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federal register

Wednesday
September 29, 1982

Selected Subjects

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Selected Subjects

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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Proclamation 4979 of September 27, 1982

Thanksgiving Day, 1982

By the President of the United States of America

A Proclamation

Two hundred years ago, the Congress of the United States issued a Thanksgiving Proclamation stating that it was "the indispensable duty of all nations" to offer both praise and supplication to God. Above all other nations of the world, America has been especially blessed and should give special thanks. We have bountiful harvests, abundant freedoms, and a strong, compassionate people.

I have always believed that this annointed land was set apart in an uncommon way, that a divine plan placed this great continent here between the oceans to be found by people from every corner of the Earth who had a special love of faith and freedom. Our pioneers asked that He would work His will in our daily lives so America would be a land of morality, fairness, and freedom.

Today we have more to be thankful for than our pilgrim mothers and fathers who huddled on the edge of the New World that first Thanksgiving Day could ever dream. We should be grateful not only for our blessings, but for the courage and strength of our ancestors which enable us to enjoy the lives we do today.

Let us reaffirm through prayers and actions our thankfulness for America's bounty and heritage.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, November 25, 1982, as a National Day of Thanksgiving and I call upon all of our citizens to set aside that day for appropriate expressions of thanksgiving.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th. day of Sept. 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. 82-26995
Filed 9-27-82; 4:13 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 82-338]

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to an returning from the place at which an employee of Plant Protection and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Admininstrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORT

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, January 5, September 28, December 18, 1979, March 21, July 11, and October 10, 1980; January 7, April 17, June 19, and November 2, 1981; and March 31, 1982, (44 FR 1364, 55791, and 74791; 45 FR 18367, 46785, and 67288; 46 FR 1661, 22354, 32006 and 54323; and 47 FR 13503) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

(In hours)

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
Remove:			
* * * * *			
Arkansas:			
Undesignated ports	Conway		4

COMMUTED TRAVELTIME ALLOWANCES—Continued

(In hours)

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
* * * * *			
District of Columbia:			
Washington, DC, Metropolitan area (including Arlington, Alexandria, and Dulles International Airport, VA; Andrews AFB, MD; and Washington Navy Yard).		2	
* * * * *			
Maryland:			
Andrews AFB	Fredericksburg, VA.		3
Undesignated ports	Andrews AFB, Dover, DE, or Dulles International Airport, VA.		3
* * * * *			
Remove:			
* * * * *			
Tennessee:			
Undesignated ports	Knoxville		4
* * * * *			
Virginia:			
Quantico MCAS	Andrews AFB, MD, or Dulles International Airport.		3
Undesignated ports	Andrews AFB, MD, Dulles International Airport, Newport News, or Norfolk.		3
* * * * *			
Add:			
* * * * *			
Arkansas:			
Undesignated ports	Conway		3
* * * * *			
District of Columbia:			
Washington, DC, Metropolitan area (including Arlington, Alexandria, VA; and Andrews AFB, MD; and Washington Navy Yard).	Andrews AFB, MD.	2	
Do	Beltsville, MD.	2	
Do	Dulles International Airport, VA.	2½	
* * * * *			
Maryland:			
Andrews AFB		2	
Do	Beltsville	2	
Do	Dulles International Airport, VA.	2½	

COMMUTED TRAVELTIME ALLOWANCES—Continued

(In hours)

Location covered	Served from—	Metropolitan area	
		Within	Outside
Undesignated ports	Dover, DE, or Dulles International Airport, VA.		3
* * * * *			
Tennessee:			
Undesignated ports	Knoxville		3
* * * * *			
Virginia:			
Alexandria or Arlington.	Andrews AFB, MD.	2	
Do	Dulles International Airport.	2½	
Do	Beltsville, MD.	2	
Dulles International Airport.		2	
Do	Beltsville, MD.	2½	
Quantico MCAS	Dulles International Airport.		3
Do	Fredericksburg.	1½	
Undesignated ports	Dulles International Airport, Newport News, and Norfolk.		3
* * * * *			

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 24th day of September 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-26807 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

7 CFR Part 800

Exemption From Inspection and Weighing Requirements for Grain Shipped to Canada and Mexico

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is adopting as final, with clarification, the interim final rule which revised its regulations for official inspection and Class X weighing requirements by providing for the exemption from official inspection and Class X weighing requirements all grain exported from the United States to Canada or Mexico by rail or truck. This final action is intended to promote the trading of grain between the United States and Canada and Mexico, while protecting the interests of producers, merchandisers, warehousemen, processors, and consumers of grain. This action will not affect the right of U.S. sellers or Canadian and Mexican buyers to obtain official inspection or weighing, when desired. The proposal of March 31, 1982 (47 FR 13700), proposing to reinstate the limited 15,000 metric ton exemption from official inspection is withdrawn.

EFFECTIVE DATE: October 29, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Labakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because its effect is to limit the applicability of certain official inspection and weighing requirements to which many small entities would otherwise be subject.

This final rule becomes effective 30 days after publication in the **Federal Register.**

The U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) (Act) provides for the mandatory official inspection and official weighing of grain shipped in export from the United States. This requirement may be waived under certain circumstances.

Section 800.19(a) of the regulations, published at 45 FR 15816 on March 11, 1980, provided that official inspection and Class X weighing requirements for grain exported from the United States applied to all exporters and individual elevator operators who exported 15,000 metric tons or more of grain during the preceding calendar year or who have exported 15,000 metric tons or more during the current calendar year. The 15,000 metric ton exemption was considered adequate to give economic relief from inspection and weighing requirements to small exporters without impairing the objectives of the Act.

By an interim final rule published at 46 FR 32859, June 25, 1981, § 800.19(a) was revised to include a provision (§ 800.19(a)(4)) that exempted from the official inspection and Class X weighing requirements, all grain shipped by rail or by truck to Canada or Mexico. Its purpose was to reduce a burden on trading of grain between the United States and Canada and Mexico, without affecting the right of U.S. sellers or Canadian or Mexican buyers to obtain official inspection or weighing, if so desired. Comments were requested on the interim final rule.

Based on written comments received and other comments from the trade, it appeared that not all grain exporters, individual elevator operators, foreign buyers, and other interested parties were in agreement as to whether the provisions of the interim final rule exempting all grain shipped by rail or truck to Canada or Mexico from the official inspection requirements of the Act should remain in effect. Some commentors were concerned that if the grain was not officially inspected there could be no appeal or reinspection services, and consideration should be given to providing official inspection requirements for export rail and truck shipments more consistent with the water carrier requirements which require official inspection.

All commentors supported the exemption from Class X weighing requirements for all grain shipped by rail or truck to Canada and Mexico.

In view of the overall comments received from industry representatives, it was proposed on March 31, 1982, that § 800.19(a) be revised to eliminate that exemption so that the requirement for official inspection of export grain would be applicable to all grain exported by those exporters and individual elevator operators who exported 15,000 metric tons or more of grain shipped by rail or truck to Canada or Mexico during the preceding calendar year or who have exported 15,000 metric tons or more during the current calendar year. Comments were requested on the proposed rule published at 47 FR 13700.

Written comments on the proposed rule were received from five organizations representing a cross section of the grain industry including farmers. Four of those five organizations opposed the proposal. They indicated

that the interim exemption is working well and needs no modification. These commentors further stated that reinstatement for inspection of the limited 15,000 metric ton exemption will: (1) Discourage and hinder exports; (2) cause delays and increase red tape; (3) require additional monitoring from FGIS personnel; and (4) increase the expense of exports and increase costs. The fifth organization made no comment on how the exemption is working but stated that "* * * we do not oppose its implementation." This commentor requested that FGIS clarify that official services will be provided by official inspection agencies if requested and that to be eligible for such service and to obtain official certificates the facility's applicable inspection or weighing equipment must meet FGIS specifications.

Therefore, based upon all information available to FGIS, FGIS is withdrawing the changes proposed in a notice published March 31, 1982, 47 FR 13700, and adopting as final, with clarification, the interim final rule published at 46 FR 32859, July 25, 1981, because it has determined that: (1) The interim final rule is reducing a burden on the trading of grain between the United States and Canada and Mexico without affecting the right of U.S. sellers or Canadian and Mexican buyers to obtain official inspection or weighing, if so desired; (2) small exporters are satisfied with the exemption provisions and oppose changes; and (3) no complaints regarding quality or quantity of grain have been received by the Service from any interested party under the exemption provisions of the interim rule.

For clarification purposes, the following is added to § 800.19(a)(4): "If requested, subject to the conditions for obtaining official services in § 800.46, official services will be provided by the official agency or where applicable, the field office assigned to perform official functions where the grain will be offered for official services."

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Exports, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, subparagraph (4) which was added to paragraph (a) of 7 CFR 800.19 by the interim rule of July 25, 1981, 46 FR 32859, is revised to read and made final, as follows:

§ 800.19 Exemptions and waivers of the official inspection and Class X weighing requirements.

(a) *Exemptions.* * * *

(4) *Grain shipped by rail or truck to Canada or Mexico.* Official inspection and Class X weighing requirements shall not apply to grain that is shipped by rail or by truck from the United States to Canada or to Mexico. If requested, subject to the conditions for obtaining official services in § 800.46, official services will be provided by the official agency or where applicable, the field office assigned to perform official functions, where the grain will be offered for official services.

* * * * *

(Sec. 6, Pub. L. 94-582, 90 Stat. 2869; (7 U.S.C. 77))

Dated: September 10, 1982.

Kenneth A. Gilles,

Administrator.

[FR Doc. 82-26706 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-EW-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations issued under the marketing order to temporarily change from eight to four the minimum number of successive weeks during which picks are interrupted by District 2 handlers, before they may apply for a new prorate base, for the remainder of the 1982–83 season. Such action recognizes crop conditions and the current and prospective marketing situation for lemons.

EFFECTIVE DATE: September 24, 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 final 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 California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This final rule changes from eight to four the minimum number of successive weeks during which picks are interrupted by District 2 handlers, before they may apply for a new prorate base. Under provisions of the marketing order, District 2 handlers who become eligible for a new prorate base may also apply for accelerated averaging of weekly picks and upward adjustments to receive additional allotment. Under the order a handler's weekly prorate is established on the basis of average weekly picks (quantities harvested and delivered to a packinghouse) during a prior period. The 1982–83 crop is estimated at 54.3 million cartons compared with the five year average (1977–78 to 1981–82) of 50.3 million cartons. The committee reports that additional flexibility is needed to successfully market the crop. The amendment would afford handlers the opportunity to receive adjusted allotment to handle lemons from the 1982–83 crop on an accelerated basis. A similar rule was authorized for use during the latter part of the 1981–82 season.

This final rule is authorized by § 910.53(h), which provides that the number of weeks specified in § 910.53(f)(2) may be changed through informal rulemaking.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. This final rule relieves regulations on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this final rule effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Therefore, § 910.153(e)(2) in 7 CFR Part 910, Subpart—Lemon Administrative Committee Rules and Regulations, is amended by adding the following language at the end of the last sentence in paragraph (e)(2).

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(2) * * * Notwithstanding the provisions of this section any District 2 handler whose picks are interrupted for 4 successive weeks or more during the fiscal year ending July 31, 1983, may apply for a new prorate base, for accelerated averaging of weekly picks, and for upward adjustments as provided herein.

* * * * *

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

Dated: September 24, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–26827 Filed 9–28–82; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1924

Planning and Performing Construction and Other Development

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations for planning and performing construction and other development by adopting the Housing and Urban Development (HUD) Minimum Property Standards (MPS) which were in effect on September 1, 1982. The amendment merely clarifies which MPS has been adopted by FmHA. The clarification is needed to retain accepted technical standards for minimum acceptable design, materials, and construction methods used in the development of structures financed by the Agency. The intended effect of the action is to provide adequate security to the Government's interest and to retain standardization of sound construction practices.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Deputy Director, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5347, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined to be exempt from these requirements. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the change involves a clarification of an existing regulation with no substantive or procedural change and publication for comment is unnecessary.

The FmHA programs or projects which are affected by this final rule are subject to state or local clearinghouse review in the manner delineated in Subpart H of Part 1901 of this Chapter.

This change will affect the following domestic assistance programs:

CATALOG OF FEDERAL DOMESTIC ASSISTANCE REFERENCE LIST

CFDA No.	Program title
10.405	Farm Labor Housing Loans and Grants.
10.407	Farm Ownership Loans.
10.410	Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502—Insured).
10.415	Rural Rental Housing Loans.

This document has been reviewed in accordance with 7 CFR, Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1924

Agriculture, Claims, Construction complaints, Construction defects, Construction management, Construction and repair, Energy conservation, Government contracts, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Suspension and debarment procedures.

In October 1971, FmHA officially adopted the HUD–MPS for its single family and rural rental programs. Since then, the standards have been periodically updated by HUD and on August 6, 1982, HUD published in the **Federal Register** a final rule amending the HUD–MPS. The amendment which will be effective on September 24, 1982, removed the bulk of criteria relating to marketability and livability and all other criteria that do not bear directly on health, life safety, legislative requirements, or durability. The amendment comes as a result of HUD's previous considerations and the most recent recommendations of the President's Commission on Housing that HUD, VA and FmHA ". . . should phase out their use of the Single Family and Multifamily Minimum Property Standards . . .". Implementation of this change would have more adverse effects on FmHA than on the other two agencies because FmHA direct loans require first-hand control of the development being financed as opposed to HUD/VA financing by insuring and guaranteeing loans made by other mortgagees. Furthermore, FmHA makes loans to finance 100 percent of the cost of the purchase or development of housing to low- and moderate-income applicants who cannot obtain credit from other sources. The financing is based on the statutory requirement that the recipient will graduate to other sources of credit when the recipient has accrued enough equity on the property and has improved his or her economic condition to the extent that the recipient can meet terms and conditions of available credit in the area. Marketability and livability standards must be considered at the time of purchase or development, to adequately protect both, the applicant and the Government's interest and facilitate compliance with the graduation requirement.

In view of the HUD's amendment and the limited time now available to replace the HUD–MPS with definite rules and regulations which meet the state of the art requirements or construction and other development, FmHA is retaining the HUD–MPS version that was in effect on September 1, 1982, rather than making any change at the present time. FmHA will complete new rules and regulations within 6 months from the date of this publication.

PART 1924—CONSTRUCTION AND REPAIR

Therefore, § 1924.4(l) of Subpart A, Part 1924, Chapter XVIII of Title 7, Code

of Federal Regulations is revised to read as follows:

§ 1924.4 Definitions.

* * * * *

(l) *Minimum property standards.* The Department of Housing and Urban Development (HUD) Minimum Property Standards (MPS) in effect on September 1, 1982, have been adopted by the FmHA for housing financed with RH, RRH, RCH, LH, and FO loans. The MPS, available in all FmHA offices, supplements this Subpart with the technical requirements for minimum acceptable design, materials, and construction methods.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: September 23, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-26673 Filed 9-24-82; 3:50 pm]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 79

[Docket 82-073]

Scrapie in Sheep; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Tulsa County in Oklahoma from areas quarantined because of the existence of vectors of scrapie. Surveillance activity indicates that vectors of scrapie no longer exist in the area quarantined.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: J. R. Pitcher, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 738, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department has waived the requirements of Secretary's Memorandum 1512-1.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of scrapie, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to the existence of vectors of scrapie concerning only one premises, and that premises is not owned by a small entity.

Background

On January 25, 1980, a document was published in the **Federal Register** (45 FR 6083) which quarantined a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie. That action was taken because of the presence of the quarantined premises of a sheep which had been exposed to scrapie. The exposed sheep is now dead, and did not exhibit any signs of scrapie. Thus, it could not have transmitted scrapie to any other animal. Therefore, this amendment releases the premises from quarantine, and the restrictions pertaining to the interstate movement of sheep from quarantined areas, as contained in 9 CFR Part 79, as amended, will no longer apply to the released area.

List of Subjects in 9 CFR Part 79

Animal diseases, Quarantine, Sheep, Transportation, Scrapie.

PART 79—SCRAPIE IN SHEEP

Accordingly, Part 79, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 79.2 [Amended]

1. In § 79.2(a)(1), the following premises is removed: Duane Smith, Route 1, Box 332A, Bixby, Tulsa County, Oklahoma, S½ of the SW¼ of the NW¼ of Sec. 32, T. 17 N., R. 14 E.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 23rd day of September 1982.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-26842 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-34-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0028]

Payment of Finder's Fees to Bona Fide Brokers; Interpretative Ruling

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Interpretive ruling.

SUMMARY: Effective December 31, 1980, the Depository Institutions Deregulation Committee ("Committee") adopted the finders' fee regulation (12 CFR 1204.110) which defined as interest a fee paid by a depository institution to a third party who introduced a depositor to the institution. That regulation was adopted in response to concern with widespread use of finders' fees to circumvent interest rate ceilings by passing finders' fees through to the depositors. The Committee has received questions as to whether the regulation applies to the payment of a fee to a *bona fide* broker for the placement of deposits with a depository institution. At its September 17, 1982 meeting, the Committee determined that fees may be paid to *bona fide* brokers and not be included as interest under conditions that ensure

that no part of the finders' fee is paid to depositors.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Elaine Boutilier, Attorney-Advisor, Department of the Treasury (202) 566–8737; Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202) 377–6446; Alan Priest, Attorney, Office of the Comptroller of the Currency (202) 447–1880; F. Douglas Birdzell, Counsel, or Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202) 389–4147; or Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202) 452–3281.

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—INTEREST ON DEPOSITS

Pursuant to its authority under Title II of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of Federally insured commerical banks, savings and loan associations, and mutual savings banks, the Committee amends, effective September 17, 1982, Part 1204—Interest on Deposits (12 CFR Part 1204) by adding a new § 1204.202 to read as follows:

§ 1204.202 Payment of fees to bona fide brokers.

(a) Under § 1204.110 of the Committee's rules, any fee paid by a depository institution to a person who introduces a depositor to the institution must be paid in cash when paid for a deposit subject to rate ceilings and generally will be regarded as a payment of interest for purposes of compliance with rate ceilings. This rule was adopted effective December 31, 1980, in order to prevent the circumvention of rate ceilings that could occur if a "finders' fee" is passed on to the depositor.

(b) The Committee has received several inquiries as to whether depository institutions are required to pay fees in cash to brokers that solicit deposits on behalf of the institution and to regard such payments as interest. The Committee previously found the finders' fee regulation inapplicable to All-Savers Certificates and to a specific person who acted as a broker of demand deposits. The Committee has determined that finders' fees may be paid to *bona fide* brokers of time and demand deposits without regarding such payments as interest for purposes of deposit interest rate ceilings. Accordingly, a fee to a broker will not be regarded as a payment of interest if: (1) The fee is paid to a *bona fide* broker, which is a person who is principally engaged in the business of acting as a broker or dealer in regard to deposits, securities or money market instruments; (2) the relationship between the broker and depository institution is memorialized in a written agreement, a copy of which is retained by the depository institution and made available to examiners; and (3) an officer of the broker certifies that no portion of the fee paid to the broker is directly or indirectly passed on to the depositor, and a copy of the certification is given to the depository institution to be retained on file with the agreement.

By order of the Committee, September 24, 1982.

Gordon Eastburn,

Policy Director.

[FR Doc. 82–26845 Filed 9–28–82; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM82–2–000]

Case-by-Case Exemption From All or Part of Part 1 of the Federal Power Act for Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued September 27, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects unintentional errors in the amendatory language and one paragraph of the final rule amending the definition of "small hydroelectric power project," published on September 1, 1982 (47 FR 38506, 38512).

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

Kenneth F. Plumb,

Secretary.

Accordingly, the Federal Energy Regulatory Commission is correcting the amendatory language and for the convenience of the reader, republishing the introductory text of 18 CFR 4.102(l) appearing in FR Doc. 82–24057 on page 38512, third column, as follows:

A. The amendatory language should read:

2. In § 4.102, paragraph (a), the introductory text in paragraph (l), and paragraph (l)(2) are revised to read as follows:

§ 4.102 [Corrected]

B. The introductory text in § 4.102(l) should read:

* * * * *

(l) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of notice of exemption or application under this subpart, which will have a total installed capacity of not more than 5 megawatts, and which:

(1) * * *

C. The text of § 4.102(l)(2) is not republished.

[FR Doc. 82–26815 Filed 9–28–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Parts 101, 104, 125, 201, 204, and 225

[Docket No. RM81–4–000; Order No. 258]

Revisions to the Uniform Systems of Accounts and Regulations Governing the Preservation of Records

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations governing the retention of records by public utilities, licensees and natural gas companies. The Commission is explicitly defining the information to be included in continuing plant inventory records, establishing a procedure for ensuring the integrity of computer output microfilm records, clarifying the description of three categories of retained records, updating the rules relating to microfilm records, and shortening some periods of records retention. These revisions are part of the Commission's effort to reduce reporting burdens.

DATE: The revisions are effective October 29, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

(Issued September 13, 1982; errata issued September 22, 1982.)

I. Introduction

In the matter of revisions to the Uniform Systems of Accounts and the Regulations Governing the Preservation of Records, Docket No. RM81–4–000. Before Commissioners: C. M. Butler III, Chairman; J. David Hughes and A. G. Sousa.

The Federal Energy Regulatory Commission (Commission) is revising its regulations governing the retention of records by electric public utilities and licensees (Parts 101, 104, and 125), and natural gas companies (Parts 201, 204, and 225). These revisions amend the Commission's regulations in light of technological change and Commission experience over the last decade. Specifically, the Commission is explicitly defining the information to be included in continuing plant inventory records, establishing a procedure for ensuring the integrity of computer output microfilm records, clarifying the description of three categories of retained records, updating the Commission's rules relating to microfilm records, and shortening some periods of records retention. These revisions are part of the Commission's ongoing program to review its reporting and recordkeeping requirements and to reduce unnecessary burdens by eliminating or amending recordkeeping requirements that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Both the Federal Power Act (Section 301, 16 U.S.C. 825(a) (1976)) and the Natural Gas Act (Section 8, 15 U.S.C. 717g(a) (1976)) require regulated companies to keep such records as the Commission may prescribe "as necessary or appropriate for purposes of administration" of these acts.[1] One of the Commission's most important functions under these acts is ensuring that rates charged by regulated companies for certain transactions are "just and reasonable." Most of the records the Commission requires to be retained and their retention periods are to provide an adequate base of information to make decisions ensuring that proper rates are charged.

The Commission's regulations which provide the length of time that public utilities, licensees, and natural gas companies must retain certain records and how those records are to be maintained were last amended in 1972. Since then there have been technological advances in the field of records retention and almost a decade of experience. For these reasons, the Commission proposed a rule which would update some of these regulations.[2]

The proposal focused on two major changes to the Commission's record retention regulations. First, it proposed that, for the first time, the regulations include an explicit definition of the items to be kept for continuing plant records. Second, it proposed a procedure for authenticating certain microfilm records.

