by 1940, most of the suitable habitat for the species was gone. Today, very little of the native brushland remains (about 50,000 acres in the southeastern part of the State), and only between 12 and 60 animals are reported to exist there. Thirty thousand acres of remaining brushland is on privately owned land, and is used for lease hunting and livestock grazing (primarily cattle and a few goats), but because of its small area, it is very vulnerable. Only 20,000 acres of land are currently federally protected on the Laguna Atascosa National Wildlife Refuge. The very limited area of habitat remaining for the species, plus the small population size, make it extremely Endangered in Texas. In Arizona, the ocelot apparently never was firmly established, and predator control operations helped to eliminate it some years ago. Any animal found in Arizona today would probably be a wanderer over the border from adjacent Mexico.

Critical Habitat

No Critical Habitat is being determined for the ocelot at this time because such a determination might operate to the disadvantage of the species and could be detrimental to its conservation primarily for the following reasons:

1. Ocelots are extremely valuable commercially; ocelot coats sell in Europe for as much as $400,000, and a live animal can bring $400 on the market. If Critical Habitat were to be determined, public hearings would be held, and attention would be drawn to the exact locality in which remaining populations in the U.S. occur. The great commercial value of the ocelot would make this a dangerous situation possibly causing illegal attempts to capture the few remaining animals for commercial gain.

2. The habitat of the species is already protected on Laguna Atascosa NWR.

For these reasons, no Critical Habitat is being determined for the ocelot in the rulemaking.

Effect of Rulemaking

When this rulemaking becomes effective, all the prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, will apply to the U.S. population of the ocelot. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It will also be illegal to possess, sell, deliver, carry, transport, or ship any individual from the U.S. population of the ocelot that was illegally taken. Regulations published in the **Federal Register** (40 FR 44412) provide for the issuance of permits to carry out otherwise prohibited activities under certain circumstances. Such permits are available for scientific purposes or to enhance the survival or propagation of the species.

This rulemaking will prohibit the "take" of any individuals of the U.S. population of the ocelot (except for specific purposes under permit). Ocelots are already protected by State law in Texas so that "take" is already prohibited. The listing action will reinforce State law, and provide additional personnel to enforce protection.

The Department has determined that this is not a major rule under Executive Order 12291. Ocelots occur on brushland which is currently used for livestock grazing and lease hunting. Listing of the ocelot is entirely compatible with both these land uses and will not impact on them in any way. The Service knows of no plans to change present land uses in the area under consideration.

Section 7 of the Act states, in part, that all Federal agencies shall carry out programs for the conservation of Endangered species, and shall assure that, none of their activities (authorized, funded, or carried out) are likely to jeopardize the continued existence of such species. The only Federal agency concerned with the listing of the U.S. population of the ocelot is the Service's Division of Wildlife Refuges. Approximately 20,000 acres of ocelot habitat in south Texas is found on the Atascosa National Wildlife Refuge. However, habitat on the Refuge is already being managed for the ocelot, and the species has always been strictly protected there. Therefore, there will be no additional impacts on the Refuge, or on any other Federal agencies resulting from this rule.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours. A determination has been made that this is not a major Federal action which would significantly affect the quality of the human environmental within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, implemented at 40 CFR 1500–1508.

Effects on Small Entities

The Department has determined that this action will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The only small entities in the area are the 30 owners of land on which ocelots occur. These landholders use the land for grazing and lease hunting, neither of which would be affected by the rule. Therefore, the listing is entirely compatible with present land uses; no planned changes in land uses are known.

This finding is made as a result of analyses by the Office of Endangered Species of information received from personnel of the Texas Parks and Wildlife Department, Laguna Atascosa NWR, and Regional field experts.

Author

The primary author of this rulemaking is John L. Paradiso, Office of Endangered Species (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, and plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended by revising the entry in § 17.11(h) for:

"Ocelot," under "MAMMALS," as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals: Ocelot	*Felis pardalis*	U.S.A. (TX, AZ) south through Central America to South America.	Entire	E	118	N/A	N/A.

Dated: July 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19728 Filed 7-20-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. 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	

List of Public Laws

Last Listing July 16, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

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