In addition to these major proposals, a series of minor proposals were made to shorten the length of retention of certain records, update the regulations in light of new technology, provide cross-references, and clarify the existing requirement that unaccepted bids and certain clearance logs are to be retained.

In response to this proposal, the Commission received written comments from eighty-five respondents. These included four trade associations, sixty-four electric utilities, twelve gas companies, and five companies that provide various services to electric and natural gas companies.

In light of the comments, the Commission is modifying its two major proposals and making various modifications to the minor proposals to provide regulations that impose the minimum burden on regulated companies while ensuring that adequate records are kept for Commission purposes. In addition, the final rule reflects other changes. Some have been adopted as a result of suggestions made by commenters. Others are technical and conforming changes that, while not in the proposal, will result in regulations that are more readily understandable.

In issuing this final rule, the Commission has been guided by three factors. These are as follows: the statutory and regulatory purposes of record retention requirements, the impact of the Commission's action on state regulatory agencies, and the burden imposed on industry by records retention regulations. Based on the comments received, the Commission believes that the new regulations will not have an adverse impact on state regulatory functions. Moreover, the burden imposed on regulated companies by these changes in record retention regulations should be minimal. In this final rule the Commission has decreased the burden of the current regulations by shortening the retention periods for certain records. The Commission has also decreased the burden that would have been imposed by the proposed rule by modifying both the procedures for authenticating certain microfilm records and the definition of continuing plant records.

III. Discussion

A. Information Required in Continuing Plant Inventory Records

The Commission requires regulated companies to keep records relating to any property used in the regulated business of the company. Theses records are called continuing plant inventory records (CPIR). The Commission uses CPIR to prove the physical existence and location of property, to identify costs of units to ensure accurate accounting when a unit is retired, and to provide mortality information for use in depreciation studies.

CPIR was never explicitly defined. As a result, various companies requested that the Commission specify the content of CPIR. The Commission therefore proposed a definition of CPIR which included the following information for both retirement units and mass property:

(1) The name of the item and the manufacturer's code number, or, if built by the utility, engineering studies and details of the materials used;

(2) The location of the unit of property and the department responsible for it;

(3) The date an item was acquired or transferred to plant-in-service;

(4) The cost of the item;

(5) Estimates of the item's service life and salvage value;

(6) Details of depreciation accounting for the item, such as monthly and yearly percentage rates and actual dollar deductions, all additions, modifications and retirements, accumulated depreciation amounts, and information as to whether depreciation is calculated on a unit or group basis; and

(7) The asset control account to which plant costs are charged.

Commenters generally argued that complying with many of these requirements would be duplicative, burdensome, impractical, expensive, and of little use to the company or the Commission. Specifically, commenters argued that it was unduly burdensome to keep detailed information on "mass property," that is low cost property used

[1] Section 402(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7172(a)(2) (Supp. IV 1980).

[2] Notice of Proposed Rulemaking, Proposed Rulemaking to amend Regulations to Govern the Preservation of Records of Public Utilities, Licensees, and Natural Gas Companies, Docket No. RM81–4, issued November 13, 1980, 45 FR 76696 (November 20, 1980). The Commission intends in the near future to further evaluate its record retention requirements by a separate rulemaking.

in large quantities, such as telephone poles, or gas and electric meters.

The Commission's final rule defining CPIR is substantially less burdensome than that which was proposed, particularly as to mass property. Most importantly, the final rule differentiates between mass property and retirement units, and requires less detailed information to be kept for mass property. In addition, the final rule reflects several other changes. First, the Commission has not adopted the proposed requirement that regulated companies retain the manufacturer's code number for purchased property and engineering studies and details of materials used for utility-built property. Instead, the Commission has substituted a requirement that only a description of the property be kept. Second, the Commission has not adopted the proposed requirement that the name of the department responsible for the property be retained. Third, the final rule requires only that the year mass property was placed in service be kept. Fourth, the final rule does not adopt the proposed requirement that estimates of service life, salvage value, and details of depreciation accounting be stated. Fifth, the final rule changes the term "asset control account" to "plant control account." The term "asset" includes "plant" but it also includes other types of assets which are not related to "plant". This change makes the terminology more precise and avoids confusion.

Lastly, the definition of CPIR is placed in the definitional sections of the applicable parts of the Uniform Systems of Accounts. The proposed rule would have placed this definition in the part of the Commission's regulations which lists the records to be retained and their retention periods. By putting the definition of CPIR in the definitional sections of the Uniform Systems of Accounts, the final rule keeps related definitions together and reduces the potential for confusion.

B. Authentication of Computer Output Microfilm

Under current regulations, all microfilm records must include a certification statement at the beginning of the record and a dated notation at the end of the record.[3] Since a microfilm record is a copy of a paper record, the Commission developed these requirements to ensure the integrity of the microfilm copying process.

Computer technology has developed a process called Computer Output Microfilm (COM), in which computer data can be printed directly on microfilm instead of on paper. COM is thus an original record, not a copy of an original record. Accordingly, the same authentication requirements for microfilm are not necessary for COM. However, since this is a new technology for creating and retaining records, the Commission proposed a procedure for authenticating COM which included a certification statement.

Commenters stated that any certification or other authentication of COM should not be necessary because no certification is required for original records that are the product of computer output paper. Additionally, commenters were concerned that the proposed standard procedures for COM would be burdensome and expensive to implement, albeit less expensive than current regulations for microfilm.

The final rule does not adopt the proposed certification procedures. Instead, it requires that companies develop and follow their own operating procedures and that these procedures be standardized and operate to ensure the integrity of the COM records. To ensure this result, the final rule adds a requirement that the procedures include the name of the responsible official. This will give companies flexibility while guaranteeing the integrity of records needed by the Commission. The Commission believes that this requirement is justified by the newness of the technology, until more experience in dealing with records developed as COM is gained.

C. Changes Relating to Microfilm Records

The final rule makes four changes in the Commission's regulations relating to microfilm records. First, the Commission has for information purposes only, updated its regulations to refer to the most recent standards of the Amereican National Standard Institute (ANSI) and had provided for the automatic acceptance of any future revisions of the ANSI standards. The Commission proposed updating the regulations for preservation of microfilm to refer to the 1976 ANSI standard. Based on the comments, the final rule expands on the proposal by referring to ANSI's more recent standards (1979 and 1981) and automatically accepts for reference future revisions to ANSI's standards when those standards are accepted by the National Archives.

Second, at the request of one commenter, the Commission has included a category for "updateable microforms." "Updateable microforms" are temporary records reproduced in reduced size which permit replacement of individual frames on the record without replacing the entire record. The new regulations require that these microform records must have a life expectancy at least as long as the retention period for the paper records copied onto the microform.

Third, the Commission adopted the proposal that supplemental information and information that had to be photographed more than once could be attached at the end of a microfilm record series instead of the beginning if the viewer is advised at the beginning of the series of the location of the problem frames and the location of the substituted information. Under the new rule, regulated companies now have the option of attaching supplemental or rephotographed information to the end of a microfilm record series as an alternative to the present requirement that such information be attached to the beginning of the series.[4]

Finally, a technical change has been made to the rule that forbids the cutting of microfilm. This was done because current regulations implicitly recognize that a company may cut a roll of film into individual strips to create "jacketed microfiche", that is, to display these strips on microfiche sheets. To clear up this inconsistency, the Commission is amending its regulations to explicitly allow a roll of film to be cut for purposes of creating a jacketed microfiche.

D. Clarifications to Three Categories of Records

The final rule makes three clarifications to the current regulations governing record retention. First, the Commission adopts the proposal that electric utilities and licensees keep clearance logs with station and system generation reports. These records indicate when certain equipment is in service. Clearance logs have always been considered a type of system generation report, but inquiries from some companies indicate that the Commission should make this fact more explicit. Because of commenters' concern over the burden of recording the details to keep "supporting data" with

[3] This statement includes the title of the record series, the date prepared, and the name of the official responsible for validating the data in the microfilm. 18 CFR 125.2(e)(1) and 225.2(e)(1)(1981).

[4] These rules do not prohibit correcting film during the filming process. During filming, companies may arrange the record as they wish provided that the microform record series "commence and end with a statement as to the nature and arrangement of the records reproduced." 18 CFR 125.2 and 225.2 (1981). After filming is completed, however, the roll of film may not be cut except to create jacketed microfiche. Any new film images must be added to the beginning or the end of the microform record series.

the clearance logs, as was originally proposed, the Commission has dropped this requirement from the final rule. As long as the clearance log clearly indicates the time of operation of the equipment and has the initials of the company official making the entry, it will be sufficient for the Commission's purposes.

Second, the rule clarifies that all bids, including unaccepted bids, are to be kept. It does so by specifically referring to unaccepted bids and proposals. Based on comments to the proposal, the rule also allows, as an alternative, the keeping of summaries of unaccepted bids and proposals.

While not part of the proposal, a third clarification has been made to the terminology relating to retention of depreciation records under Item 39. This item was titled "Records of accumulated provisions for depreciation and depletion of utility plant." The final rule changes this to "Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense." In addition, one of the types of records that are part of Item 39 was called "Records supporting computation of depreciation and depletion expense of utility plant, including such data as life and salvage studies." The final rule changes this to "Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant." These changes are changes of terminology and not of substance; they are made to reflect more accurately current practice.

E. Cross-references to regulations implementing recent statutes

The Commission proposed adding a cross-reference to the requirement that electric utilities retain certain cost-of-service reports required by Commission regulations under the Public Utility Regulatory Policies Act (PURPA). The final rule adopts this proposal. Because this provision is for cross-reference purposes only, companies are not required to keep duplicate files.

To provide additional guidance, another statutory cross-reference has been included in this final rule. The regulations relating to natural gas companies have been amended to include a cross-reference to the Commission's rule requiring the retention of offers to continue certain contractual arrangements under the Natual Gas Policy Act. This provision, like the PURPA cross-reference, is for cross-reference purposes only; companies are not, therefore, required to keep duplicate files.[5]

F. Changes in length of retention periods

The final rule makes changes in two different record retention periods. First, the Commission has adopted the proposed change that certain nuclear production records (Records and prints of changes made to the plant as described in the Final Safety Analysis Report) be retained by electric utilities and licensees for ten years after the plant is retired, instead of the life of the corporation. The term "life of the corporation" was to imprecise and probably resulted in the retention of records long after they are of use to the Commission. Commenters supported this change.

Second, under current regulations the Commission requires that certain depreciation records (Item 39 records) be kept for twenty-five years. The Commission proposed adding a footnote to these records which would cross-refer to a requirement that any part of these records relating to life and mortality data be kept for the life of the corporation. Commenters objected to adding the footnote cross-reference because they believed that it is not necessary to keep life and mortality data for the life of the corporation. The Commission agrees that the "life of the corporation" requirement is too imprecise. The Commission is therefore adding the footnoted cross-reference but is changing the retention period requirement to twenty-five years or ten years after plant is retired, whichever is longer.[6]

IV. Public Proceedings and Effective Date

As discussed above, notice and comment has been provided in this rulemaking in accordance with 5 U.S.C. 553(b) except for a few technical and conforming changes for which the Commission finds that no prior notice is necessary. Accordingly, this final rule is effective thirty days after publication in the **Federal Register**.

(Natural Gas Act, 15 U.S.C. 717–717w (1976); Federal Power Act, 16 U.S.C. 792–828c (1976); Department of Energy Organization Act, 42 U.S.C. 7107–7352 (Supp. IV 1980); E.O. 12009, 42 FR 46,267 (September 15, 1977))

List of Subjects

18 CFR Parts 101 and 104

Electric power, Electric utilities, Uniform system of accounts.

18 CFR Part 125

Electric power, Electric utilities.

18 CFR Parts 201 and 204

Natural gas, Uniform system of accounts.

18 CFR Part 225

Natural gas.

In consideration of the foregoing, the Commission amends Parts 101, 104, 125, 201, 204, and 225, of Title 18 of the Code of Federal Regulations, as set forth below, to be effective thirty days after publication in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PARTS 101, 104, 201 AND 204 [AMENDED]

1. Part 101 of Subchapter C is amended in the section entitled "Definitions" by redesignating definitions 8 through 35 to be definitions 9 through 36, respectively.

2. Part 104 of Subchapter C is amended in the section entitled "Definitions" by redesignating definitions 8 through 34 to be definitions 9 through 35, respectively.

3. Part 201 of Subchapter F is amended in the section entitled "Definitions" by redesignating definitions 8 through 36 to be definitions 9 through 37, respectively.

4. Part 204 of Subchapter F is amended in the section entitled "Definitions" by redesignating definitions 8 through 30 to be definitions 9 through 31, respectively.

5. Parts 101 and 104 of Subchapter C and Parts 201 and 204 of Subchapter F are further amended in their respective sections entitled "Definitions" by adding a new definition 8 to read as follows:

Definitions

When used in this system of accounts:

* * * * *

8. "Continuing Plant Inventory Record" means company plant records

[5] In the notice of proposed rulemaking in this docket the Commission also proposed a cross-reference to reporting and recordkeeping requirements required under Part 276 of the Commission regulations. The Commission, on July 15, 1982, issued a notice of proposed rulemaking proposing to eliminate Part 276's reporting requirements and to move the recordkeeping requirements to Part 271 of the Commission's regulations. Elimination of Reporting Requirements for Sales of Natural Gas under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978, Docket No. RM82–36, issued July 15, 1982, 47 FR 31,582 (July 21, 1982). The Commission has decided not to include cross-references to these regulations at this time, since the regulations may be changed in the RM82–36 rulemaking.

[6] Commenters also suggested that the retention period for station and system generation reports and clearance logs be shortened from 25 years to six years. While the Commission believes that this suggestion may have some merit, this change is not included in the final rule because of uncertainties on the impact this change would have on some aspects of the Commission's hydroelectric program.

for retirement units and mass property that provide, as either a single record, or in separate records readily obtainable by references made in a single record, the following information:

A. For each retirement unit:

(1) the name or description of the unit, or both;

(2) the location of the unit;

(3) the date the unit was placed in service;

(4) the cost of the unit as set forth in Plant Instructions 2 and 3 of this Part; and

(5) the plant control account to which the cost of the unit is charged; and

B. For each category of mass property;

(1) a general description of the property and quantity;

(2) the quantity placed in service by vintage year;

(3) the average cost as set forth in Plant Instructions 2 and 3 of this Part; and

(4) the plant control account to which the costs are charged.

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

PART 225—PRESERVATION OF RECORDS OF NATURAL GAS COMPANIES

§§ 125.2 and 225.2 [Amended]

6. Section 125.2 and § 225.2 are amended in paragraph (d)(3), respectively, by revising item number 3 in Figure 1 to read as follows:

FIGURE 1.—RECORD MEDIA

Record media/form	Media expected life	Comments and standards
1. * * *		
2. * * *		
3. Microforms:		
a. Microfilm, including Computer Output Microfilm (COM), microfiche jackets, and aperture cards.	....do	Assumes processing to standards and storage in a controlled environment with a temperature and humidity range of 60–80 degrees F. and 40–50% respectively. (Ref. American National Standards Institute (ANSI) standards PH 5.4—1970, PH 1.41—1976, PH 1.28—1979, Ph 1.43—1981, or most current standards as accepted by the National Archives for use by federal agencies. See 41 CFR. 101–11.5)
b. Updatable type	Dependent on use of Media	For temporary records not requiring archival permanency so long as the microform or film selected has a life expectancy equal to, or greater than, the retention period for that record. Same storage conditions as for microfilm.
c. Metallic recording data strips.	Archival permanency	Same storage conditions as for microfilm.

7. Section 125.2 is further amended by redesignating paragraphs (e)(1)(ii) and (e)(1)(iii) as (e)(1)(iii) and (e)(1)(iv), respectively.

8. Section 125.2 is further amended by revising paragraphs (e)(1)(i) and (ii), (e)(2)(ii), (j), and (n)(5), and adding (e)(1)(ii) to read as follows:

§ 125.2 General instructions.

* * * * *

(e) *Microform and tape certification.*

(1) As the initial recording media—

(i) Except as provided in paragraph (e)(1)(ii) of this section each microform record series:

(A) shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the official responsible for validating or confirming the data contained therein; and

(B) shall be closed with a clear and standard microform notation indicating the completion of the series and the date.

(ii) If the microform record series is a product of Computer Output Microfilm (COM), the certification required under paragraph (e)(1)(i) of this section is not required if:

(A) the series is prepared in accordance with written standard procedures developed by the company that ensure the integrity of record series which are the product of COM; and

(B) such procedures include the name of the official responsible for validating or confirming the data contained in the record series and confirming that a particular COM record series was produced in accordance with the standard procedures.

(iii) * * *

(iv) * * *

(2) Conversion from other media—

(i) * * *

(ii) Each microform record series shall commence and end with a statement as to the nature and arrangement of the records reproduced, and the date. Rolls of film shall not be cut except to produce jacketed microfiche. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of microform found to be defective, shall be attached to the beginning of the microform record series. However, if a retrieval system using such methods as, for example, image count indexing or "blipping" is used, the supplemental or retaken film may be attached at the end of the series, if provisions at the beginning of the series advise the viewer of the location of the problem frames and the location of the supplemental or retaken frames. If supplemental or retaken film of misplaced or omitted documents, or of portions of microform found to be defective, are attached to the microform record series, the certificate described in paragraph (e)(1)(i) of this section shall cover the supplemental or retaken film and shall state the reasons for the attachment.

(iii) * * *

* * * * *

(j) *Schedule of records and periods of retention.* The schedule of records, § 125.3, shows the period of time that designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory commission having jurisdiction, and either (1) continuing plant inventory records are maintained (see Definition No. 8, "Continuing Plant Inventory Records", Parts 101 and 104 of this Subchapter), or (2) unitization of construction costs appear in work orders, except that those relating to the construction of licensed projects, or additions or betterments thereto for which the Commission has not determined the actual legitimate original cost are to be retained until such cost has been determined. Additionally, all records which affect the determination of amortization reserves related to licensed projects shall be retained until Commission determination and final adjudication is made.

* * * * *

(n) *Schedule of notes.*

* * * * *

(5) Life or mortality study data for depreciation purposes shall be retained for 25 years or for 10 years after plant is retired, whichever is longer.

9. Section 125.3 is amended in the "Schedule of Records and Periods of Retention" following the Table of Contents of that section by the following: revising the description and retention period of item 22.1(e); revising item 22.2 (a) and (e); revising item 39; revising item 40(b); and amending item 65 by adding a new sub-item (d); all to read as follows:

§ 125.3 Schedule of records and periods of retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Description	Retention period
* * * * * * *	
22.1 Production—Electric (less nuclear):	
(e) Station and system generation reports and clearance logs	25 years. See § 125.2(j).
22.2 Production—Nuclear:	
(a) Records of normal plant operation, including power levels and periods of operation at each power level	6 years/operating charts for the first year's operation will be stored for 10 years after plant is retired.
* * * * * * *	
(e) Records and prints of changes made to the plant as described in the Final Safety Analysis Report	10 years after plant is retired.
* * * * * * *	
39. Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant	25 years.
(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant.	Do.[6]
PURCHASES AND STORES	
40. Procurements:	
* * * * * * *	
(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See § 125.2(j).
* * * * * * *	
65. Reports to Federal and State regulatory commissions:	
* * * * * * *	
(d) Cost of service reports filed under section 133 of the Public Utility Regulatory Policies Act (PURPA). (See 18 CFR Part 290.).	5 years.
* * * * * * *	

10. Section 225.2 is further amended by renumbering paragraphs (e)(1)(ii) and (e)(1)(iii) as (e)(1)(iii) and (e)(1)(iv), respectively.

11. Section 225.2 is further amended by revising paragraphs (e)(1) (i) and (ii), (e)(2)(ii), (j), and (n)(5), and adding (e)(1)(ii) to read as follows:

§ 225.2 General instructions.

* * * * *

(e) *Microform and tape certification.*

(1) As the initial recording media—

(i) Except as provided in paragraph (e)(1)(ii) of this section, each microform record series:

(A) shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the official responsible for validating or confirming the data contained therein; and

(B) shall be closed with a clear and standard microform notation indicating the completion of the series and the date.

(ii) If the microform record series is a product of Computer Output Microfilm (COM), the certification required under paragraph (e)(1)(i) of this section is not required if:

(A) the series is prepared in accordance with written standard procedures developed by the company that ensure the integrity of record series which are the product of COM; and

(B) such procedures include the name of the official responsible for validating or confirming the data contained in the record series and confirming that a particular COM record series was produced in accordance with the standard procedures.

(iii) * * *

(iv) * * *

(2) Conversion from other media—

(i) * * *

(ii) Each microform record series shall commence and end with a statement as to the nature and arrangement of the records reproduced, and the date. Rolls of film shall not be cut except to produce jacketed microfiche. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of microform found to be defective, shall be attached to the beginning of the microform record series. However, if a retrieval system using such methods as, for example, image count indexing or "blipping" is used, the supplemental or retaken film may be attached at the end of the series if provisions at the beginning of the series advise the viewer of the location of the problem frames and the location of the supplemental or retaken frames. If supplemental or retaken film of misplaced or omitted documents, or of portions of microform found to be defective, are attached to the microform record series, the certificate described in paragraph (e)(1)(i) of this section shall cover the supplemental or retaken film and shall state the reasons for the attachment.

(iii) * * *

* * * * *

(j) *Schedule of records and periods of retention.* The schedule of records, § 225.3, shows the period of time that designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory commission having jurisdiction, and either (1) continuing plant inventory records are maintained (see Definition No. 8, "Continuing Plant Inventory Records," Parts 201 and 204 of this Subchapter), or (2) unitization of construction costs appear in work orders.

* * * * *

(n) *Schedule of notes.*

* * * * *

(5) Life or mortality study data for depreciation purposes shall be retained for 25 years or for 10 years after plant is retired, whichever is longer.

12. Section 225.3 is amended in the "Schedule of Records and Periods of Retention" following the Table of Contents of that section by the following: revising item 39; revising item 40(b); and amending item 65 by adding a new sub-item (d); all to read as follows:

§ 225.3 Schedule of records and periods of retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Description	Retention period
39. Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant	25 years.
(b) Records reflecting the service life of property and the percentage of salvage and costs of removal for property retired from each account for depreciable utility plant.	Do.[3]
PURCHASES AND STORES	
40. Procurements:	
(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids and proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See § 225.2(j).
65. Reports or Records required by Federal and State regulatory commissions:	
(d) Records required to be retained under section 277.210 of this chapter, relating to the Natural Gas Policy Act of 1978.....	Not specified by regulation.

[FR Doc. 82-25537 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 82-181]

Customhouse Broker Licenses

AGENCY: Customs Service. Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the licensing procedure for customhouse brokers to eliminate the requirement that Customs conduct another investigation each time a broker, previously licensed to transact business (after investigation) in one or more Customs districts, applies for a license in an additional district. This action will reduce delays in processing broker applications and costs to both brokers and Customs.

EFFECTIVE DATE: October 29, 1982.

FOR FURTHER INFORMATION CONTACT: James F. Bartley, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A customhouse broker ("broker") is a person who is licensed by the Customs Service ("Customs") to transact Customs business on behalf of importers and other persons. The regulations governing the licensing of brokers, and their duties and responsibilities, are found in Part 111, Customs Regulations (19 CFR Part 111).

Under § 111.19, Customs Regulations (19 CFR 111.19), a broker's license authorizes the transaction of Customs business only in the district for which issued. If a licensed broker desires to obtain a license for an additional district, an application must be filed with the district director of the district for which a license is desired, and Customs conducts an investigation to determine if the applicant is prepared and qualified to furnish efficient service in the additional district.

The requirement for another investigation of an applicant desiring to obtain a license for an additional district delays the processing of the application. Furthermore, Customs incurs the additional expense of conducting an investigation each time a broker applies for a license in a new district.

Accordingly, a notice of proposed rulemaking was published in the **Federal Register** on January 13, 1982 (47 FR 1396), requesting public comment on a proposal to eliminate the requirement that Customs conduct another investigation each time a broker previously licensed to transact business (after investigation) in one or more Customs districts, applies for a license in an additional district.

It was proposd that instead of another investigation each time a broker applies for a license in an additional district, the district director of the district where the application is filed could immediately notify the district director of the district in which the applicant is licensed and request his comments as to the applicant's qualifications in providing efficient service to importers and in complying with the duties and responsibilities of a broker. The district director in the district in which the applicant is licensed would submit his comments and recommendations timely to the district director making the request. The district director of the district where the application is filed then would forward the recommendations of the other district director, his recommendations for action on the application, and the application to Customs Headquarters for a determination as to whether to issue the license in the new district.

This change in procedure was proposed to expedite the processing of applications for a license in additional districts, and thus minimize the cost to the applicant of maintaining qualified employees and an office in the new district pending action on his application to be licensed in that district. In addition, Customs would save the costs of conducting what usually is found to be an unnecessary investigation.

Analysis of Comments

Twenty six comments were received in response to the notice of proposed rulemaking. Twenty-three responses favored the proposed revision. Two commenters were opposed and indicated the regulations, as proposed, favored larger brokerage firms. A third commenter offered objections to the amendments eliminating mandatory investigation of additional district license applicants.

A number of individual responses, while approving generally of the proposal, in addition favored other regulatory amendments beyond the scope of the proposed rulemaking. These included the elimination of all requirements for licensing in additional districts, a provisional license effective for 90 days, a performance bond for brokers, a preliminary determination that a broker applicant will satisfy licensing requirements for the establishment and staffing of an office in the additional district within a 30-day period, a post audit requirement that a broker licensed under the proposal continued to meet the licensing requirements, and a reduction of the licensing fee (determined in accordance with 31 U.S.C. 483a). In addition, several commenters, while favoring the proposal, expressed concern that the

rigor of the license application process should not be lessened and that the "screening process" may be abated.

A commenter recommended that additional amendments be made to include (1) the required submission and filing of a copy of the license application for an additional Customs district with the district director(s) in the district(s) where the applicant is licensed, and (2) a specific 20-day period within which the district director(s) where an applicant is licensed be required to submit his comments and recommendation to the district director where the license and application is made. The commenter noted that suggested change (1) would serve as a preliminary notice to a district director that a broker in his district has applied for a license in another district, and that a review of the broker's performance and operations, or other related matters, should be promptly initiated.

Customs believes this suggestion has merit because it is likely to expedite further the licensing procedure. However, in an effort to avoid the unintentional imposition of a paperwork burden on all brokers, the suggestion has been adopted—not as a Customs requirement, but as a voluntary action a broker may wish to perform to facilitate processing of an application.

Customs does not favor suggestion (2) as, during the course of a district director's review of a broker's peformance in his district, objections may be filed to the application following the posting of the notice of the license application. Furthermore, unresolved audit, penalties, financial and investigative matters may also be under review and require conclusion before the expiration of any specified period.

One commenter opposed the proposed amendments because of the insufficiency of the data that may be developed by a district director, rather than by Customs Office of Investigations, and suggested, as an alternative, that the license application format (Customs Form 3124) be amended to accommodate essential data. The investigating special agent, the commenter suggests, has been heretofore the sole source of advice concerning an applicant's financial status and office staffing in determination of its qualifications to render efficient service in an additional Customs district. It should be noted that the amendment adopted provides for a full investigation by Customs special agents if the Commissioner deems it necessary.

While the amendments do impose additional responsibilities on district directors in processing licensing applications, Customs believes that district offices are qualified to make on-site examination of offices to determine the capabilities of employees to manage or staff offices within their districts. Further, district directors, in conjunction with entry control sections and financial management offices, can adjudge if an applicant is meeting its current financial obligations. Therefore, Customs does not believe it is necessary at this time to amend the license application format to reflect the changes provided in this rulemaking.

A broker licensed in a large number of districts expressed concern that sizeable brokerage firms would still experience delay and difficulty in obtaining prompt licensing action due to the required submission of comments from the district directors where such firms are licensed and transact Customs business. In such cases, the commenter suggested limiting the solicitation of comments by the district director where a license application is made to a "reference" Customs district. The broker suggested that comments received from a district director where a broker was last licensed, should be regarded as more relevant and current, and representative of the qualifications of the broker to render efficient service in his district.

Customs believes that the license qualifications of a single entity are subject to review and to limit the solicitation of comments to any one of several districts where an applicant is licensed, may result in Customs not being able to give full consideration to recent activities in another district (whether adverse or not) reflecting on the applicant's meeting its duties and obligations as a broker.

After consideration of the comments received and further review of the matter, it has been determined to adopt the proposal, with the single modification noted above.

Executive Order 12291

Because this document will not result in a regulation which would be a "major rule" as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal.

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Licensing.

Amendments to the Regulations

Part 111, Customs Regulations (19 CFR Part 111), is amended as set forth below:

PART 111—CUSTOMHOUSE BROKERS

1. Section 111.14 (a) and (b), Customs Regulations (19 CFR 111.14(a), (b)) are revised to read as follows:

§ 111.14 Investigation of the applicant.

(a) *Individual license.* If the applicant passes the examination, the district director shall refer the application to the special agent in charge for an investigation and report.

(b) *Partnership, association, or corporation license.* The district director shall immediately refer an initial application for a partnership, association, or corporation license to the special agent in charge for investigation and report.

* * * * *

2. Section 111.19(a), Customs Regulations (19 CFR 111.19(a)), is revised to read as follows:

§ 111.19 Licenses for additional districts.

A license authorizes the transaction of Customs business only in the district for which issued. Licenses for additional districts may be obtained by:

(a) Filing with the district director of the district for which a license is desired the application prescribed in § 111.12(a). The applicant may submit a copy of the application for the additional district to the district director in each Customs district where licensed indicating the license number and date of issuance. Upon receipt of the application, the district director of the district for which a license is desired shall follow the procedure set forth in §§ 111.12(b) and 111.14;

* * * * *

3. Section 111.19(c), Customs Regulations (19 CFR 111.19(c)), is amended by removing the words "upon investigation" from the first sentence of that section.

4. New paragraphs (d) and (e) are added to § 111.19, Customs Regulations (19 CFR 111.19), to read as follows:

§ 111.19 Licenses for additional districts.

* * * * *

(d) *Recommendation and return of the application by the district director.* Upon receipt of the application, the district director shall immediately notify the district director in each other district in which the applicant is licensed and request comments as to the applicant's qualifications in rendering valuable service to importers and as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit his comments and recommendation to the district director making the request. The district director where the application is made shall forward to the Commissioner (1) a recommendation for action on the application, (2) the recommendation of each other district director, and (3) the original of the application. The district director's recommendation of approval or disapproval of the application shall indicate if an individual applicant resides or has an established office in the additional district or, in the case of a partnership, association, or corporation application, if the requirements of § 111.11 (b) or (c) have been met.

(e) *Investigation.* The Commissioner may require an investigation to be conducted if additional facts are deemed necessary to pass upon the application.

(R.S. 251, as amended, sections 624, 641, 46 Stat. 759, as amended (19 U.S.C. 66, 1624, 1641))

William von Raab,
Commissioner of Customs.

Approved: September 10, 1982.

Robert E. Powis,
Acting Assistant Secretary of the Treasury.

[FR Doc. 82-26844 Filed 9-28-82; 8:45 am]
BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[T.D. 7837]

Income Tax; Taxable Years Beginning After December 31, 1953; Treatment of Losses on Small Business Stock

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document restates and clarifies a formula relating to the computation of the amount received for designated stock by a small business corporation. This formula was prescribed in final regulations implementing provisions of the Revenue Act of 1978 and the Technical Corrections Act of 1979 which were published in the **Federal Register** for June 2, 1981 (46 FR 29465) as T.D. 7779.

DATE: The amendments to the regulations are effective with respect to stock issued before and after November 6, 1978, and apply , in general, to taxable years beginning after December 31, 1978. The amendments to the regulations also apply, in certain cases, to taxable years including November 6, 1978.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION: On June 2, 1981, the **Federal Register** published as T.D. 7779 amendments to the Income Tax Regulations (26 CFR Part 1) and to the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) under sections 414, 1244, and 1563 of the Internal Revenue Code of 1954 (46 FR 29465). The amendments conformed the regulations to section 345 of the Revenue Act of 1978 (92 Stat. 2763) and to section 103(a)(9) of the Technical Corrections Act of 1979 (94 Stat. 194), and also made certain clarifying changes. After the publication of these amendments, comments seeking a clarification of § 1.1244(c)-2(b)(2) of the amendments were received. This section of the amendments appeared at pages 29466 and 29470 in the **Federal Register** of Tuesday, June 2, 1981 (46 FR 29466, 29470).

Section 1.1244(c)-2(b)(2) relates to the requirement that a small business corporation designate as section 1244 stock certain shares of post-November 1978 common stock issued in the transitional year. For purposes of § 1.1244(c)-2(b)(2), the term "transitional year" is defined as the first taxable year in which capital receipts of the corporation exceeded $1,000,000. In computing the amount that may be received for designated stock in the transitional year, a small business corporation is directed by § 1.1244(c)-2(b)(2) to subtract from $1,000,000 amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in the transitional year or in years prior to that year; and (iii) as paid-in surplus in the transitional year or in years prior to that year. Thus, amounts received for stock in the transitional year are excluded from the computation, while contributions to capital and paid-in surplus accumulated during the transitional year are included under the formula. This yields an inconsistent result where, for example, stock is issued for an amount equal to par value in the transitional year and the amount received is excluded from the computation, in contrast with the economically parallel situation where stock is issued at a price in excess of par value, if any, and part or all of the consideration received for shares is allocated to paid-in surplus. The existing rule also penalizes the small business corporation by requiring the amount of a contribution to capital received in the transitional year to be tallied against the corporation computing the amount of stock issued in the transitional year which may be designated as section 1244 stock.

In order to achieve an equitable result in such situations, and to adhere consistently to the concept of the transitional year as the unit of measurement for capital receipts, the formula set forth in § 1.1244(c)-2(b)(2) is revised by this Treasury decision to exclude from the computation of the amount received for designated stock those contributions to capital and paid-in surplus received in the transitional year, as well as amounts received for stock in the transitional year.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Non-Application of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

List of Subjects in 26 CFR Part 1

Income taxes, Capital gains and losses, Recapture.

Drafting Information

The principal author of this regulation is Susan K. Thompson of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both substantively and stylistically.

Adoption of Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR Part 1 is amended as follows:

Section 1.1244(c)–2(b) is amended by revising subparagraph (2)(i) and *Example (3)* of subparagraph (4) and by adding a new *Example (6)* to subparagraph (4) to read as follows:

§ 1.1244(c)–2 Small business corporation defined.

* * * * *

(b) *Post-November 1978 stock.* * * *

(2) *Requirement of designation in event $1,000,000 limitation exceeded.* (i) If capital receipts exceed $1,000,000, the corporation shall designate as section 1244 stock certain shares of post-November 1978 common stock issued for money or other property in the transitional year. For purposes of this paragraph, the term "transitional year" means the first taxable year in which capital receipts exceed $1,000,000 and in which the corporation issues stock. This designation shall be made in accordance with the rules of subdivision (iii) of this paragraph (b)(2). The amount received for designated stock shall not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in years prior to the transitional year; and (iii) as paid-in surplus in years prior to the transitional year. * * *

(4) *Examples.* * * *

Example (3). On December 1, 1980, Corporation Y issues common stock to shareholder A in exchange for $500,000 in cash. On August 1, 1981, Corporation Y issues common stock to shareholder B in exchange for property having an adjusted basis to Corporation Y of $500,000. On December 1, 1981, B transfers a tract of land having a basis in B's hands of $250,000 to Corporation Y as a contribution to capital. Under section 362(a)(2) of the Code, Corporation Y takes a basis of $250,000 in the tract of land. Corporation Y is a calendar year corporation. On February 15, 1982, it designates all of shareholder B's stock as section 1244 stock by entering the numbers of the qualifying certificates on the corporation's records. The designation made by Corporation Y is effective because it identifies which shares of its stock qualify for section 1244 treatment, was made in writing before the 15th day of the 3rd month following the close of the transitional year (1981), and because the amount received for designated stock does not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in years prior to the transitional year; and (iii) as paid-in surplus in years prior to the transitional year. Nevertheless, in the event of B's sale of his stock at a loss, the increase in basis attributable to his December, 1981, contribution to capital will be treated as allocable to stock that is not section 1244 stock under § 1.1244(d)–2.

* * * * *

Example (6). Corporation V comes into existence on July 1, 1982. On that date it issues 10 shares of voting common stock to shareholder A in exchange for $500,000 and 5 shares of voting common stock to shareholder B in exchange for $250,000, designating the shares issued to both A and B as section 1244 stock. On September 15, 1982, Corporation V receives a contribution to capital from shareholders A and B having a basis in their hands of $225,000. On February 1, 1983, Corporation V issues one share of stock to shareholder C in exchange for $50,000. Corporation V may designate one-half of the share issued to shareholder C as section 1244 stock under § 1.1244(c)–2 (b)(2). In 1982 the corporation received $750,000 for stock ($500,000) from A and $250,000 from B) and $225,000 as a capital contribution, totaling $975,000 in capital receipts. The receipt of $50,000 from shareholder C in exchange for stock in 1983 causes capital receipts to exceed $1,000,000 and 1983 thus becomes Corporation V's transitional year. Corporation V may receive only $25,000 for designated stock in 1983 under the rule set forth in § 1.1244 (c)–2 (b)(2)(i), which states that the amount received for designated stock shall not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year ($750,000 from A and B), (ii) as contributions to capital in years prior to the transitional year ($225,000), and (iii) as paid-in surplus in years prior to the transitional year ($0). Thus, one-half of C's share (representing the receipt of $25,000) may be designated as section 1244 stock by Corporation V. In the event of the sale of A's stock or B's stock at a loss, the increase in basis attributable to their contribution to capital will be treated as allocable to stock that is not section 1244 stock under § 1.1244(d)–2.

Because this Treasury decision will not be detrimental to any taxpayer, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of this section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 7, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-26840 Filed 9-28-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 884

Opportunity to Amend State/Tribal Reclamation Plans To Include Provision for Emergency Reclamation Activities

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

ACTION: Notice of opportunity to amend Reclamation Plans.

SUMMARY: The purpose of this notice is to inform the States and Tribes that they may amend their reclamation plans for purposes of undertaking emergency reclamation programs. Under Section 410 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87), the Secretary of the Interior is authorized to expend monies for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices on eligible lands. OSM is currently considering delegating certain emergency reclamation responsibilities to the States and Tribes. States/Tribes wishing to undertake an emergency reclamation program funded by the Office of Surface Mining as an approved component of the Reclamation Plan, may seek approval for such a program by amending the State/Tribal Reclamation Plan in accordance with 30 CFR 884.15.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Room 5401, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Thompson, Chief, Branch of Fund Management, Program Operations and Inspection, at the address above. Telephone: (202) 343–7944.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land

reclamation program for the purposes of restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal for the specified purpose of financing Federal, State and Indian reclamation activities. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State/Tribe has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may aprove the program and grant to the State/Tribe exclusive responsibility and authority to implement the approved program.

As part of the reclamation program, Section 410 of the SMCRA provides the Secretary authority to expend monies for the emergency restoration, reclamation, abatement, control or prevention of the adverse effects of coal mining practices on eligible lands. If the Secretary makes a finding of fact that (1) an emergency exists constituting a danger to the public health, safety or general welfare; and (2) no other person or agency will act expeditiously to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices, then the Secretary, his agents, employees and contractors have the right to restore, reclaim, abate, control or prevent the adverse effects. An emergency, as defined in 30 CFR 870.5, means: "a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures."

OSM is proposing to delegate States and Tribes the authority to undertake emergency reclamation projects on behalf of the Secretary of the Interior. For a State or Tribe to undertake an emergency reclamation program as part of its Reclamation Plan, the State/Tribe would have to amend its Reclamation Plan and demonstrate that it has the statutory authority to undertake emergencies, the technical capability to design and supervise the emergency work, and the administrative machinery to quickly respond to emergencies either directly or through contractors. Further, the finding of fact described in Section 410 would be made by a representative of the Secretary who must be able to show that emergency projects to be funded meet the definition of "emergency" under 30 CFR 870.5, i.e., the problem must be life-threatening, have occurred suddenly (or pose the threat of occurring suddenly) and require immediate action. Finally, the scope of work undertaken to reduce the emergency would be established by the Secretary's representative and it must not exceed that necessary to stabilize the life-threatening situation and should allow remaining reclamation work to be undertaken later as a lower priority project.

States/Tribes wishing to undertake an emergency reclamation program funded through the grant process should seek OSM approval for necessary modification of their Reclamation Plan. Those States/Tribes which obtain an approved modification of their Reclamation Plans will have an account added to their grant which would be available only upon project-by-project approval by the Secretary through the finding of fact described above. The initial size of the individual accounts would be based on the history of OSM emergency project expenditures on behalf of the States/Tribes. Emergency financing would be derived from the Secretary's discretionary funds.

OSM will provide technical support as requested to assist in developing the capabilities of States/Tribes to investigate, design, oversee, and implement abatement procedures. Additionally, OSM's Field Offices will have and make available supplemental instructions for establishing a State/Tribe-administered emergency reclamation program. The Field Office also should be contacted if you have any general questions regarding this matter. Regulations for amending a State Plan are found in 30 CFR 884.15.

OSM will continue to administer a Federal emergency reclamation program for all eligible States and Tribes which choose not to participate in State/Tribe-administered Federal reclamation programs. If a State/Tribe does amend its plan to enable it to conduct emergency reclamation activities, all emergency projects within the State/Reservation will be funded out of the monies approved in its revised annual grant.

Dated: September 17, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-26627 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 21

Promotion of Development of On-The Job Training for Veterans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations state VA (Veterans Administration) policy concerning promotion of the development of on-the-job training for veterans under the GI Bill. Although the VA has promoted the development of these programs, no mention of this was included in the Code of Federal Regulations. The law now requires that the policy be made regulatory. These regulations will carry out the requirement of the law.

EFFECTIVE DATE: October 1, 1980.

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

SUPPLEMENTARY INFORMATION: On February 19, 1982 a proposal to amend 38 CFR Part 21 to implement some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 was published in the **Federal Register** on pages 7460 and 7461.

Interested people were given 30 days to submit comments, suggestions, or objections. The Veterans Administration received 194 letters and post cards, two from officials of State approving agencies, five from officials of unions and joint apprenticeship committees, one from an apprenticeship association and the remainder from individuals. Nearly all the letters contained objections.

The comments were directed toward § 21.4261. There were no comments on § 21.4262.

Three writers provided similar comments. One thought the VA should not write apprenticeships; one thought it should not develop them; and the third stated it should not supervise them.

This regulation states that the VA will promote the development of apprenticeships. It does not allow, and the VA does not wish to write apprenticeships or develop them. The VA will not supervise them except in States where the VA is acting as the State approving agency. To make this clear the heading of each amended paragraph and the language of the last

subparagraph of each amended paragraph are changed from the proposal to show that the paragraph deals only with promotion rather than with promotion and development.

There were 189 writers who stated that if the VA promoted the development of apprenticeships, it would waste government funds by duplicating the efforts of the Bureau of Apprenticeship and Training.

The VA has no desire to duplicate the efforts of the employees of the Department of Labor. The original proposal called for the VA to coordinate efforts with the Department of Labor. This provision was designed to avoid duplication of effort. Since this apparently was not clear to a large number of readers, language has been added to the final regulation to make clear that the VA will not duplicate the work done by the Department of Labor.

There were 186 writers who claimed that there were enough apprenticeships approved for veterans' training and that more apprenticeships were unnecessary. They suggested that the proposal be withdrawn. The VA does not agree with this suggestion.

The VA is required by law to promote the development of apprenticeships and other on-the-job training. Furthermore a freeze on approved apprenticeships would mean that veterans who wished to be apprentices in new or expanding industries would be unable to train under the GI Bill. This would defeat the purpose of the program.

An official of a State approving agency stated that it was the responsibility of his State approving agency to promote the development of apprenticeships. He stated that the proposed regulation did not take this into account.

The VA desires to cooperate with State approving agencies. Consequently, the final regulations require the VA to coordinate its efforts with any State approving agency which chooses to promote the development of apprenticeships.

One writer suggested that the proposal be withdrawn because he believes that the VA has no authority to promote and develop apprenticeships. As stated earlier, the VA does not desire to develop apprenticeships. The agency does have legal authority to promote their development. The pertinent part of 38 U.S.C. 1772(d) states, "* * * the Administrator (of Veterans' Affairs) shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purpose of sections 1777 and 1787 of this title * * *" Clearly, the VA has the legal authority to promulgate these regulations.

Two people writing thought the approval of apprenticeships was satisfactory, and that further promotion of development of apprenticeships is unnecessary. As stated previously, the VA is required to promote their development. The agency believes that promotion is valuable in furthering the purposes of the program. Therefore, the agency has decided not to accept the suggestion.

The changes contained in these final regulations are required by statute, and simply incorporate into the regulations the Veterans Administration's longstanding policy and practice.

They, therefore, do not come within the definition of a major rule under Executive Order 12291.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. Sections 601 through 612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the regulatory analysis requirements of sections 603 and 604. The reason for this certification is that the regulations are required by law and merely state longstanding VA policy and practice. They will not of themselves have any significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The proposed amendments to §§ 21.4261 and 21.4262 are changed as indicated above. They are deemed proper, and are hereby approved.

Approved: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. In § 21.4261, paragraph (d) is added as follows:

§ 21.4261 Apprentice courses.

* * * * *

(d) *Promotion.* As funding permits, Veterans Administration employees will promote the development of apprenticeships. They will—

(1) Visit employers and joint apprenticeship committees,

(2) Coordinate their efforts with activities of any State approving agencies that may choose to promote the development of apprenticeships, and

(3) Avoid duplicating the efforts of others by coordinating their promotional efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities, including utilization of disabled veterans' outreach program specialists.

(38 U.S.C. 1772(d))

2. In § 21.4262, paragraph (d) is added as follows:

§ 21.4262 Other training on-the-job courses.

* * * * *

(d) *Promotion.* As funding permits, Veterans Administration employees will promote the development of on-the-job training courses. They will—

(1) Visit employers,

(2) Coordinate their efforts with activities of any State approving agencies that may choose to promote the development of on-the-job training courses, and

(3) Avoid duplicating the efforts of others by coordinating their promotional efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities, including utilization of disabled veterans' outreach program specialists.

(38 U.S.C. 1772(d))

[FR Doc. 82-26796 Filed 9-28-82; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Veterans Education; Surviving Spouse's Delimiting Date, Approval Requirements for Nonaccredited Courses

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The following regulatory provisions implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect people receiving educational

assistance under chapters 34, 35 and 36, title 38, United States Code. These amendments liberalize the method used in determining the last date a surviving spouse may receive dependents' educational assistance, and liberalize the approval requirements for nonaccredited courses.

EFFECTIVE DATE: In keeping with Pub. L. 97–66, these regulations are effective October 17, 1981.

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

SUPPLEMENTARY INFORMATION: On pages 19380 and 19381 of the **Federal Register** of May 5, 1982 there was published a notice of intent to amend Part 21 to implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect people receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposals. The VA (Veterans Administration) received three letters, all from State approving agencies. All letters addressed the proposed change to § 21.4255. There were no comments on either § 21.3046 or § 21.4254.

All three writers objected to what they saw as an attempt by the VA to implement an approval criterion without involving the State approving agencies. They suggested that the Director of a VA field station be permitted to waive the pro rata refund criterion only when the appropriate State approving agency has recommended such a waiver.

The VA does not think it has the legal authority to give to State approving agencies, in effect, a veto over waivers of the pro rata refund approval criterion. However, the agency recognizes the importance of State approving agencies in the approval process, and has changed the amended § 21.4255 accordingly.

The law (38 U.S.C. 1776(d)) gives the Administrator of Veterans' Affairs the authority to waive the pro rata refund approval criterion. The Administrator is permitted by 38 U.S.C. 212(a) to delegate his authority to act or render decisions only to officers and employees of the Veterans Administration. If the Director of a VA field station could authorize waivers only upon recommendation of a State approving agency, this would have the effect of the Administrator's delegating his authority to make negative decisions to State approving agencies. Since this would violate the law, the VA is unable to accept the suggestion of the letter writers.

However, the VA recognizes the importance of involving the State approving agencies in this process. Hence, the final regulation requires schools to apply for a waiver through the State approving agency, and permits the State approving agency to make recommendations which, however, are not binding upon the Director of the VA field station.

The VA has determined that these regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. These regulations are exempt under 5 U.S.C. 601–612. These regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. There are several reasons for this certification.

The amendment to § 21.3046 will regulate recipients of dependents' educational assistance. It will have no significant impact on small entities, i.e. small businesses, small private and non-profit organizations, and small governmental jurisdictions.

There are 26 publicly supported, degree-granting colleges and universities which are candidates for accreditation by a regional accrediting association. They may possibly be affected by the amendments to §§ 21.4254 and 21.4255. Of these only one is supported by a governmental jurisdiction small enough to be a small entity according to the RFA. This is not a substantial number. The amendments to these sections will have no significant impact on other types of small entities such as small businesses and small private and nonprofit organizations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111, 64.117 and 64.120)

The amendments to §§ 21.3046, 21.4254 and 21.4255 are deemed proper and are hereby approved.

Approved: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. In § 1.3046, paragraph (b) is revised to read as follows:

§ 21.3046 Periods of eligibility; spouses and surviving spouses.

* * * * *

(b) *Surviving spouses.* (1) If the Veterans Administration determines before December 1, 1968 that the veteran died of a service-connected disability, the beginning date of the 10-year period is December 1, 1968.

(2) If the veteran's death occurred before December 1, 1968, but the Veterans Administration does not determine that the veteran died of a service-connected disability until after November 30, 1968, the beginning date of the 10-year period is the date on which the Veterans Administration determines that the veteran died of a service-connected disability.

(3) If the veteran's death occurred before December 1, 1968 while a total, service-connected disability evaluated as permanent in nature was in existence, the beginning date of the 10-year period is December 1, 1968.

(4) If the veteran's death occurred after November 30, 1968, the beginning date of the 10-year period is:

(i) The date of death of the veteran who dies while a total, service-connected disability evaluated as permanent in nature was in existence, or

(ii) The date on which the Veterans Administration determines that the veteran died of a service-connected disability. (38 U.S.C. 1712(b); Pub. L. 97–66, 95 Stat. 1026)

* * * * *

2. In § 21.4254, paragraph (c)(13) is revised as follows:

§ 21.4254 Nonaccredited courses.

* * * * *

(c) *Approval criteria.* * * *

(13) The school either: (i) Has and maintains a policy for the pro rata refund of the unused portion of tuition, fees and charges if the veteran or eligible person fails to enter the course or withdraws or is discontinued from it before completion, or

(ii) Has obtained a waiver of this requirement. See § 21.4255. (38 U.S.C. 1776; Pub. L. 97–66, 95 Stat. 1026)

* * * * *

3. Section 21.4255 is revised as follows:

§ 21.4255 Refund policy; nonaccredited courses.

(a) *Acceptable refund policy.* A refund policy meets the requirements of § 21.4254(c)(13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length. The school may make provision for refund within the following limitations:

(1) *Registration fee.* An established registration fee in an amount not to exceed $10 need not be subject to proration. Where the established registration fee is more than $10, the amount in excess of $10 will be subject to proration.

(2) *Breakage fee.* Where the school has a breakage fee, it may provide for the retention of only the exact amount of the breakage, with the remaining part, if any, to be refunded.

(3) *Consumable instructional supplies.* Where the school makes a separate charge for consumable instructional supplies, as distinguished from laboratory fees, the exact amount of the charges for supplies consumed may be retained but any remaining part must be refunded.

(4) *Books, supplies and equipment.* (i) A veteran or eligible person may retain or dispose of books, supplies and equipment at his or her discretion when:

(A) He or she purchased them from a bookstore or other source, and

(B) Their cost is separate and independent from the charge made by the school for tuition and fees.

(ii) The school will make a refund in full for the amount of the charge for unissued books, supplies and equipment when:

(A) The school furnishes the books, supplies and equipment.

(B) The school includes their cost in the total charge payable to the school for the course.

(C) The veteran or eligible person withdraws or is discontinued before completing the course.

(iii) The veteran or eligible person may dispose of issued items at his or her discretion even if they were included in the total charges payable to the school for the course.

(5) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this paragraph, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata protion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(6) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this paragraph.

(b) *Waiver.* (1) An educational institution may apply through the appropriate State approving agency to the Director of the VA field station of jurisdiction for a waiver of the requirements of paragraph (a) of this section as they apply to a veteran or eligible person. The State approving agency shall forward the application to the Director along with its recommendations. The Director shall consider the recommendations and shall grant a waiver only when he or she finds that the educational institution:

(i) Is a college, university, or similar institution offering post-secondary level academic instruction leading to an associate or higher degree;

(ii) Is operated by an agency of a State or a unit of local government;

(iii) If operated by an agency of a State, is located within that State;

(iv) If operated by a unit of local government, is located within the boundaries of the area over which that unit has taxing jurisdiction;

(v) Is a candidate for accreditation by a regional accrediting agency; and

(vi) Charges the veteran or eligible person no more than $120 per quarter, $180 per semester or $360 per school year in tuition, fees and other charges for the course.

(2) If an educational institution disagrees with a decision of a Director of a VA field station, it may ask that the Director, Education Service review the decision. In reviewing the decision the Director must consider the evidence of record. He or she may not grant a waiver unless all the criteria of paragraph (b)(1) of this section are met.

(38 U.S.C. 1776(d); Pub. L. 97–66, 95 Stat. 1026)

[FR Doc. 82–26797 Filed 9–28–82; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2210–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Illinois State Implementation Plan (SIP) for Sulfur Dioxide (SO_2). The revision pertains to SO_2 emission limits for solid fuel combustion sources within major metropolitan areas (MMAs) other than Chicago, Peoria and St. Louis (Illinois portion).

EPA's action is based upon a SIP revision request which was submitted by the State.

EFFECTIVE DATE: This final rulemaking becomes effective on October 29, 1982.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, (312) 886–6035 before visiting the Region V Office).

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois (312) 886–6035)

SUPPLEMENTARY INFORMATION: On July 29, 1981, the State submitted a May 8, 1981 Illinois Pollution Control Board (IPCB) Final Order (R78–14) as a proposed revision to the Illinois SIP. This final Order repeals Rule 204(c)(1)(D) and amends Rule 204(h) to delete reference to Rule 204(c)(1)(D). Rule 204(c)(1)(D) was incorporated into the Illinois SIP on May 3, 1972 (37 FR 10862) as IPCB Rule 204(c)(1)(B)(ii). This action also incorporated Rule 204(h).

Rule 204(c)(1)(D) requires existing solid fuel combustion sources within MMA's other than the Chicago, Peoria and St. Louis (Illinois portion) MMA's to meet a 1.8 lbs SO_2/MMBTU emission limit, if any Illinois Environmental Protection Agency (IEPA) monitor with the MMA records an annual arithmetic average sulfur dioxide level greater than 60 ug/M^3 (0.02 ppm) for any year ending prior to May 30, 1976 or 45 ug/M^3 (0.015 ppm) for any year ending after May 30, 1976.

Rule 204(h) contains a compliance date for Rule 204(c)(1)(D) of three years from the date upon which the IPCB promulgates an Order of Compliance under the provisions of Rule 204(c)(1)(D). Rule 204(c)(1)(D) was promulgated in order to protect a 60 ug/M^3 annual average secondary National Ambient Air Quality Standard (NAAQS); this standard was subsequently withdrawn.

At the IPCB hearings, the following facts were presented in support of the deletion of these rules. Rule 204(c)(1)(D) has never been implemented since it was promulgated in April 1972. This rule was designed to protect a NAAQS which no longer exists. IEPA, in the event of a potential SO_2 problem in any MMA, could bring about necessary changes more expeditiously without resorting to the use of this rule since this rule requires at least three years to produce a new emission limit.

On July 16, 1982 (47 FR 31011), EPA proposed to approve the deletion of these rules from the Illinois SIP since they are not necessary to assure the attainment and maintenance of the SO_2 NAAQS. The public was invited to comment on this proposed SIP revision. No public comments were received. EPA, therefore, approves the deletion of this rule from the Illinois SIP.

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

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

List of Subjects in 40 CFR Part 52

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

Note—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 10, 1982.

Valdas V. Adamkus,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart O—Illinois

1. Section 57.720 is amended by adding paragraph (c)(37) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(37) On July 29, 1982, the State submitted a revision to the Illinois State Implementation Plan in the form of a May 28, 1981, Illinois Pollution Control Board (IPCB) Final Opinion of the Board (R78–17). This Final Opinion deletes Rule 204(c)(1)(D) and the reference to it in Rule 204(h) from the IPCB Air Pollution Control Regulations.

[FR Doc. 82–26800 Filed 9–28–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–5–FRL–2206–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On April 27 and 29, 1982, the State of Indiana submitted source specific emission limitations as revisions to the Total Suspended Particulate (TSP) and Volatile Organic Compound (VOC) portions of its State Implementation Plan (SIP). The source specific emission limitations are contained as a portion of the operating permits for 10 companies: Huntingburg Wood Products, Jasper Desk Company, Jasper Office Furniture Company, Arist-O-Kraft Company, Mohr Construction Company, Dana Corporation, Allis Chalmers Corporation, McGee Refining Corporation, Hesco Industries and Clark Oil and Refining Corporation. EPA has reviewed these source specific emission limitations, has determined that they are more stringent than the present SIP, and has determined that they will contribute to the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, EPA is approving these source specific emission limitations.

DATES: This action is effective November 29, 1982 unless notice is received by October 29, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Written comments on this action should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP–11), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein (312) 886–6036.

SUPPLEMENTARY INFORMATION: On April 27, 1982 the State of Indiana submitted source specific revisions to its SIP contained in operating permits for the following facilities:

1. Huntingburg Wood Products—Huntingburg
2. Jasper Desk Company—Jasper
3. Jasper Office Furniture—Jasper
4. Arist-O-Kraft—Jasper
5. Mohr Construction Company—Kokomo
6. Dana Corporation—Hagerstown

7. Allis Chalmers Corporation—LaPorte

On April 29, 1982, the State submitted similar source specific emission limits in the form of operating permits for the following facilities:

1. Kerr McGee Refining Corporation—Clermont
2. Hesco Industries, Incorporated—Charlestown
3. Clark Oil and Refining Corporation—Clermont

The permits contain source specific emission limits in addition to requiring compliance with all other general regulations within the State regulations that may be applicable to these facilities. EPA has in the past or will in the future rulemake on the general regulations contained in these permits and is not rulemaking on these regulations today. EPA is approving the following source specific emission limits contained in the permits:

Facility	Operation	Pollutant	Limitation total emissions [1]	Attainment status designation
Huntingburg Wood Products Company	Wood working processes (sawdust)	TSP	2.5 lbs/hr and 2.4 tons/yr	Nonattainment.
Jasper Desk Company	coal/wood fired boiler	do	2.3 lbs/hr and 7 MMBTU/hr	Do.
	Wood working processes (sawdust)	do	3.3 lbs/hr and 3.9 tons/yr	Do.
Jasper Office Furniture Company, Plant 1	2 boilers (1 wood and 1 oil)	do	8.0 lbs/hr	Do.
	Wood working processes (sawdust)	do	0.8 lbs/hr	Do.
Jasper Office Furniture Company, Plant 2	coal/wood fired boiler	do	11 lbs/hr	Do.
	Wood working processes (sawdust)	do	5 tons/yr	Do.
Arist-O-Kraft	coal/wood fired boiler	do	14 lbs/hr and 5 tons/yr	Do.
Mohr Construction Company, Plant No. 3167	Wood working processes (sawdust)	do	0.8 lbs/hr and 1 ton/yr	Do.
Dana Corporation	Asphalt batching plant	do	56.8 lbs/hr	Do.
Allis Chalmers Corporation	Grinding boring processes	do	2.56 lbs/hr and 7.98 tons/yr	Unclassifiable.
	Surface coating operations	do	42 tons/yr	Attainment.
	Cleaning, polishing and shot blasting facilities.	do	0.3 lbs/hr and 1 ton/yr	Do.
Kerr McGee Refining Corporation	Petroleum loading and storage facility.	VOC (Ozone)	10 lbs/hr and 40 tons/yr	Attainment/unclassifiable.
Hesco Industries, Incorporated	Surface coating (wood furniture)	do	70 lbs/hr and 70 tons/yr	Nonattainment for Ozone with Dec. 31, 1987 attainment date.
Clark Oil and Refining Corporation	Petroleum loading and storage facility.	do	15 lbs/hr and 50 tons/yr	Attainment/unclassifiable.

[1] The emission limits in this table which EPA is approving today are in addition to those limits contained in the EPA approved SIP.

As can be seen, several of these facilities are located in areas designated for the pollutant in question as nonattainment (40 CFR 81.315). Part D of the Clean Air Act requires the State to submit plans for these areas to attain the primary NAAQS by 1982. (Under certain conditions the attainment date for ozone and carbon monoxide nonattainment areas can be extended until no later than 1987.) One of the requirements of Part D is that reasonably available control technologly (RACT) must be required in all areas not attaining the NAAQS.

For TSP the State did submit such plans and EPA conditionally approved them as meeting the Part D requirements, including RACT, in the nonattainment areas where the above TSP facilities are located. (July 16, 1982, 47 FR 30972). The TSP emission limits which EPA is approving today are in addition to those Part D RACT limits EPA approved on July 16, 1982 and, therefore, should contribute to the attainment and maintenance of the TSP NAAQS in the affected areas.

The current status of the Indiana Part D ozone plan is as follows. With the exception of regulations limiting VOC emissions, EPA approved on February 11, 1982 the ozone plan for several counties in Indiana, including Clark (Hesco Industries), as meeting the requirements of Part D of the Clean Air Act (47 FR 6274). EPA proposed on March 15, 1982 to conditionally approve Indiana's VOC RACT I [1] regulation (1979 APC 15) as meeting the initial VOC RACT requirements of Part D (47 FR 11042). The State recodified 1979 APC 15 as 325 IAC Article 8. The recodification, but not the regulation, was approved by EPA on July 16, 1982, 47 FR 30972. EPA proposed to conditionally approve an expanded version of 325 IAC Article 8, which includes the RACT II [1] emission limits, on May 14, 1982 (47 FR 20824). EPA plans to take final action on both of the VOC RACT regulations in future **Federal Register** notices. Until such time as EPA takes action on either 1979 APC 15 or 325 IAC Article 8, the SIP VOC emission limitation regulation remains SIP rule APC 15, as promulgated by the State in 1972 and approved by EPA on May 14, 1973 (38 FR 12698).

In addition to requiring controls in nonattainment areas such as Clark County, Indiana's VOC RACT I regulation requires RACT controls on petroleum loading and storage facilities in the attainment County of Hendricks (Kerr McGee and Clark Oil). However, this regulation does exempt wood furniture surface coating sources of less than 100 tons/yr, such as Hesco Industries, from control. This exemption is consistent with EPA's current policy which does not require wood furniture surface coating operations of less than 100 tons/yr in Indiana to have now or in the future emission controls (August 11, 1982 memorandum on Review of 1982 Ozone and Carbon Monoxide SIP's from Darryl Tyler, Acting Director of Control Programs Development Division). Therefore, even though an emission limit is not required under current EPA policy, because limits were requested by the States, EPA is approving emission limitations today for Hesco Industries. These emission limits are essentially status quo caps.

The source specific VOC emission limits EPA is approving today are in addition to any emission limits and control techniques contained in the State enforceable 325 IAC Article 8 and those contained in the EPA approved SIP. EPA's approval of the State's source specific emission limits for these sources today will impose overall caps in tons/yr and lbs/hr to the emissions currently allowed.

For both TSP and VOC sources, the limitations EPA is approving today are not inconsistent with the RACT level of control required by Part D. The implementation of these additional emission limits above the Part D requirements should contribute to attaining and maintaining the NAAQS in the areas where the sources are located.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become

[1] RACT I regulation are applicable to VOC sources for which control technique guidelines (CTGs) were published by January 1978. RACT II regulations are applicable to VOC sources for which CTGs were published between January 1978 and January 1979.

effective on November 29, 1982. However, if we receive notice by October 29, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subject in 40 CFR Part 52

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

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart P—Indiana

1. Section 52.770 is amended by adding new paragraph (c)(38).

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(38) On April 27, 1982, Indiana submitted source specific TSP emission limits for Huntingburg Wood Products, Jasper Desk Company, Jasper Office Furniture Company, Arist-O-Kraft Company, Mohr Construction Company, Dana Corporation, and Allis Chalmers Corporation. On April 29, 1982, Indiana submitted source specific VOC emission limits for McGee Refining Corporation, Hesco Industries, and Clark Oil and Refining Corporation.

* * * * *

[FR Doc. 82-26839 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-7-FRL 2217-1]

New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Delegation of Authority to Lincoln/Lancaster County Health Department (Nebraska)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA is today amending 40 CFR 60.4 and 61.04, Address, to reflect a delegation of authority to Nebraska's Lincoln/Lancaster County Health Department for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS).

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Steve A. Kovac, Air Branch, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106; 816/374-6525; FTS 758-6525.

SUPPLEMENTARY INFORMATION: The Nebraska Department of Environmental Control has subdelegated authority to implement and enforce the federal NSPS regulations for 32 stationary source categories and national emission standards for four hazardous air pollutants to the Lincoln/Lancaster County Health Department. The amended 40 CFR 60.4(b)(CC) and 61.04(b)(CC) adds the address of the county health department to which all reports, requests, applications, submittals, and communications to the Administrator, as required by 40 CFR Parts 60 and 61, must also be addressed.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional burdens are imposed upon the parties affected.

The delegation which influenced this amendment was effective on August 5, 1982, and it serves no purpose to delay technical change of this address in the Code of Federal Regulations. This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. 7412.

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

Dated: September 14, 1982.

William W. Rice,

Acting Regional Administrator, Region VII.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 60.4, paragraph (b)(CC) is amended by adding the following address after the existing address:

§ 60.4 Address.

* * * * *

(b) * * *

(CC) * * *

Lincoln-Lancaster County Health Department, Division of Environmental Health, 2200 St. Marys Avenue, Lincoln, Nebraska 68502.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04, paragraph (b)(CC) is amended by adding the following address after the existing address:

§ 61.04 Address.

* * * * *

(b) * * *

(CC) * * *

Lincoln-Lancaster County Health Department, Division of Environmental

Health, 2200 St. Marys Avenue, Lincoln, Nebraska 68502.

* * * * *

[FR Doc. 82-26838 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2204-7]

Designation of Areas of Air Quality Planning Purposes; Attainment Status Designations; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: EPA is today approving a change to the redesignation for a portion of Midland County, from non-attainment to attainment designation relative to the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). This revision to the Michigan State Implementation Plan (SIP) is based on a request from the State to redesignate this area.

DATE: This action is effective October 29, 1982.

ADDRESSES: Copies of the redesignation request and the supporting technical information are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

On July 2, 1982 (47 FR 28968) EPA proposed approval of a redesignation for a portion of Midland County, from nonattainment to attainment relative to the SO_2 NAAQS as a revision to the Michigan SIP. No comments were received.

A portion of Midland County, Michigan (36 square miles surrounding the Dow Chemical plant) was designated as a nonattainment area for the primary SO_2 NAAQS in the March 3, 1978 (43 FR 8964), Federal Register. This nonattainment designation was based on the fact that the Dow Chemical Midland plant operated a Supplementary Control System (SCS), in contravention to Section 123 of the Act, in order to attain the SO_2 NAAQS. Dow Chemical's Midland plant is the major source of SO_2 emissions in Midland County.

On May 6, 1980 (45 FR 29790), EPA approved Michigan's SO_2 control strategy required by Part D of the Act for Midland County. The strategy requires Dow Chemical to comply with the one percent sulfur content limitation contained in Michigan's Rule 336.1401. In that notice, EPA approved the Midland County strategy stating that the available information demonstrated that enforcement of those regulations will protect the ambient air quality in Midland County.

On September 28, 1981, the U.S. District Court for the Eastern District of Michigan in the case of the U.S.A. vs Dow Chemical Company, signed a consent decree which, among other items, committed Dow to comply with the requirements of R336.1401 by September 1, 1981.

On December 21, 1981, the State of Michigan requested that EPA designate Midland County as attainment for SO_2. Michigan indicated that, as of September 1, 1981, the Dow Chemical Company is no longer operating an SCS and that Dow Chemical is now burning compliance fuel (one percent sulfur content). This switch to a lower sulfur content fuel has resulted in a significant reduction in sulfur dioxide emissions in the Midland area.

EPA reviewed Michigan's request to redesignate a portion of Midland County from primary non-attainment to attainment for SO_2 and today is approving the State's request. As noted in EPA's rulemaking of May 6, 1980, EPA believes that Dow's compliance with the 1 percent sulfur limit in R336.1401 will assure attainment of the SO_2 NAAQS in Midland County. Therefore, EPA is approving the redesignation of Midland County as attainment for SO_2 based on Michigan's certification that Dow has been in compliance with R336.1401 since September 1, 1981.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator on January 27, 1981 (46 FR 8709) certified that approvals of SIPs under sections 110 and 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Because this final action approves a State action taken pursuant to sections 110 and 172 of the Clean Air Act, it falls within this certification. Further, it imposes no new requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget under Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before May 24, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce those requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 110 and 107, Clean Air Act (42 U.S.C. 7407))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Section 81.323 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table for "Michigan—SO_2", the entry for a portion of Midland County should be revised to read as follows:

§ 81.323 Michigan.

Michigan—SO_2

Designated area	Does not meet primary standards	Does not met secondary standards	Cannot be classified	Better than national standards
* * * * *				
AQCR 122				
1. Midland County, R2E, T13N, sections 1-6, R2E, T13N, sections 1-6, R2E, T14N, sections 7-36.				X.

[FR Doc. 82-26799 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0000/R452 PH-FRL 2214-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerance levels for the pesticide chemicals malathion; *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; methyl 3-[(dimethoxphosphinyl) oxy] butenoate, alpha and beta isomers; dioxathion; ethion; 2-chloro-1-(2,4-dichorophenyl) vinyl diethyl phosphate; and phosalone in or on certain raw commodities and to revise certain commodity descriptions. These regulations would provide conformity between U.S. tolerances and tolerances established for the above pesticide chemicals by the Codex Alimentarius Commission.

EFFECTIVE DATE: Effective on October 29, 1982.

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

FOR FURTHER INFORMATION CONTACT:

Pesticide chemical	PM	Telephone
Malathion: Methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers: Ethion	William Miller—PM16.	(703-557-2600)
Dioxathion: 2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate: *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.	George LaRocca—PM15.	(703-557-2400)
Phosalone	Jay Ellenberger—PM12.	(703-557-2386)

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of May 26, 1982 (47 FR 22982) which announced that the United States proposed to adjust current U.S. tolerances for certain pesticide chemicals to conform with the tolerances set by the Codex Alimentarius Commission (CAC). The purpose of the CAC is, in general, to protect consumer health and ensure fair practices in the food trade while fostering the movement of agricultural products across international boundaries. A primary concern of the CAC is the development of international food standards, including tolerances for pesticide residues in food.

As the last step of the Codex process, countries are asked to accept the tolerances established by CAC. Before acceptance of a CAC tolerance by the United States, it must be determined that the tolerance fully complies with the requirements of the Federal Food, Drug, and Cosmetic Act, and a regulation must have been promulgated. The May 26, 1982 notice of proposed regulations for tolerances appeared to satisfy these criteria.

FMC Corporation has commented regarding the proposal to increase the tolerances for ethion (§ 180.173) on cattle meat, meat byproducts, and pears. FMC stated that the increased tolerances will unnecessarily impact on the percent of acceptable daily intake (ADI) utilized and that the theoretical maximum residues contribution (TMRC) would be inflated by a factor of 3.33 in the case of cattle, meat (fat basis); by a factor of 1.33 in the case of cattle, meat byproducts; and by a factor of 2.0 in the case of pears.

The Agency does not consider that revising the cattle meat tolerance of 0.75 ppm (whole product basis) to 2.5 ppm cattle meat, fat basis to be a substantial increase. The Agency's TMRC calculations for fat, meat, and meat byproducts of cattle for ethion are already based on a 2.5 ppm tolerance level. Therefore, the proposed tolerance increases for meat and meat byproducts do not have any impact on the ADI. The proposed tolerance increase for pears results in an incremental increase of less than 0.5 percent of the TMRC and a 0.64 percent increase in the utilization of the ADI. The increase from 1 to 2 ppm for pears may be higher than necessary for U.S. good agricultural practices. However, EPA believes that in cases where international trade in commodities is of concern, we must also consider international good agricultural practices as is done in the Codex Alimentarius procedures.

The proposed increased tolerances for ethion are reasonable and supportable and are therefore established in § 180.173.

No other comments were received in response to this notice of proposed rulemaking.

Accordingly, EPA, based on consideration given the data published by the CAC and other relevant material, has concluded that the residues expected to result from the use of these insecticides in or on the commodities will not pose a hazard when used in accordance with the label directions, and that the CAC tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, withing 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 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.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: September 10, 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 Part 180 is amended to read as follows:

1. Section 180.111 is amended by revising the established tolerance for broccoli (Pre-H) to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Broccoli (Pre-H)	5.0
* * * * *	

2. Section 180.153 is revised to read as follows:

§ 180.153 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances are established for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl)

phosphorothioate in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa, fresh	40.0
Alfalfa, hay	10.0
Almonds	0.5
Almonds, hulls	3.0
Apples	0.5
Apricots	0.5
Bananas (NMT 0.1 ppm shall be present in the pulp after peel is removed)	0.2
Beans, forage	25.0
Beans, hay	10.0
Beans, guar	0.1
Beans, guar, forage	0.1
Beans, lima	0.5
Beans, snap	0.5
Beets, roots	0.75
Beets, sugar, roots	0.5
Beets, sugar, tops	10.0
Beets, tops	0.7
Birdsfoot trefoil	40.0
Birdsfoot trefoil, hay	10.0
Blackberries	0.5
Blueberries	0.5
Boysenberries	0.5
Broccoli	0.7
Brussels sprouts	0.7
Cabbage	0.7
Carrots	0.75
Cattle, fat (pre-s appli)	0.7
Cattle, meat (fat basis) (pre-s appli)	0.7
Cattle, mbyp (fat basis) (pre-s appli)	0.7
Cauliflower	0.7
Celery	0.7
Cherries	0.75
Citrus	0.7
Clover (fresh)	40.0
Clover, hay	10.0
Coffee beans	0.2
Collards	0.7
Corn, forage	40.0
Corn (inc sweet k + CWHR)	0.7
Cottonseed	0.2
Cowpeas	0.1
Cowpeas, forage	0.1
Cranberries	0.5
Cucumbers	0.75
Dandelions	0.7
Dewberries	0.5
Endive (escarole)	0.7
Figs	0.5
Filberts	0.5
Grapes	0.75
Grass (NMT 40 ppm shall remain 24 hours after appli)	60.0
Grass, hay	10.0
Hops	0.75
Kale	0.7
Kiwi fruit	0.75
Lespedeza	1.0
Lettuce	0.7
Loganberries	0.75
Melons	0.75
Mushrooms	0.75
Mustard greens	0.7
Nectarines	0.5
Olives	1.0
Onions	0.75
Parsley	0.75
Parsnips	0.5
Peaches	0.7
Peanuts	0.75
Peanuts, forage	40.0
Peanuts, hay	10.0
Peanuts, hulls	10.0
Pears	0.5
Peavine hay	10.0
Peavines	25.0
Peas with pods (determined on peas after removing any shell present when marketed)	0.5
Pecans	0.5
Peppers	0.5
Pineapples	0.5
Pineapples, forage	40.0
Plums (fresh prunes)	0.5
Potatoes	0.1
Potatoes, sweet	0.1
Radishes	0.5
Raspberries	0.5
Rutabagas	0.75
Sheep, fat (pre-s appli)	0.7
Sheep, meat (fat basis) (pre-s appli)	0.7
Sheep, mbyp (fat basis) (pre-s appli)	0.7
Sorghum, forage	10.0
Sorghum, grain	0.75
Soybeans	0.1
Soybeans, forage	0.1
Spinach	0.7
Squash, summer	0.5
Squash, winter	0.75
Strawberries	0.5
Sugarcane	0.75
Swiss chard	0.7
Tomatoes	0.75
Turnips, roots	0.5
Turnips, tops	0.75
Walnuts	0.5
Watercress	0.7

3. Section 180.157 is revised to read as follows:

§ 180.157 Methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers; tolerances for residues.

Tolerances are established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	1.0
Apples	0.5
Artichokes	1.0
Beans	0.25
Beets, garden (incl. tops)	1.0
Birdsfoot trefoil, forage	1.0
Birdsfoot trefoil, hay	1.0
Broccoli	1.0
Brussel sprouts	1.0
Cabbage	1.0
Carrots	0.25
Cauliflower	1.0
Celery	1.0
Cherries	1.0
Citrus	0.2
Clover	1.0
Collards	1.0
Corn, field, forage	1.0
Corn, grain, field	0.25
Corn, pop, forage	1.0
Corn, pop, grain	0.25
Corn, sweet (K+CWHR)	0.25
Corn, sweet, forage	1.0
Cucumbers	0.2
Eggplant	0.25
Grapes	0.5
Kale	1.0
Lettuce	0.5
Melons (incl. cantaloupes, honeydew melon, and muskmelon, determined on the edible portion with rind removed)	0.5
Mustard greens	1.0
Okra	0.25
Onions (green)	0.25
Parsley	1.0
Peaches	1.0
Pears	0.5
Peas	0.25
Peavines	1.0
Peppers	0.25
Plums	1.0
Potatoes	0.25
Raspberries	1.0
Sorghum, forage	1.0
Sorghum, grain	1.0
Spinach	1.0
Squash, summer	0.25
Strawberries	1.0
Tomatoes	0.2
Turnips	0.25
Turnips, tops	1.0
Walnuts (determined on the nut meats with shell removed)	0.25
Watermelon	0.5

4. Section 180.171 is amended by revising the established tolerance for stone fruits to read as follows:

§ 180.171 Dioxathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Stone fruits	0.1(N)
* * * * *	

5. Section 180.173 is revised to read as follows:

§ 180.173 Ethion; tolerances for residues.

Tolerances are established for residues of the insecticide ethion [*O,O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate] including its oxygen analog [*S*-[[(diethoxyphosphinothioyl)thio] methyl] *O,O*-diethyl phosphorothioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds	0.1
Almond, hulls	5.0
Apples	2.0
Appricots	0.1
Beans	2.0
Cattle, fat	2.5
Cattle, meat (fat basis)	2.5
Cattle, mbyp	1.0
Cherries	0.1
Chestnuts	0.1
Citrus fruits	2.0
Corn, fodder	14.0
Corn, forage	14.0
Corn, grain	0.1
Cottonseed	0.5
Cucumbers	0.5
Eggs	0.2
Eggplants	1.0
Filberts	0.1
Goats, fat	0.2
Goats, meat	0.2
Goats, mbyp	0.2
Grapes	2.0
Hogs, fat	0.2
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	0.2
Horses, meat	0.2
Horses, mbyp	0.2
Melons	2.0
Milk fat (reflecting (N) residues in milk)	0.5
Nectarines	1.0
Onions	1.0
Peaches	1.0
Pears	2.0
Pecans	0.1
Peppers	1.0
Pimentos	1.0
Plums (fresh prunes)	2.0
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, mbyp	0.2
Sheep, fat	0.2

Commodities	Parts per million
Sheep, meat	0.2
Sheep, mbyp	0.2
Sorghum, forage	2.0
Sorghum, grain	2.0
Squash, summer	0.5
Strawberries	2.0
Tomatoes	2.0
Walnuts	0.1

6. Section 180.263 is revised to read as follows:

§ 180.263 Phosalone; tolerances for residues.

Tolerances are established for residues of the insecticide phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone)*O,O,*-diethyl phosphorodithioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almond, hulls	50.0
Apples	10.0
Apricots	15.0
Artichokes	25.0
Cattle, fat	0.25
Cattle, meat	0.25
Cattle, mbyp	0.25
Cherries	15.0
Citrus fruits	3.0
Goats, fat	0.25
Goats, meat	0.25
Goats, mbyp	0.25
Grapes	10.0
Hogs, fat	0.25
Hogs, meat	0.25
Hogs, mbyp	0.25
Horses, fat	0.25
Horses, meat	0.25
Horses, mbyp	0.25
Nectarines	15.0
Nuts	0.1
Peaches	15.0
Pears	10.0
Plums (fresh prunes)	15.0
Potatoes	0.1
	(N)
Sheep, fat	0.25
Sheep, meat	0.25
Sheep, mbyp	0.25

7. Section 180.322 is revised to read as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate; tolerances for residues.

Tolerances are established for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.2
Eggs	0.005
Goats, fat	0.005
Hogs, fat	0.005
Horses, fat	0.005
Milk, fat (on a fat basis)	0.2
Poultry, fat	0.005
Sheep, fat	0.2

[FR Doc. 82-26463 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2602/R459; PH-FRL 2216-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide chlorothalonil in or on certain raw agricultural commodities. This regulation to establish the maximum permissible levels for residues of the fungicide in or on the commodities was requested by Diamond Shamrock Corp.

EFFECTIVE DATE: Effective on September 29, 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: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 18, 1982 (45 FR 1408) that Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH 44114, had submitted a pesticide petition (PP 2F2602) to EPA. This petition proposed that tolerances be established for the combined residues of the fungicide chlorothalonil (2,4,5,6-tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) in or on the raw agricultural commodities stone fruits (apricots, cherries (sweet and sour)), damsons, nectarines, pawpaws, peaches, plums, and prunes) at 0.2 part per million (ppm). The petition was subsequently amended to list the individual commodities apricots at 0.5 ppm; cherries (sweet and sour) at 0.5 ppm; nectarines at 0.5 ppm; peaches at 0.5 ppm; plums at 0.2 ppm; and prunes at 0.2 ppm.

No comments were received in response to the notice of filing. An adequate analytical method for determining residues of chlorothalonil and its metabolite is available, gas chromatography with an electron capture detector, for enforcement purposes.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data on technical chlorothalonil considered in support of the tolerances included a 2-year dog feeding study with a no-observed-effect level (NOEL) of 60 ppm; a 2-year rat feeding study with a NOEL of 60 ppm with no oncogenic effects; a 3-generation rat reproduction study with a NOEL of 15,000 ppm (reproduction) and 1,500 ppm (lactation); a rabbit teratogenicity study with a NOEL of 62.5 mg/kg (HDT); five mutagenicity studies as follows: cell transformation in newborn rats, negative; mammalian cell gene point mutation, negative; Ames test, negative; in vitro mammalian point mutation, negative; and DNA repair, negative (except, it may interface with DNA repair in TA-1538 cells); and a rat oncogenicity study—NCI, carcinogenic in male and female Osborne-Medel rats, but not on $B_6C_3F_1$ mice at 10,126 ppm (HDT).

Deficiencies have been alleged in the report of the NCI study; however, the present tolerance regulation is based on the assumption that the NCI study is valid. In an Incremental Risk Assessment of the carcinogenic and chronic effects, the analysis showed that, based on the theoretical exposure associated with this tolerance, the carcinogenic upper limits of risk are about 1 in 10−7.

The toxicology data on the metabolite considered in support of the tolerances included a 90-day dog feeding study with a NOEL of less than 50 ppm; a rabbit teratogenicity study with a terata NOEL of greater than 5 mg/kg (HDT); and four mutagenicity studies as follows: a host-mediated assay in the mouse, negative; in vivo cytogenic in the mouse, negative; dominant lethal in the mouse, negative but a significant increase in early deaths at week 3 of mating (spermatid stage) was noted at 6.5 mg/kg/day; and dominant lethal in the rat, negative at 8 mg/kg/day for 5 days. Based on the dog feeding study, the NOEL is 60 ppm or 1.5 milligrams (mg)/kilogram (kg) of body weight (bw). Using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.0150 mg/kg/of body weight/day and the maximum permissible intake (MPI) is 0.90 mg/day for a 60 kg. person. These tolerances utilize a maximum of 0.009% of the ADI; published and proposed tolerances utilize 86.99% of the ADI.

The pesticide is considered useful for the purpose for which the tolerances are

sought. As the proposed uses do not involve any items normally used for livestock feed, there is no expectation of secondary residues in meat, milk, poultry and eggs. It is concluded that the 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 the date of publication of this notice in the **Federal Register**, file a written objection with the Hearing Clerk EPA at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

EFFECTIVE DATE: Effective on: September 29, 1982.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: September 17, 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 180.275 is amended by adding and alphabetically inserting the below named commodities to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
Apricots	0.5
Cherries (sweet and sour)	0.5
Nectarines	0.5
Peaches	0.5
Plums	0.2
Prunes	0.2

[FR Doc. 82–26584 Filed 9–28–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6339

[NEV–051745]

Nevada; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes Secretarial Orders dated January 31, 1903, October 6, 1931 and October 28, 1953 as they affect 194.31 acres of land withdrawn for the Colorado River Storage Project. This land is within the Lake Mead National Recreation Area and thus will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders dated January 31, 1903, October 16, 1931, and October 28, 1953 which withdrew certain lands for use by the Bureau of Reclamation for the Colorado River Storage Project are hereby revoked insofar as they affect the following described land:

Mount Diablo Meridian

T. 32 S., R. 66 E.,
Sec. 12, lots 5, 6, 9, 10, 11, 12, excepting a strip of land 300 feet in width landward from the existing bank of the Colorado River.

The area described aggregates approximately 194.31 acres in Clark County, Nevada.

The above described land lies within the Lake Mead National Recreation Area and will remain closed to operation of the public land laws and the mining laws. The land has been and will remain open to mineral leasing.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 20, 1982.

[FR Doc. 82–26804 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6340

[F–034788]

Alaska; Partial Revocation of Executive Order No. 8847, as Amended; Modification of Public Land Order No. 5187; and Classification of Land for Conveyance to Cook Inlet Region, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes Executive Order No. 8847, as amended, modifies Public Land Order 5187, and classifies and considers as withdrawn certain lands for conveyance to Cook Inlet Region, Inc., under the Alaska Native Claims Settlement Act.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Beau McClure 202–343–6511 or Robert D. Arnold, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Sec. 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA), 85 Stat. 688, 708 (43 U.S.C. 1616(d)(1)), and pursuant to Sec. 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; (43 U.S.C. 1714), it is ordered as follows:

1. Executive Order No. 8847 of August 8, 1941, as amended, which withdrew lands for use of the Department of the Army as an aerial bombing and gunnery range, is hereby revoked in part, as to the lands described below:

Fairbanks Meridian, Alaska

T. 1 S., R. 1 W.
Portion of NW¼, Sec. 24, further described as:
Beginning at the NW corner of said Section 24, said corner being on the boundary line of that certain easement dated 5 Nov 64 granted

by the United States of America to the State of Alaska for a highway right-of-way, Project No. F-062-4(16) SR-2 Fairbanks SE; thence on said line, through a 2,715.00 foot radius curve to the right (whose center point bears S. 00°03'15" E.) having a central angle of 35°, an arc distaince of 1,658.38 feet; thence S. 54°56'45" E. a distance of 299.54 feet; thence leaving said boundary line and continuing S. 54°56'45" E. a distance of 200.00 feet, more or less, to the east line of said W½ of the NE¼ of the NW¼; thence south on said line a distance of 300.00 feet, more or less, to the most southerly boundary line of said highway easement; said line being common to the south right-of-way line of the Old Richardson Highway; thence on said common line, N. 81°47'29" W. a distance of 1,700.00 feet, more or less, to a point being the terminus of said common line, said point being S. 81°47'29" E. a distance of 278.37 feet from the west line of said Section 24; thence continuing on the said right-of-way line of the Old Richardson Highway N. 81°47'29" W. a distance of 278.37 feet to said west line of Section 24; thence leaving said right-of-way line and on said west line N. 00°03'15" W. a distance of 795.00 feet, more or less, to said point of beginning, and containing a total of approximately 31.73 acres.

2. Subject to valid existing rights, the lands described in paragraph 1, excluding lots 10, 11, 15, and 16 which aggregate approximately 4.59 acres and are no longer under Federal jurisdiction, are classified as suitable for conveyance to Cook Inlet Region, Inc., in accordance with paragraph I.C.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, and Sec. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151).

3. Public Land Order No. 5187 of March 15, 1972, which withdrew lands in military reservations for the protection of the public interest under Section 17(d)(1) of the ANCSA is hereby revoked so far as it relates to the lands in paragraph 1 of this order.

4. Subject to valid existing rights, the lands described in paragraph 2 are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181–287.

5. Prior to any conveyance of the lands described in paragraph 2, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181–287, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
September 20, 1982.

[FR Doc. 82-26805 Filed 9-28-82; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6420]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule list communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

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

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

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

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood

insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

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

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date
Arizona: Pinal	Apache Junction, city of	040120B	Dec. 20, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 10, 1980	Sept. 30, 1982.
Arkansas: Johnson	Clarksville, city of	050112B	June 26, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 30, 1973, Aug. 6, 1976.	Do.
Alaska: Bristol Bay Division	Dillingham, city of	020041B	Aug. 7, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 31, 1974, Dec. 12, 1975.	Do.
California:					
Humboldt	Blue Lake, city of	060436A	July 2, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Jan. 17, 1975	Do.
Orange	Costa Mesa, city of	060216C	June 25, 1971, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	July 2, 1976, June 27, 1978, May 17, 1974.	Do.
Do	Garden Grove, city of	060220B	Jan. 19, 1973, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 7, 1976, June 14, 1974.	Do.
Contra Costa	Hercules, city of	060434	July 25, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 26, 1976, Oct. 22, 1976.	Do.
Orange	Westminster, city of	060237D	Sept. 6, 1974, emergency; Aug. 8, 1978, regular; Sept. 30, 1982, suspended.	Nov. 5, 1977, Aug. 8, 1978.	Do.
Colorado:					
Rio Grande	Del Norte, town of	080154B	Aug. 9, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 4, 1976	Do.
Chaffee	Salida, city of	080031B	June 16, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, Jan. 30, 1976.	Do.
Florida:					
Palm Beach	Delray Beach, city of	125102C	Oct. 16, 1970, emergency; Apr. 9, 1971, regular; Sept. 30, 1982, suspended.	July 16, 1976, Mar. 9, 1979.	Do.
Do	Highland Beach, town of	125111C	Sept. 11, 1970, emergency; Oct. 16, 1970, regular; Sept. 30, 1982, suspended.	Oct. 17, 1970, July 1, 1974, Jan. 9, 1976, Jan. 26, 1979.	Do.
Brevard	Indialantic, town of	125115D	Oct. 29, 1971, emergency; Aug. 18, 1972, regular; Sept. 30, 1982, suspended.	Aug. 18, 1972, July 1, 1974, May 7, 1976.	Do.
Do	Malabar, town of	120024C	Aug. 28, 1974, emergency; Sept. 28, 1979, regular; Sept. 30, 1982, suspended.	Mar. 1, 1974, Dec. 19, 1975, Sept. 28, 1979.	Do.
Palm Beach	Tequesta, village of	120228C	Dec. 4, 1970, emergency; June 11, 1971, regular; Sept. 30, 1982, suspended.	June 11, 1971, July 1, 1974, Oct. 8, 1976, Jan. 5, 1979.	Do.
Indiana: Huntingdon	Warren, town of	180095B	Feb. 19, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 23, 1973, Apr. 30, 1976.	Do.
Minnesota:					
Roseau	Greenbush, city of	270413B	Apr. 15, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, Aug. 6, 1976.	Do.
Marshall	Grygla, city of	270269A	May 24, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 8, 1975	Do.
Montana: Beaverhead	Unincorporated areas	300001A	Mar. 14, 1977 emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Sept. 30, 1982	Do.
New Jersey:					
Hudson	North Bergen, township of	340225C	Dec. 5, 1974; emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 28, 1974, Oct. 31, 1975, Aug. 13, 1976.	Do.
Somerset	South Bound Brook, borough of	340445A	Feb. 12, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Oct. 22, 1976	Do.
New York:					
Orange	Cornwall, town of	360611B	Apr. 15, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 29, 1974, May 28, 1976.	Do.
Do	Crawford, town of	361250A	Oct. 1, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 15, 1974	Do.
Ulster	Gardiner, town of	360856B	June 26, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 31, 1974, July 30, 1976.	Do.
Oneida	Marshall, town of	360534B	July 17, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 2, 1974, July 9, 1976.	Do.
Cayuga	Moravia, village of	360118B	July 18, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, July 2, 1976.	Do.
Ulster	New Paltz, town of	361544C	June 27, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 17, 1974, Jan. 2, 1976, Aug. 6, 1976.	Do.
North Dakota: Stutsman	Spiritwood Lake City, city of	380315B	Nov. 1, 1976, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 20, 1979	Do.
Oregon: Washington	Unincorporated areas	410238B	Apr. 10, 1973, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Jan. 24, 1975, Sept. 13, 1977.	Do.
Pennsylvania: York	Dillsburg, borough of	420919B	Sept. 16, 1975, emergency; Sept. 28, 1979, regular; Sept. 30, 1982, suspended.	Mar. 19, 1976, Sept. 28, 1979.	Do.
Tennessee:					
Washington	Jonesboro, town of	470198B	Jan. 16, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Feb. 1, 1974, Oct. 22, 1976.	Do.
Sullivan	Unincorporated areas	470181B	Mar. 6, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Dec. 30, 1977	Do.
Washington	Unincorporated areas	470265B	Oct. 16, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 25, 1977	Do.
Texas: Randall	Canyon, city of	480533C	Aug. 30, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Apr. 30, 1976, Oct. 22, 1976.	Do.

—Continued

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date
Illinois: Scott	Naples, village of	70609B	Mar. 6, 1974, emergency; May 17, 1982, regular; Oct. 1, 1982, suspended.	Apr. 2, 1976, Jan. 9, 1974.	Do.
Minnesota: Winona	Stockton, city of	270532C	May 30, 1975, emergency; Aug. 2, 1982, regular; Oct. 2, 1982, suspended.	Aug. 23, 1974, Oct. 24, 1975, Sept. 22, 1978.	Do.
Michigan: Kalamazoo	Ross, township of	260624A	July 24, 1975, emergency; Mar. 15, 1982, regular; Oct. 6, 1982, suspended.	Mar. 15, 1982	Do.
Virginia: Loudoun	Leesburg, town of	510019B	Mar. 21, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 30, 1974, Sept. 12, 1975.	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-26560 Filed 9-28-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 81-462; RM-3738; RM-3789; FCC 82-407]

Amendment To Reclassify Coin-Operated Electronic Games From Class B to Class A Computing Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to two petitions from manufacturers this Report and Order reclassifies coin-operated electronic games as Class A (commercial) computing devices instead of the past Class B (residential) classification under Part 15 Subpart J. Under the computing device requirements adopted to control interference from digital electronic equipment, Class B requirements are more stringent than Class A requirements. In addition to placing coin-operated games under Class A, this Order changed the equipment authorization required for these games from certification by the FCC to verification by the manufacturer.

DATE: Effective October 18, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sydney P. Bradfield, Office of Science and Technology, RF Devices Branch, Washington, DC 20554, (202) 653–8247, Room 8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communication equipment, Computer technology, Labelling, Radio, Reporting requirements.

Report and Order

Adopted: September 1, 1982.

Released: September 9, 1982.

1. The Commission adopted a Notice of Proposed Rule Making (NPRM) [1] in the above captioned proceeding in response to two petitions from manufacturers of coin-operated electronic games.[2] The NPRM requested comments on a proposal to amend Subpart J of Part 15 of the FCC Rules to reclassify coin-operated video and arcade electronic games from Class B computing devices to Class A computing devices. It also proposed to change the equipment authorization requirement for coin-op games from certification by the Commission to verification by the manufacturer.

2. Comments and reply comments were received October 5, 1981 and October 20, 1981, respectively. The comments, with one minor exception, favored adoption of the Commission's proposal. On the basis of the record in this proceeding and for the reasons stated herein, the Commission has reclassified coin-op games as Class A computing devices subject to verification by the manufacturer. The rules become mandatory for coin-op games manufactured after December 1, 1982. The adopted rules are attached in the Appendix.

Background

3. In 1979, the Commission adopted new rules to control the interference potential of digital electronic equipment (defined as computing devices) to radio communications.[3] These rules established two classes of computing devices: Class B for equipment which is marketed for use in a residential environment; and, Class A for equipment marketed for use in a commercial environment. The rules established limits on conducted and radiated emissions for each class of equipment. Since equipment used in a residential environment has a higher interference potential, Class B limits are 3 times more restrictive than Class A limits.[4]

4. The rules also require that computing devices must be tested and verified for compliance by the manufacturer. Personal computers, associated peripherals and coin-operated electronic games must be certificated by the Commission. Certification is a more burdensome requirement because the manufacturer must wait until a grant of certification has been issued by the Commission, before the device can legally be marketed (See 47 CFR Subparts I and J).[5]

5. Notwithstanding the fact that coin-op games are played in retail establishments where Class A limits would normally be considered sufficient to protect radio communications, the Commission classified all electronic games, including coin-op games, as

[1] Notice of Proposed Rulemaking in Gen. Docket 81-462 adopted July 16, 1981 and released August 27, 1981 (FCC 81-320; 46 FR 44793, September 8, 1981).

[2] RM-3738 filed by Williams Electronics Inc. on August 7, 1980. RM-3789 filed by Atari Inc. on October 24, 1980.

[3] 47 CFR Part 15 Subpart J adopted by *First Report and Order* in Docket 20780 (44 FR 59530; October 16, 1979) and revised by *Order Granting in Part Reconsideration* in Docket 20780 (45 FR 24154; April 9, 1980).

[4] Computing equipment in a commercial environment is further away from susceptible receivers as compared with equipment in residential areas in closer proximity to receivers. Because the emission level decreases with distance, the limits can be higher for Class A equipment and thereby afford the same interference protection. See the *First Report and Order* in Docket 20780 for a more extensive explanation and a complete derivation of the emission limits for computing devices.

[5] Both certification and verification require the manufacturer to measure the emissions from the equipment. Under certification, this data is submitted to the Commission for review. Marketing is prohibited until the Commission has issued a Grant of Equipment Authorization. Under verification, no submission to the Commission is required and the equipment may be marketed as soon as the manufacturer determines that his equipment complies.

Class B computing devices subject to certification by the Commission. The tighter requirements for games were considered necessary in 1979 for the reasons stated in the First Report and Order in Docket 20780. The two primary reasons are:

(1) Expected proliferation and distribution of games, which made them a greater risk to radio communications.

(2) Coin-op games were identified as a source of interference to the Highway Patrol communications at a frequency of 42 MHz in several western states.

6. The compliance date for personal computers and coin-op games was set for January 1, 1981.[6] In late 1980, before certification became mandatory on January 1, 1981, Williams and Atari petitioned the Commission to reclassify coin-op games as Class A computing devices subject only to verification. Subsequently, several coin-op manufacturers filed petitions requesting the Commission to stay the January 1, 1981 compliance date for coin-op games pending resolution of the two above mentioned petitions. The Commission stayed the date until October 1, 1981 in an Order adopted October 4, 1980.[7] It subsequently stayed the date again in the NPRM until final action in this proceeding. During this stay, coin-op games have been subject to the general non-interference requirement of § 15.3 and interim labelling requirement which is intended to warn about possible interference. Coin-operated games, however, do not have to meet emission requirements at present.

Commission Proposal

7. In response to the petitions filed by Atari and Williams, the Commission in this proceeding proposed to reclassify coin-op games as Class A computing devices subject only to verification. This proposal was based on the industry's contentions that technology of the games has changed since 1974 [8] and that the more liberal Class A limits and verification would be adequate to protect communications (See paragraphs 6–11 of the NPRM in this proceeding). These claims were supported in part by measurements made by Atari with the aid of the Oregon and Nevada Highway Patrols. Both police departments claim they are satisfied after the tests that the Class A limits would be sufficient to protect their radio communications.

8. Comments on this proposal were received from the electronic game industry manufacturers and the Association of Maximum Service Telecasters (AMST). In support of the Commission's proposal the game industry repeated the same basic arguments made in the rulemaking petitions and associated comments. The industry arguments are summarized as follows:

(a) Coin-op games should be classified as Class A computing devices, since vendor games are played in commercial establishments and have the same characteristics as other Class A computing devices.

(b) Class B limits are thought to be overly restrictive and unnecessarily costly to the industry.

(c) The price, size, weight and coin box of vendor games do not make these games suitable for marketing to consumers for use in the home.

(d) Certification is perceived as an unduly burdensome requirement because of the frequent and sudden changes of games on the market. It is felt that potential delays in obtaining certification from the Commission would interrupt the game market. Verification by the manufacturer is considered to be sufficient.

9. AMST is the only commenter in this proceeding outside of the coin-op game industry. AMST does not specifically object to reclassifying coin-op games which are marketed to commercial users. However, AMST requests that coin-op games sold to consumers be required to meet Class B emission limits. In response to these comments, the coin-op game industry states that AMST's support of reclassification for coin-op games marketed only for commercial purposes is consistent with the current industry practice of marketing coin-op games for commercial use. Since marketing is directed to commercial establishments, AMST's recommendation for Class B compliance of coin-op games sold to consumers is considered irrelevant by the industry. According to the industry, it is impossible for manufacturers to separate out those few units which might later wind up in the home. Again the industry stresses that cost ($1500 to $2500), weight (approximately 175 lbs.), size (about 5 feet by 2.5 feet and 6 feet high), and the use of a coin-box mechanism tends to make these games unsuitable for the home market.

10. As for the compliance schedule, Bally recommends that compliance be mandatory 90 days after date of final action in this proceeding for new product lines first started into production by that date and on October 1, 1983 for all other product lines. This would be similar to the existing staggered compliance schedule found in the Rules for computing equipment subject to verification except that compliance has been mandatory since October 1, 1981 for equipment first started in production after that date.

Interference Generated by Coin-Op Games

11. After adoption of the proposal to reclassify coin-op games, six recent cases of interference generated by coin-op games came to our attention. Due to the importance of these interference cases to this proceeding, the Chief Scientist, under delegated authority, extended the deadlines for comments in an Order released December 24, 1981 to give interested parties an opportunity to comment. The interference reports are summarized in the Order which extended the comment period in this proceeding.[9] Most of the cases involve interference to land mobile radio communication services including public safety, police and ambulance radio communications. In addition to the interference cases put in the record for comment, we have had three new reports of interference from coin-op games to police and fire department radio communications and one case involving interference to an amateur radio station.

12. In response to these reports, the coin-op game industry filed consolidated comments reflecting the views of the manufacturers of coin-op games.[10] The manufacturers researched the six interference cases and submitted the results of their investigations with comments. The industry notes that as many as twenty to thirty additional interference problems were handled by manufacturers and distributors during 1981. These recent isolated instances of interference, according to the industry, should not alter the Commission's proposal to reclassify coin-op games as Class A computing devices.

13. The industry maintains that these interference cases do not show that

[6] In respect to computing equipment subject to verification, there are two dates of compliance depending upon when the equipment was first produced: October 1, 1981 for equipment first produced after that date and October 1, 1983 for equipment first produced before October 1, 1981. See Order Granting in Part Reconsideration in Docket 20780 at paragraphs 19–22.

[7] *Order Staying the January 1, 1981 Compliance Date for Coin Operated Electronic Games* adopted December 4, 1980 (FCC 80–706).

[8] According to industry, technological advances in electronic games involving the use of microprocessors have significantly reduced emission levels thus mitigating the interference that was reported in 1974–76.

[9] *Order Extending Comment Period* in Gen. Docket 81–462 adopted December 24, 1981 and released December 29, 1981 (47 FR 836, January 7, 1982).

[10] *Further Comments of Atari et al.* filed January 18, 1982.

Class A standards on coin-op games would be inadequate for protecting licensed radio communications. It is stressed that during the pendency of this proceeding coin-op games have not had to comply with any radiation limits. The manufacturers claimed to have determined that the games involved in the interference complaints exceeded the Class A radiation limits. They state that tests on prototype of these games indicated emissions as high as 10 times Class A limits on harmonics of the games' clock frequency. In FCC Laboratory tests of four coin-op games one of which happened to be a model of a game reported to be causing interference, it was also observed that this particular model exceeded the Class A limits.[11] The industry asserts that if these games had complied with Class A limits interference would not have been likely to result.

14. More importantly, the industry asserts that there are too few cases of interference for the Commission to make a positive determination that tighter control of coin-op games is actually required to protect radio communications. It particularly points to the fact that there is no evidence to demonstrate that the Class A limit is inadequate for protecting radio communication from coin-op game interference.

15. Concluding, the industry states that severe hardships in terms of added costs, reduced game capability and delayed game introductions would be experienced by the industry and ultimately the public if compliance with Class B limits and certification is required. According to the industry, these burdens are not in the public interest since compliance with Class A requirements will minimize interference.

Commission Response

16. The Commission in FCC Docket 20780 has already determined that emission control standards are necessary for coin-op games. The recently reported interference cases reaffirm that conclusion. The central issue in this proceeding is whether the more liberal emission limit for a Class A computing device and verification of the game by the manufacturer are sufficient to protect radio communications. Unfortunately, there is no simple way to answer the question of sufficiency of the Class A limits at this time. This type of question can only be answered when we have more experience in evaluating the effectiveness of the Class A and Class B limits.

17. The proposal is adopted for the following reasons:

(a) The limited technical data available to us suggest that the Class A limits may be sufficient to protect communication receivers in the majority of locations that games are operated. More experience with the Class A limits is needed to make a more accurate determination of its adequacy.

(b) To arrest the developing interference problems, we believe it is important to implement some minimal emission control standards as soon as possible. Immediate implementation of the Class A limits should satisfy this need for minimal standards.

(c) Relaxing the degree of compliance will reduce the burden on industry and promote the Commission's objective to reduce overly burdensome rules while at the same time protect radio communications. If it is later determined that the Class A limits are not protecting communications, the Commission will immediately start a new proceeding to impose the more restrictive Class B and certification requirement.

18. Since we have received harmful interference complaints and are continuing to receive reports of harmful interference generated by coin-op games, we are hereby setting an earlier mandatory date of compliance for coin-op games than for other Class A computing devices. Notwithstanding the existing verification schedule for Class A equipment recommended in modified form by the industry for coin-op games (see paragraph 10), the Commission reserved the authority to require compliance prior to the Class A mandatory effective date if harmful interference is caused to radio communications.[12] Accordingly, in order to minimize harmful interference problems and to provide a reasonable time frame for manufacturers to verify their products, all coin-op games manufactured after December 1, 1982 shall be verified as complying with Class A standards prior to marketing.

19. To insure that the Class A limits are adequate and that a manufacturer does in fact verify compliance of its game, the Commission will be closely monitoring this situation for the next year or so. The Commission's Authorization and Standards Division of the Office of Science and Technology will be requesting manufacturers to ship a sample game to the FCC Laboratory in Columbia, Maryland for spot checking.

20. With respect to concern of AMST about second hand coin-op games finding their way into a home, we do not expect this to be a problem for the following reasons. First, smaller and more versatile video games are readily available to consumers from retail outlets. Second, the use of coin-op games will in all likelihood have limited use in the home because most vendor games are limited to one game only; whereas, home games have flexibility in the number of games and software that can be used. Finally, it does not appear reasonable to impose Class B and certification on all coin-op games in the event a few of the games are in fact sold second hand to private users.

Pre-Compliant Operation

21. The Commission recently adopted an Order to relax § 2.806 of the marketing rules to allow operation of computing equipment in some instances prior to compliance.[13] This Order deferred to this proceeding consideration of the issue of pre-compliant operation of coin-op games at the user's premises.

22. As amended, § 2.806 allows any computing device including coin-op games to be operated prior to a determination of compliance for purposes of compliance testing, demonstrations at trade shows, and evaluation of performance and customer acceptability at the manufacturer's facilities. In addition, the Commission amended § 2.806 to allow the added privilege of pre-compliant operation at the user's site for a Class A computing device which cannot be determined as acceptable to the customer at the manufacturer's premises because of size or unique capability. In general, this exemption (§ 2.806(d)) will *not* apply to games. Several manufacturers of coin-op games, in their filings in Gen. Docket 81-463, requested this additional privilege of pre-compliant operation at the user's premises (arcades in this case) for coin-op games so that customer reaction to a new game could be measured prior to full scale production.

23. Section 2.806 permits limited pre-compliant operation for testing and evaluation purposes in the development of any product. However, the Commission is reluctant to permit general pre-compliant marketing and operation of coin-op games at the user's premises. We do not believe that adequate control can be maintained over interference potential of such a device. More importantly, pre-compliant operation does not appear to be

[11] FCC Lab Project No. 83-341, file number 31030/EQU/4-0, dated February 5, 1982.

[12] 47 CFR 15.814(d).

[13] Gen. Docket 81-463: In the matter of Amendment of § 2.806 to permit operation of computing equipment prior to certification or verification. Report and Order adopted March 11, 1982, released March 22, 1982 (FCC 82-119); 47 FR 13809, April 1, 1982.

necessary since coin-op games will now be subject to verification by the manufacturer. By changing the equipment authorization to verification, the speed with which a manufacturer can place a new game on the market is left solely to the discretion of the manufacturer and depends only on how fast the manufacturer finds it feasible to verify his new game.

Final Regulatory Analysis

24. Pursuant to 5 U.S.C. 601 et seq. an Initial Regulatory Flexibility Analysis was incorporated in paragraph 17 of the Notice of Proposed Rulemaking. In paragraph 25 of this Notice, written comments on this Analysis were solicited with the same filing deadlines as comments on the rest of the Notice. No comments in response to this request were received.

I. Need for and objective of rule

25. The Commission is relaxing the regulations governing coin-op games from Class B to Class A computing device standards so that manufacturers are not unnecessarily burdened. These Class A requirements are necessary as a minimum requirement to protect against harmful interference generated by coin-op games.

II. Summary of issues raised in comments on Initial Analysis

26. No comments were received specifically concerned with the Initial Regulatory Flexibility Analysis in the Notice in this proceeding. Since these rules do not impose any new reporting or record keeping requirement and actually decrease the administrative burdens on manufacturers under the verification program of equipment authorization in lieu of certification, there is no deleterious economic effect on manufacturers of coin-op games whether a small business or large. In fact, the effects will be beneficial.

III. Significant alternatives

27. The regulations amended herein respond to petitions from the coin-op game industry seeking relief by reclassification under the less stringent Class A requirements of the computing device rules. This relief is granted.

Ordering Clauses

28. Pursuant to the above and under the authority of Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, Part 15 is amended as set out in the Appendix of this Order.

29. It is ordered that this amendment shall become effective October 18, 1982.

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

31. For further information contact Mr. Sydney Bradfield, Office of Science and Technology, phone 202–653–8247.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 15—RADIO FREQUENCY DEVICES

Part 15 is amended as follows:

§ 15.4 [Amended]

1. Section 15.4(p) is amended by removing the example of "electronic games" in the second sentence.

2. Section 15.814 is amended by adding a new paragraph (f) to read as follows:

§ 15.814 Class A computing device: verification requirement.

* * * * *

(f) Notwithstanding paragraphs (a) and (b) of this section, coin-operated electronic games manufactured after December 1, 1982 shall be verified for compliance with the requirements for a Class A computing device prior to marketing pursuant to Subpart I of Part 2 of this chapter.

§ 15.834 [Amended]

3. Section 15.834 is amended by removing the phrase "(including coin-operated games)" in paragraph (a)(1).

[FR Doc. 82-26698 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 15

[Gen. Docket No. 80-439; FCC 82-406]

Amendment to Clarify Which Electronic Games Are Exempted From Commission Certification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order further clarifies which categories of electronic toy games are subject to FCC approval, and which need only be tested by the manufacturer, with regard to compliance with radio emissions limits. It responds to a petition filed by Texas Instruments, Inc. requesting reconsidertion of the Report & Order in the docket. This action effectively allows most electronic toy games to be self-approved by the manufacturer.

DATE: Effective October 18, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Office of Science and Technology, RF Devices Branch, Washington, DC 20554, (202) 653–8247, Room 8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communications equipment, Computer technology, Labelling, Radio, Reporting requirements.

Memorandum Opinion and Order

Adopted: September 1, 1982.

Released: September 9, 1982.

1. A *Report and Order* in this proceeding was adopted March 11, 1981 and released March 24, 1981.[1] Texas Instruments, Inc. (TI) filed a timely petition for reconsideration of the *Report and Order*. The Toy Manufacturers of America, Inc. (TMA), a trade association, filed comments supporting the TI petition. Milton Bradley Co. submitted a letter dated June 17, 1981 also supporting the TI petition. No other comments or reply comments were received.

Background

2. Electronic games which employ digital circuitry are subject to the Commission regulations for computing devices in Part 15 Subpart J. These rules are designed to control the interference potential of computing devices to TV and radio communications. The computing device rules were adopted in September 1979 by a *First Report and Order* in Docket 20780.[2] Revisions were made in March 1980 by *Order Granting in Part Reconsideration* in Docket 20780.[3] The regulations were instituted after the Commission received numerous reports of interference caused by a variety of devices having in common the use of digital electronics. Lengthy study and technical analysis were conducted before the rules were adopted to determine appropriate interference protection requirements.

3. The regulations adopted in 1979 included a rule § 15.834 that required all electronic games to meet the Class B[4]

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[1] Report and Order in General Docket 80-439, adopted March 11, 1981, released March 24, 1981, 46 FR 19479, March 31, 1981

[2] *First Report and Order* in Docket 20780, adopted September 18, 1979, released October 11, 1979, 79 FCC 2d 28 (1979); 44 FR 59530, October 16, 1979.

[3] *Order Granting in Part Reconsideration* in Docket 20780, adopted March 27, 1980, released April 9, 1980, 79 FCC 2d 67 (1980); 45 FR 24154, April 9, 1980.

[4] The definitions of Class A and Class B computing devices are given in § 15.4(o) and (p) of

computing device emissions limits and be FCC certificated.[5] On reconsideration in 1980, § 15.834 was amended, narrowing the scope of the game certification requirement. The amended § 15.834 required certification for ". . . electronic games, including video coin-operated games, but excluding self-contained, hand-held games that do not use a TV receiver for display."[6] Hand-held games remained subject to manufacturer verification of compliance with Class B limits. (The Class B limits apply irrespective of which authorization procedure is to be used.)

4. Arguing that "hand-held" is too vague (e.g. how big is hand-held?), TMA petitioned the Commission to delete the exemption from certification based on "hand-held" and adopt a new exemption based on the game's clock frequency and/or input power. In the *Report and Order* in the instant proceeding, the Commission amended § 15.834 to exempt an electronic game from certification if it met the following conditions: (1) The game is self contained; (2) the game does not use a TV receiver as a display device; and (3) the game has a clock frequency below 495 kHz.

TI Petition for Reconsideration

5. TI, in its petition, requests reconsideration on two points. First, TI urges that the clock frequency dividing line be shifted from 495 kHz to 1.5 MHz. Second, TI requests that the certification deadline be delayed for those games which remain subject to certification.

6. Several factors weigh in TI's request for shift of the clock frequency dividing line. Current generation toy electronic games employ P–MOS and N–MOS technology.[7] (Only a few games now on the market employ a clock frequency above 495 kHz.) However, according to TI, the trend over the next 2 to 5 years will be to move away from P–MOS and N–MOS technology and move towards C–MOS and other technologies that exhibit higher clock frequencies but consume less power. Emissions thus can be expected to fall on higher frequencies but the levels will be lower. In studying the problem, TI contemplated proposing a certification/verification dividing line based upon a device's clock frequency and power. TI concluded that such a dividing line is impractical due to the difficulty in identifying and measuring the power that contributes directly to the interference signal. As a next best alternative, TI performed a theoretical analysis to evaluate whether the clock frequency dividing line might nevertheless be raised above 495 kHz without unduly increasing the risk of interference. The analysis indicates that the line of demarcation could safely be raised to 1.5 MHz.

7. As to the need to allow more time for certification, TI presents the following argument. Because of the manner in which § 15.834 was revised, it effectively required certification retroactively for all games having a clock frequency above 495 kHz that were produced since January 1, 1981.[8] TI submits that the record does not support the advancement of compliance dates for the class of games. The date for compliance with the certification requirements should be extended to October 1, 1981 for products first placed into production after that date, and to October 1, 1983 for all others. This was the compliance schedule before the rule was amended and only verification was required. TI goes on to explain that the marketing cycle for toy games is keyed around the Christmas selling season and that any marketing delays incurred as a result of the certification process may result in serious hardships to the toy manufacturers. Therefore, it is especially important to allow an adequate period of time for manufacturers to obtain certification.

8. Both TMA and Milton Bradley strongly support the TI petition for reconsideration. They affirm that the information and arguments presented by TI are accurate and correct.

Discussion

9. The petitioner's proposal to require certification for games with a clock frequency greater than 1.5 MHz as opposed to 495 kHz, is a short term and incomplete solution to the matter at hand. The parties commenting in this proceeding generally agree that clock frequency alone does not determine the potential for interference; the emissive character also depends on such factors as circuit layout, accessories, and power of the interfering signal. If there is a simple set of technical characteristics which could be used to distinguish between games which should be certificated and those which need only be verified, it is not readily apparent. Moreover, the selection of an arbitrary technical characteristic such as clock frequency to determine whether a game is subject to certification or verification will apparently result in the need to regularly reexamine and revise the requirement as technology progresses.

10. TI's theoretical analysis showing that game clock frequency may be raised from 495 kHz to 1.5 MHz without potentially increasing the interference risk, assumes that all other factors are effectively held constant. We do not find fault in the analysis itself, but as explained in the previous paragraph, the assumption that other factors besides clock frequency will be constant or similar from one game to the next is not representative of what occurs in actual practice. That is, the combination of factors which affect the emissions characteristics are likely to vary from one game to the next.

11. We have reviewed the record in Docket 20780 (the proceeding which originally set forth the requirements for electronic games) and the record in the instant proceeding, and nowhere has it been shown that games with clock frequencies above a certain point possess characteristics which warrant the Commission's attention in the way of certification. In light of this and the other circumstances discussed above, we have elected to revise and relax § 15.834 beyond what TI has requested. Toy electronic games intended for home use will be subject to manufacturer verification of compliance regardless of clock frequency. We should point out that a game which uses a TV receiver for display is governed by the Class I TV device rules in Part 15 Subpart H and is currently subject to FCC type approval.[9] As for games intended for use in commercial environments (e.g. coin

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Part 15 of the Rules. A Class A computing device is equipment intended for use in commercial, industrial or business environments. Equipment intended for use in residential environments is termed Class B. The technical requirements for Class A devices are less strict than the Class B, due to a lower potential for interference.

[5] The verification and certification equipment authorization procedures are set forth in Part 2 Subpart J. Verification calls for the manufacturer to perform tests to determine compliance. Submission of results to the FCC is not required. Certification requires the submission of an application with test results and other documents to the Commission for review and approval. Equipment authorization is a prerequisite to legal marketing, pursuant to Subpart I of Part 2.

[6] See *Reconsideration* in Docket 20780 (reference footnote 3 above), Appendix B, § 15.834(a)(1).

[7] The terms P–MOS, N–MOS and C–MOS refer to various methods used for construction of digital integrated circuits. MOS stands for metal oxide semiconductor. The prefixes P or N refer to the type of doping of the substrate. The prefix C refers to complimentary type architecture (using P and N type doping).

[8] See § 15.834 paragraphs (a) and (d).

[9] The computing device requirements do not apply where a device is subject to emanation requirements elsewhere in the rules. See § 15.4(n). A number of changes are contemplated for the rules in Part 15 Subpart H. See the Notice of Proposed Rule Making in Docket 79–244 adopted September 18, 1979, 44 FR 59570, October 16, 1979. The type approval requirement was proposed to be relaxed to certification.

operated games), this matter is being addressed in a separate proceeding.[10]

12. The Commission has had occasion to measure emissions from small electronic games that were designed to meet Class B emissions limits—some with clock frequencies well above 495 kHz.[11] The games were found in our tests to meet the limits. It is apparent from this that manufacturers are not having particular difficulty in conforming to the requirements and possess adequate knowledge of the measurement procedures to be utilized. Based on the compliance record of the devices we've tested, and the responsible actions demonstrated by manufacturers in our contacts with them thus far,[12] we believe that toy game manufacturers will test and verify their games as the rules require.

13. We believe that the added burden imposed by certification is not warranted for the type of devices which are the subject to this proceeding, and it appears that verification will provide an adequate safeguard against these devices causing interference. The confusion that arose previously surrounding the authorization requirements for games should be alleviated by the reclassification of coin-operated games from Class B to Class A[13] because there no longer is a need to distinguish between Class B games subject to certification as opposed to verification.

14. As a result of the action we are taking, the petitioner's concern about extension of the certification compliance date is no longer an issue since there are no longer any games subject to certification. As for the verification schedule, instead of the tiered verification compliance schedule in § 15.834, we have decided to set a single compliance deadline of October 1, 1983 for verification of electronic toy games (except coin-operated games). This is the same cut off date as that imposed for most other computing devices,[14] and the toy manufacturers supported this deadline in their comments. Manufacturers are encouraged to verify compliance in advance of October 1, 1983 if at all possible. No further action is required for those devices which were certificated or verified before the instant docket was finalized.

Summary/Ordering Clause

15. In light of the TI petition for reconsideration and other facts surrounding this matter, we have reconsidered the basic issue raised in the proposal in this docket: The merits or deficiencies of certificating certain games and verifying others according to the game's clock frequency. We are now convinced that placing games into the certification or vertification categories according to clock frequency is inappropriate. We have decided therefore to place the subject electronic games in the vertification category, regardless of clock frequency. The emissions limits for the devices in question have not been changed.

16. Pursuant to authority in Sections 4(i), 302, And 303(r) of the Communications Act of 1934, as amended, it is ordered that effective October 18, 1982 § 15.834 is amended as set out in the Appendix to this Order.

17. In view of the action adopted herein, the specific changes requested in the TI petition for reconsideration are made moot.

18. For further information about this Order, contact Mr. Julius P. Knapp, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, phone 202–653–8247.

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

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix

PART 15—RADIO FREQUENCY DEVICES

1. The current text of § 15.834(a)(1) is removed and this paragraph is reserved.

2. The current text of § 15.834(d) is revised to read as follows:

§ 15.834 Class B computing device: Compliance requirement.

* * * * *

(d) The first production compliance date of paragraph (b) of this section may be disregarded for electronic games. All Class B electronic games manufactured after October 1, 1983 must be verified for compliance with Class B requirements.

(Note.—For games that utilize a TV receiver for display see Part 15 Subpart H.)

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[FR Doc. 82-26701 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 15 and 73

[Gen. Docket No. 78-391]

Improvements to UHF Television Reception; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors in the Commission's Report and Order in General Docket 78–391, Improvements to UHF Television Reception (47 FR 35975, August 18, 1982).

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

FOR FURTHER INFORMATION CONTACT: Philip B. Gieseler, 653–5940.

SUPPLEMENTARY INFORMATION:

Released: September 9, 1982.

The following typographical corrections are made concerning the Report and Order in General Docket 78–391, FCC 82–333, released August 6, 1982 (47 FR 35975, August 18, 1982). These corrections are being made in the rule changes that accompany the Report and Order.

§ 15.63 [Corrected]

1. In § 15.63, paragraph (c)(2) is corrected to read "The average of the measurements shall not exceed 350 microvolts per meter." (47 FR 35989, column 1.)

§ 15.65 [Corrected]

2. In § 15.65, paragraph (c) is corrected to read "* * * tuning aids of the same type and comparable capability and quality shall be provided for the UHF portion of that receiver." (47 FR 35989, column 2.)

3. In the second listed rule change to Part 73, in the list of rules in which the number 83 is replaced by the number 69,

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[10] A Notice of Proposed Rule Making in Gen. Docket 81–462 to change the classification of coin-operated games from Class B to Class A was adopted by the Commission on July 16, 1981, released August 27, 1981, FCC 81–320, 46 FR 44793, September 8, 1981. This proposal was in response to a petition filed by coin-operated game manufacturers, saying that Class A limits offer adequate interference protection for this type of game. The proposed rule revision, if adopted, would permit compliance with Class A limits and require verification instead of certification.

[11] Shortly after the computing device rules were adopted, some manufacturers filed for certification of their hand-held games, and some units were examined at the FCC Laboratory. The applications were returned as unnecessary. See Public Notice released May 7, 1980 mimeo no. 31368. After the Report and Order was issued in the instant proceeding, applications for certification of games with clock frequency over 495 kHz were filed with the FCC Laboratory, along with samples.

[12] During the pendency of this proceeding, several manufacturers have applied for and obtained certification of their devices. In some instances waivers were requested to allow additional time to obtain certification. Waivers were issued to Texas Instruments, Milton Bradley Co., and Mattel Electronics by letters dated April 28, 1981, May 26, 1981 and June 9, 1981, respectively, FCC file no. 31030/EQU/4–3–7–1, by Chief Scientist under delegated authority.

[13] See footnote 10, above.

[14] See Sections 15.814 and 15.834 of the FCC Rules.

the following changes are made. (47 FR 35990, column 1.)

A. "73.687(a)(3) (two changes)" is changed to read "73.687(a)(3)."

B. "73.687(a)(b)" is changed to read "73.687(a)(6)."

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26801 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 68

Editorial Amendment of the Commission's Rules To Correct a Typographical Error; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an editorial amendment to the Commission's rules on the connection of terminal equipment to the telephone network that appeared on page 10219 of the **Federal Register** on Wednesday, March 10, 1982, (47 FR 10219). The action is necessary to correct the date of a cited publication.

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

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau, (202) 634-1833.

SUPPLEMENTARY INFORMATION:

Released: September 7, 1982.

The following correction of a typographical error is made in regard to an editorial amendment made to § 68.314(e)(1) of the Commission's rules, 47 FR 10219, published March 10, 1982.

The date shown for the Electronics Industries Association (EIA) Standard RS-464 as being December 1969 is incorrect; it should be December 1979.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

[FR Doc. 82-26812 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

Oversight of the Radio and TV Broadcast Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In the *Order* regarding oversight of the radio and TV broadcast rules, published in the **Federal Register** on September 13, 1982 at 47 FR 40170, there is an error in the text of Item 2 of the Appendix (§ 73.561 Operating schedule; time sharing). It is changed to read correctly.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Released: September 21, 1982.

In the above captioned *Order*, BC 32014, released August 31, 1982 and published in the **Federal Register** on September 13, 1982 at 47 FR 40170, § 73.561, Operating schedule; time sharing (Item 2 of the Appendix) is incorrectly stated in that five asterisks which should follow paragraph (b) of the rule were inadvertently eliminated. It is corrected to read:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. (See § 73.1715). All noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(b) All noncommercial educational FM stations, including those meeting the requirements of paragraph (a) of this section, but will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing applications in conflict with the renewal application of the existing licensee.

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Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26706 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

Private Land Mobile Radio Services; Amendment To Clarify Practices and Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Managing Director, through delegated authority, adopted an editorial change to § 90.421 that added a new paragraph (k) which clearly permits licensees of communications systems in the Private Land Mobile Services to install assigned frequencies at locations where they will obtain assistance in emergency situations involving imminent safety to life or property. This action is taken so that a frequency may be installed at fixed locations without waiver to do so from the Commission. Planning to obtain assistance for emergency situation can be planned for routinely.

DATE: Effective August 27, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles F. Turner, Private Radio Bureau, Washington, D.C. 20554 (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practices and procedures, Public safety radio services, Land transportation radio services, Industrial radio services, Special emergency radio services.

Order

Adopted: August 20, 1982.

Released: August 27, 1982.

1. The Commission is editorially amending its rules to clarify that its practices and procedures permit frequencies assigned to licensees in the Private Land Mobile Radio Services to be installed in the facilities of those who assist the licensee in emergencies and with whom the licensee must communicate in situations involving imminent safety to life or property.

2. Recently questions have been raised as to whether the above described practice is permissible. The Commission is, therefore, taking this action to assure that there is no misunderstanding on this point. The Commission's Rules already provide that any authorized station may communicate without restriction as to type, service, or licensee when the communications involved relate directly to the imminent safety-of-life or property. Clarifying this rule, therefore,

assures there will be no further misunderstanding on this point.

3. Accordingly, the Private Land Mobile Radio Service Rules are amended to reflect that a licensee may install its assigned frequency(s) in any facility with whom the licensee must communicate in situations directly related to the imminent safety of life and property. In all cases where such arrangements are made, the licensee is responsible for taking the necessary precaution to assure the facilities are only used in accordance with our Rules and Regulations.

4. Since this rule is both a general statement of policy and a rule of agency procedure and practice, and because it promotes the general public safety and well being, we conclude, pursuant to 5 U.S.C. and 553 (b) and (d), that notice and public procedure thereon is unnecessary, and the rule change should become effective immediately.

5. Accordingly, it is ordered, effective August 27, 1982, that Part 90 of the Rules and Regulations is amended as set out in the Attached Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 104, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 90.421 is amended by the addition of paragraph (k) as follows:

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

* * * * *

(k) In addition to the above, frequencies assigned to licensees in the Private Land Mobile Radio Services may be installed in the facilities of those who assist the licensee in emergencies and with whom the licensee must communicate in situations involving imminent safety to life or property.

[FR Doc. 82-26702 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 81-699; RM-3788; FCC 82-413]

Use of Additional Digital Codes in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission is authorizing the use of digital codes, other than those specifically defined in the Rules, by amateur radio stations operating on frequencies above 50 MHz. Amateur radio operators have demonstrated a growing interest in experimentation with such codes and communications systems based upon them (e.g. Packet Switching Systems). The broad deregulation being ordered in this proceeding will eliminate many constraints on the use of digital codes for experimentation and communication. Other related regulations regarding digital communications are also being relaxed.

DATES: Effective October 28, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632-4964

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Report and Order

(Proceeding Terminated)

Adopted: September 14, 1982.

Released: September 21, 1982.

1. On October 1, 1981 the Commission adopted a Notice of Proposed Rule Making [1] in the above-captioned matter proposing to allow amateur radio stations to use digital codes, other than those specified by the Commission, on amateur radio frequencies above 50 MHz. That Notice was in response to a petition for rule making, RM-3788 submitted by the American Radio Relay League, Incorporated (ARRL), which seeks amendment of the Amateur Radio Service Rules (Part 97) to provide for the use of any digital encoding technique in the amateur radio frequency bands above 50 MHz. Currently, the Rules only permit the use of the International Telegraphic Alphabet Number 2 (Raudot code) and the American Standard Code for Information Interchange (ASCII code). The comment period for the Notice ended January 15, 1982 and the reply comment period ended February 15, 1982.

2. In its Notice of Proposed Rule Making, the Commission specifically proposed to permit the transmission of digital codes, other than those defined in the Rules, on all amateur radio frequencies above 50 MHz, with the exception of those frequencies designated for A1 emissions only (50.0-50.1 MHz and 144.0-144.1 MHz). It was also proposed to limit communications using such codes to those between points within areas regulated by the FCC (domestic operation). Requirements that a station licensee include a description of the unspecified digital code in the station records and that the licensee, upon direction of the Commission, cease or restrict the use of the code, or maintain a record of coded communications, were also included in the proposal. In related areas, the Notice proposed to raise the maximum sending speed for ASCII coded communications from 1200 baud to approximately 19.6 kilobaud on amateur radio frequencies between 50 and 225 MHz; but it was also proposed to specify this higher speed, as well as all other sending speeds, in terms of "bits per second." The proposal included bandwidth specifications for transmissions of ASCII coded communications between 50 and 225 MHz, and for all transmissions of communications using unspecified digital codes. Finally the Commission proposed to allow the use of A1 emissions for the transmission of ASCII coded communications on frequencies between 3.5 and 28 MHz.

3. Virtually all of the comments on the Notice support the Commission's proposal, however many suggest minor modifications. John A. Carroll, in his comments, quotes the following portion of the Commission's Notice: "We believe that other unspecified digital coding techniques may also lend themselves to digital voice, facsimile, and television communications. As such uses are not currently prohibited by the rules, the Commission does not see a need to restrict these uses for the unspecified digital codes." John A. Carroll's comments goes on to state that certain of these uses have "* * * enormous potential for improved communication, especially relay communication * * *" and that "* * * it would be well to add a few extra words (to the final rules) so that there is no doubt (this) intent." Since the Commission desires to set forth the rules in the clearest possible manner and also desires to foster experimentation in the Amateur Radio Service, we are including such additional language in the final rules.

4. With regard to our proposal that communications using unspecified digital codes be limited to domestic operation only, the ARRL, petitioner in RM-3788, states in its comments, "There is at present a great deal of interest in linking together packet repeaters between Canada and the United States. The League would suggest that the final rules for additional digital codes provide that, should the governments of, for

[1] 46 FR 50993, October 16, 1981.

example, Canada and the United States specifically so agree, VHF or UHF digital communications across national borders shall be permitted." The Commission recognizes the potential desirability of such intercommunication and accordingly the final rules have been fashioned in such a way as to not preclude the use of unspecified digital codes across borders of consenting countries.

5. Several commenters express concern that the proposed rules allowing the Engineers-in-Charge (EICs) of field facilities to restrict the use of unspecified digital codes, or require maintenance of a record of the communications, might be imposed indiscriminately or without due consideration of the burden involved. The comments of the ARRL state, "While the need for this available sanction is manifest * * * the practicality of compliance with such a sanction is of some concern. Conversion of a digitized image or voice transmission or the contents of a computer memory into plain language may be dificult to accomplish." The ARRL also expresses concern that "* * * the potential requirement that an amateur maintain a record * * * of all coded transmissions from the station with which communication is established may be burdensome in certain cases." John A. Carroll's comments state that "* * * high speed digital communication could rapidly generate a large amount of communicated information, which, by Amateur standards, would be prohibitively costly to file." His comments also state that "(t)his is not to suggest that the provision shouldn't be there; (it would be) an important contribution to effective enforcement * * * (but) it would be desirable to indicate how this authority is intended to be used."

6. The Commission is sympathetic to these concerns and we are including language in the final rules which states that the authority being granted to the EICs to limit unspecified coding, or require maintenance of a record, may only be invoked when "* * * necessary * * * to assure compliance with the rules. * * *" We are also deleting from the final rules the proposal that the EICs be authorized to require the recording of communications from a station with which communications are established using unspecified digital codes.

7. Also with regard to the authority the Commission proposed granting the EICs, the comments of Paul Newland state, "The proposal * * * is well reasoned and more than fair * * * (however it) doesn't include any recourse for the amateur who has been directed to cease (unspecifically coded) transmissions permanently. I would like to see a hearing (or some other process) as a next step in resolving * * * a shut-down order." In fact, the appeal process which applies to virtually all Commission actions will also apply to this delegation of authority to the EICs. An amateur operator aggrieved by invocation of that authority may file an application for review or a petition for reconsideration of the action.[2]

8. The sentiment of the comments is unanimously against the Commission's proposal to replace the term "baud" in the rules limiting sending speeds, with the term "bits per second." Representative of this sentiment are the comments of Robert J. Carpenter which state, "If two bits are coded into a single time element (four level coding) the number of 'bits per second' is twice the number of 'bauds,' but the bandwidth occupied has not increased. I feel certain that the Commission intends to control the characteristic which relates to occupied bandwidth (bauds) * * *" Indeed, the Commission's interest is in maintaining spectrum efficiency through limitations on bandwidth. And since we do not want to close off "* * * a prime area of legitimate technical interest and experimentation by amateurs * * *"[3] we are going to continue to specify maximum sending speeds with the term "baud" so that amateur operators can utilize multi-level coding without incurring a sending speed penalty. We are adding a sending speed definition to the rules to make the Commission's intent in this area clear.

9. Several comments express a desire for the Commission to allow sending speeds greater than those proposed in the Notice for ASCII coded communications in the VHF[4] and higher frequency bands. Those comments also request a commensurate increase in the bandwidth authorized for unspecified digital codes. The comments of Paul Newland suggest that techniques such as *"Time-Division Multiplex (TDM)"* could be used so that "* * * more users could benefit by allowing digital transmissions to occupy a bandwidth greater than the Commission had initially planned to allocate." The Amateur Radio Research and Development Corporation (AMRAD) states in its comments that "(t)he highest permissible ASCII sending speed and bandwidth should be raised to 56 kilobits per second and 100 kHz respectively in the 220.5 to 221.9 MHz subband to permit packet switching network operations in that subband." The reply comments of the ARRL state, "The League shares the concerns of Messrs. Ranaldo (for AMRAD) and Newland, and suggests that the Commission increase permissible bandwidths for digital transmissions at and above 220 MHz."

10. The Commission appreciates the desire of the amateur community to experiment and operate with state-of-the-art digital technology. Therefore, in order to avoid hampering these endeavors we are authorizing greater ASCII sending speeds and the use of wider bandwidths for unspecified coded transmissions. We are authorizing a sending speed as great as 56 kilobaud and a bandwidth as great as 100 kHz in accordance with the request of AMRAD; however, in order to permit the greatest flexibility in spectrum utilization, we are going to permit this speed and bandwidth on all frequencies above 220 MHz rather than limiting them to the frequencies between 220.5 and 221.9 MHz. Furthermore, the final rules will allow the use of any bandwidth on frequencies above 1215 MHz rather than imposing a limitation as was proposed in the Notice. The Commission is also not adopting the bandwidth restriction proposed for transmissions of ASCII coded communications on frequencies between 50 and 225 MHz, using sending speeds between 1200 and 19600 bits per second. Instead we will allow a maximum sending speed on the frequencies between 50 and 220 MHz of 19.6 kilobaud without a bandwidth restriction. The maximum speed of 56 kilobaud will apply to the frequencies between 220 and 225 MHz as discussed earlier. We are raising the permissible bandwidth for transmissions of unspecifically coded communications between 50 and 220 MHz from 16 kHz to 20 kHz in order to fit more closely our desire to equate these emissions with the ones currently used in those bands.

11. The Commission is also including some other minor changes in the final rules regarding sending speed and bandwidth. We are revising our bandwidth definition to eliminate certain ambiguities in the definition we proposed in the Notice. We wish to emphasize that this definition does not imply, nor do we intend to require, that amateur radio operators continuously monitor their emission bandwidth while using the digital codes which subject the station transmissions to bandwidth

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[2] See §§ 1.106 and 1.115 of the Commission's Rules; also Section 5, paragraph (d)(4), and Section 405 of the Communications Act of 1934, as amended.

[3] Comments of the American Radio Relay League, Incorporated.

[4] The Very High Frequencies (VHF) are those between 30 and 300 MHz.

limitations. We only require that operators comply with the bandwidth requirements. Operators may determine compliance through electronic, mathematical or any other means they deem sufficient. We are also eliminating the requirement that stations using the Baudot code maintain the sending speed within certain tolerances. Currently, the sending speed must be maintained within 5 words per minute of the standard speeds (60, 67, 75 or 100 words per minute). However, that requirement no longer serves any regulatory purpose since electronic rather than electro-mechanical teleprinter equipment is now commonly used and the newer equipment is less sensitive to variations in sending speed.

12. As another minor change, the Commission is authorizing the use of A1 emissions for ASCII coded communications on all frequencies where F1 emissions are permitted. We had proposed to limit the use of A1 emissions for ASCII coding to the frequencies below 28 MHz, however we can find no reason not to permit this additional mode in the bands above 28 MHz as well. A small amendment to the rules regarding operator privileges is being added to preclude the use of ASCII coded communications by Novice class and Technician class operators using frequencies below 28.2 MHz. This represents no change in privileges for these operators.

13. Finally, with regard to the authorization of unspecified digital codes, concern was expressed in the Commission's Notice that such an authorization could affect ". . . our ability to monitor coded transmissions for content, as well as the ability of the amateur community to monitor transmissions from individual stations for the purpose of self-enforcement." In response to this concern the comments of the ARRL state the following:

> The League is sympathetic to, and generally shares the Commission's reservations about any reduction in the Commission's ability to monitor coded transmissions for content, or the amateur's ability to monitor for purposes of self-enforcement. A combination of several factors should be sufficient to minimize the potential for abuse, however. First, the primarily local nature of communications on the VHF and UHF frequencies involved should limit the potential ability of unscrupulous business users to utilize the amateur bands to transmit data of a commercial nature, circumventing existing common carriers. Second, the vigor with which amateurs protect their allocated frequency bands against unauthorized interlopers, together with well-polished direction finding techniques, will in most cases result in investigation by amateurs of the source of repeated unusual or suspicious digital transmissions. The requirement of open identification procedures is a significant litmus for distinguishing legitimate amateur use from unlawful misuse of amateur frequencies. Finally, the provisions of proposed Rules Section 97.69(c)(3) permit the Commission to take immediate action against a station suspected of unlawful misuse of the amateur bands via unspecified digital codes by ordering the cessation of the use of such codes. The above factors, together with the traditionally superlative level of rule compliance by amateurs, should be sufficient to offset the League's concern and that of the Commission with respect to potential misuse of digital codes.

We have considered this matter at great length. In balancing our objectives of encouraging new technologies against assuring our enforcement capability, it must be recognized that there is an incompatibility between authorizing experimentation with "exotic" technologies and the employment of channel monitoring as an enforcement tool. Our ability to verify that the content of messages complies with our rule requirements will be hindered by the broad relaxation of regulatory constraints that we are ordering in this proceeding. However, the Commission finds itself in agreement with the ARRL that special provisions we are including in the final rules, as well as existing provisions that identification be made in plain English or the international Morse code, should, when combined with the zealous effort of the amateur community to protect their allocated frequency bands, provide adequate protection against unauthorized operation in the service.

14. Accordingly, it is ordered that effective October 28, 1982, Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as set forth in the attached Appendix. It is further ordered that to the extent specified herein, RM–3788 is granted, and in all other respects it is denied. It is further ordered that this proceeding is terminated. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511, December 11, 1980), the Commission will forward a copy of the final rules herein promulgated to the Associate Director for Information and Regulatory Affairs of the Office of Management and Budget. Further information on this matter may be obtained by contacting: Steve Lett, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—AMATEUR RADIO SERVICE

Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as follows:

1. In § 97.7, paragraph (e) is revised to read as follows:

§ 97.7 Privileges of operator licenses.

* * * * *

(e) *Novice Class.* Radiotelegraphy in the frequency bands 3700–3750 kHz, 7100–7150 kHz (7050–7075 kHz when the terrestrial station location is not within Region 2), 21,100–21,200 kHz, and 28,100–28,200 kHz, using only type A1 emission and using only the international Morse code.

2. Section 97.69 is revised to read as follows:

§ 97.69 Digital communications.

Subject to the special conditions contained in paragraphs (a), (b) and (c) of this section, an amateur radio communication may include digital codes which represent alphanumeric characters, analogue measurements or other information. These digitial codes may be used for such communications as (but not limited to) radio teleprinter, voice, facsimile, television, communications to control amateur radio stations, models and other objects, transference of computer programs or direct computer-to-computer communications, and communications in various types of data networks (including so-called "packet switching" systems); provided that such digital codes are not intended to obscure the meaning of, but are only to facilitate, the communications, and further provided that such operation is carried out in accordance with other regulations set forth in this part. (For purposes of this section, the sending speed (signaling rate), in baud, is defined as the reciprocal of the shortest (signaling) time interval (in seconds) that occurs during a transmission, where each time interval is the period between changes of transmitter state (including changes in emission amplitude, frequency, phase, or combination of these, as authorized).)

(a) Use of the International Telegraphic Alphabet No. 2 (Baudot code) is subject to the following requirements:

(1) Transmission shall consist of a single channel, five unit (start-stop) teleprinter code conforming to the International Telegraphic Alphabet No.

2 with respect to all letters and numerals (including the slant sign or fraction bar); however, in the "figures" positions not utilized for numerals, special signals may be employed for the remote control of receiving printers, or for other purposes indicated in this section.

(2) The sending speed shall not exceed 100 words per minute (75 baud).

(3) When frequency (or phase) shift keying (type F1 emission) is utilized, the deviation from the mark signal to the space signal, or from the space signal to the mark signal, shall be less than 900 hertz.

(4) When audio frequency shift keying (type A2 or F2 emissions) is utilized, the highest fundamental modulating frequency shall not exceed 3000 hertz, and the difference between the modulating audio frequency for the mark signal and that for the space signal shall be less than 900 hertz.

(b) Use of the American Standard Code for Information Interchange (ASCII) is subject to the following requirements:

(1) The code shall conform to the American Standard Code for Information Interchange as defined in American National Standards Institute (ANSI) Standard X3.4–1968.

(2) F1 emission shall be utilized on those frequencies between 3.5 and 29 MHz where its use is permitted; and the sending speed shall not exceed 300 baud.

(3) F1, F2 and A2 emissions may be utilized on those frequencies above 28 MHz where their use is permitted; and the sending speed shall not exceed the following:

(i) 1200 baud on frequencies between 28 and 50 MHz;

(ii) 19.6 kilobaud on frequencies between 50 and 220 MHz;

(iii) 56 kilobaud on frequencies above 220 MHz.

(4) A1 emission may be used for ASCII where F1 is permitted; and the sending speed shall not exceed that specified for other ASCII coded emissions on the same frequency.

(c) In addition to the above provisions, the use of any digital code is permitted on amateur frequencies above 50 MHz, except those on which only A1 emission is permitted, subject to the following requirements:

(1) Communications using such digital codes are authorized for domestic operation only (communications between points within areas where radio services are regulated by the U.S. Federal Communications Commission), except when special arrangements have been made between the United States and the administration of any other country concerned.

(2) The bandwidth of an emission from a station using such digital codes shall not exceed the following (where for this purpose the bandwidth is defined as the width of the frequency band, outside of which the mean power of any emission is attenuated by at least 26 decibels below the mean power of the total emission; a 3 kHz sampling bandwidth being used by the FCC in making this determination):

(i) 20 kHz on frequencies between 50 and 220 MHz;

(ii) 100 kHz on frequencies between 220 and 1215 MHz;

(iii) On frequencies above 1215 MHz any bandwidth may be used provided that the emission is in accordance with § 97.63(b) and § 97.73(c).

(3) A description of the digital code and the modulation technique shall be included in the station log during all periods of use and shall be provided to the Commission on request.

(4) When deemed necessary by an Engineer-in-Charge of a Commission field facility to assure compliance with the rules of this part, a station licensee shall:

(i) Cease the transmission of digital codes authorized under this paragraph.

(ii) Restrict the transmission of digital codes authorized under this paragraph to the extent instructed.

(iii) Maintain a record, convertible to the original information (voice, text, image, etc.), of all coded communications transmitted under authority of this paragraph.

[FR Doc. 82–26802 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Eleventh Revised S.O. No. 1474, Amdt. No. 3]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 To Eleventh Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., September 30, 1982, and continuing in effect until 11:59 p.m., December 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: September 23, 1982.

Upon further consideration of Eleventh Revised Service Order No. 1474 (47 FR 13529, 22963 and 32723), and good cause appearing therefor:

§ 1033.1474 [Amended]

It is ordered, that § 1033.1474 *Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee),* Eleventh Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order are extended for an additional ninety (90) days, and shall expire at 11:59 p.m., December 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11.59 p.m., September 30, 1982.

(49 U.S.C. 10304–10305 and Sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. J. Warrent McFarland not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26803 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 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 AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Exemption From Inspection and Weighing Requirements for Grain Shipped to Canada and Mexico

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

Cross Reference: For a document regarding exemption from inspection and weighing requirements for grain shipped to Canada and Mexico withdrawing changes proposed on March 31, 1982 (47 FR 13700) and adopting the interim rule of June 25, 1981 (46 FR 32859) as final, See FR Doc. 82-26706 in the Rules section of this issue. Refer to the Table of Contents for the appropriate citation.

BILLING CODE 3410-EN-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 95

[Docket No. PRM-95-1]

Modification of Classification Guide for Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking submitted by General Atomic Company.

SUMMARY: The Nuclear Regulatory Commission is hereby denying a petition for rulemaking submitted by the General Atomic Company (GAC) in a letter to the Secretary of the Commission dated May 19, 1981. The petition requested that the Commission amend its regulation relating to the classification guidance provided by sub-topic 112 of Appendix A, "Classification Guide for Safeguards Information," to 10 CFR Part 95 to change the CONFIDENTIAL-National Security Information (CNSI) classification category to unclassified (U) or to delete sub-topic 112 from Appendix A.

FOR FURTHER INFORMATION CONTACT: Raymond J. Brady, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4472.

SUPPLEMENTARY INFORMATION: On March 5, 1980, the Nuclear Regulatory Commission published, as a final rule, 10 CFR Part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data" (45 FR 14483). On August 4, 1981, the NRC published for comment a petition for rulemaking by the General Atomic Company (GAC) that requested a change to or deletion of subtopic 112 of Appendix A to Part 95 (46 FR 39610). No public comments were received on the GAC petition.

Appendix A to Part 95, which is the "NRC Classification Guide for Safeguards Information," provides security classification guidance for safeguarding information about certain nuclear material or facilities. Sub-topic 112 of Appendix A requires the classification of "Total quantities at any given time of SSNM by designated vault and vault-type storage areas." GAC in their petition requested that either the classification of sub-topic 112 type information be changed from classified CONFIDENTIAL-National Security Information (CNSI) to unclassified (U) or that sub-topic 112 be removed from Appendix A.

The NRC in reviewing and evaluating GAC's petition has concluded that sub-topic 112 of Appendix A provides for proper classification guidance to ensure that information of this type is protected to minimize or prevent acts of theft or diversion of formula quantities of SSNM, and information that could enhance the credibility or frequency of threats made against nuclear facilities. The NRC does not agree with the GAC contention that: (1) There is only a remote possibility that an adversary would base his or her action upon the availability of specific data about a vault's momentary contents; and (2) the general availability of unclassified information * * * makes the time dependent vault total a secondary factor in attack planning by would be adversaries." Specifically, since: (1) An adversary may base his or her actions on the vault's momentary contents, if the action contemplated was intended to enhance the credibility of a nuclear threat, and (2) a vault can always be expected to be a principal target for an adversary and knowing the quantity of material contained therein, may make it a more attractive target.

Incidents such as theft and threats can cause identifiable damage to the national security and therefore, information that could assist an adversary in planning such actions must be protected. Sub-topic 112, when standing alone, may appear unduly restrictive and unnecessary; however, the correlation of this sub-topic with sub-topics of Section 200 (e.g. 212, 221, 222, 224, 261, 262, 263 and 264), provide assurance that information related to the physical protection of formula quantities of SSNM that could cause damage to the national security is protected.

The NRC has expended a considerable amount of resources studying and evaluating this concern both prior to and after receipt of the GAC petition and after careful review and consideration has concluded that the classification guidance provided by sub-topic 112 shall not be deleted from Appendix A. The NRC bases this position on the fact that the information classified by subtopic 112 is information that could facilitate carrying out a successful: (1) Theft or diversion of formula quantities of nonself-protecting strategic special nuclear Material (SSNM), or (2) sabotage mission against any facility or activity involving formula quantities of nonself-protecting SSNM.

This denial is being issued by the Executive Director for Operations based on authority delegated to him by the Commission.

Dated at Bethesda, Maryland, this 26 day of August, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-26841 Filed 9-28-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

10 CFR Part 599

[Docket No. ERA-R-80-41]

Withdrawal of Proposed Rule Concerning Standby Procedures for Emergency Purchases and Emergency Allocation of Natural Gas During a Declared Emergency

AGENCY: Energy Department (DOE).

ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Energy (DOE) gives notice that it is withdrawing the regulations it proposed on December 1, 1980 (45 FR 81011, December 8, 1980) to implement Section 302 and 303 of the Natural Gas Policy Act of 1978 and Section 607 of the Public Utility Regulatory Policies Act of 1978. The standby procedures would have addressed emergency natural gas purchases, emergency natural gas allocations, and emergency prohibitions on the burning installations. DOE has determined that the proposed regulations are unnecessary at this time and should be withdrawn.

FOR FURTHER INFORMATION CONTACT:

Lana Ekimoff, Department of Energy, Office of Energy Contingency Planning, Room GH-060, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252-4000

Michael Skinker, Department of Energy Office of General Counsel, Room 6E-042, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: Section 301 and 303 of the Natural Gas Policy Act of 1978 (NGPA, Pub. L. 95-621) provide that the President may authorize emergency purchases of natural gas and allocate certain natural gas supplies when he declares that a natural gas supply emergency exists. Section 607 of the Public Utility Regulatory Policies Act of 1978 (PURPS, Pub. L. 95-617) provides authority for the President to prohibit the burning of natural gas by an electric powerplant or major fuel-buring installation during such a declared natural gas supply emergency. The emergency authorities of Section 302 and 303 of the NGPA and Section 607 of the PURPA have been delegated by the President to the Secretary of Energy. The President, however, retains the sole authority to declare, extend, or terminate a natural gas supply emergency.

On December 1, 1980, DOE issued a Notice of Proposed Rulemaking Regarding Standby Procedures for Emergency Purchases and Emergency Allocation of Natural Gas During a Declared Emergency to implement NGPA Sections 302 and 303 and PURPA Section 607 (Docket No. ERA-R-80-41, 45 FR 81011, December 8, 1980). A public hearing was held on January 13, 1981, and written comments were due by February 6, 1981. The comments filed in this proceeding are available for inspection in the Public Reading Room of the Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585.

Over the last several months the Department has reevaluated the need for finalizing these proposed regulations. Based on changes in the Federal emergency preparedness policy since the regulations were proposed and other reasons noted below, we have determined that these regulations are unnecessary at this time and the proposed should be withdrawn.

Sections 302 and 303 of the NGPA were designed, *inter alia*, to remove jurisidictional impediments to the purchase and transportation of natural gas between the interstate and intrastate markets during a declared natural gas supply emergency. Non-emergency mechanisms, however, are now in place to facilitiate the purchase and transportation of surplus gas between markets and, consequently, lessen the likelihood a natural gas supply emergency may occur. These non-emergency mechanisms have been implemented and are being administered by the Federal Energy Regulatory Commission under the authority of Sections 311 and 312 of the NGPA and the Natural Gas Act.

Another important consideration in our decision to withdraw the proposed regulations is the fact that DOE may exercise the NGPA and PURPA emergency purchase, allocation and prohibition authorities by order as well as by regulation. In this regard, during the declared natural gas emergency in the winter of 1976-1977 the Federal government effectively exercised similar emergency natural gas purchase authorities under the Emergency Natural Gas Act of 1977 by order rather than regulation. We believe that the statutory provisions of Section 302 and 303 of the NGPA and Section 607 of the PURPA are clear on their face and should provide ample notice to the public as to the scope of and basis for any orders which might be required during a future natural gas supply emergency. However, should it be determined in any future emergency that a rule would be of assistance to the industry and general public, such a regulation could be developed and issued on an expedited basis.

Therefore, for the reasons stated above, DOE believes that a regulation is not needed at this time and the proposed rule is hereby withdrawn.

Dated: September 23, 1982.

R. D. Furiga,

Deputy Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82-26678 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Loan Participations Between Federal Land Banks and Production Credit Associations

AGENCY: Farm Credit Administration.

ACTION: Notice of Intent.

SUMMARY: The Farm Credit Administration ("FCA") hereby publishes definitive guidelines relating to loan participations among Federal land banks ("FLBs") and production credit associations ("PCAs") of the Farm Credit System ("System") as specifically authorized by various provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) ("1980 Amendments").

Due to the complexity of the issues involved, the FCA has deferred issuing regulations regarding the exercise of loan participation authorities by System institutions in order to allow sufficient study of the options available for implementation. A System task force was established in 1981 to identify loan participation opportunities provided by the 1980 Amendments. The task force issued its report in mid-1982. In view of the interest by System institutions in loan participations, the FCA has issued these definitive guidelines for the conduct of such activities by FLBs and PCAs.

It is anticipated that after an interim period during which System institutions gain experience with loan participations, the FCA will propose regulations relative to the exercise by System institutions of loan participation authorities conferred under the 1980 Amendments. Recommendations of the System task force and all public comments received on the guidelines will be evaluated and considered in connection with that rulemaking action.

DATE: Written comments must be received on or before November 29, 1982.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm

Credit Administration, Washington, DC 20578. Copies of all communications received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202–755–2161).

SUPPLEMENTARY INFORMATION: Loan participations among FLBs and PCAs have the potential for improving the quality of credit services offered by System institutions. Such loan participations can be a tool for better accommodating the needs of young farmers and other credit worthy applicants/borrowers who require specialized loan financing and loan servicing arrangements.

In recognition of the usefulness of loan participations, the FCA hereby authorizes, pursuant to §§ 1.4(6) and (12), 2.12(13), and 4.18 of the Farm Credit Act of 1971, as amended ("Act"), loan participations between FLBs and PCAs subject to the conditions and guidelines set forth below. This authorization, unless otherwise amended, is effective for the interim period between the date of this notice of intent and issuance of final regulations regarding loan participations. It is anticipated that such final rules will be in place during 1983. This authorization does not extend to any other type of loan participation arrangements between System institutions that operate under different titles of the Act nor does it limit any previously authorized loan participation agreements.

General Guidelines

Only loan participation arrangements between FLBs and PCAs designed to accomplish at least one of the following goals are authorized by this memorandum: (1) To facilitate the sharing of credit expertise on specific loans; and (2) to provide loan servicing arrangements that are advantageous to FLBs or PCAs in accommodating borrowers who have special needs.

District boards desiring to implement a coordinated program consistent with the following guidelines shall effect such policy approvals and modify existing policies as necessary. These policies shall be submitted to FCA for approval prior to the implementation of the program in the district.

FLBs and PCAs entering into loan participation agreements authorized by these guidelines shall comply with the following guidelines. Federal intermediate credit banks ("FICBs") shall exercise supervisory authority over PCAs where indicated to ensure observance of these guidelines.

1. Any FLB or PCA shall have the option to accept or reject any loan participation.

2. PCAs shall enter into loan participation agreements only upon receiving prior approval of their supervising FICB. The FICB shall evaluate, in addition to the overall terms of each proposed loan participation, the capacity of the association to properly administer the loan in accordance with the loan participation agreement and any other factors relating to the ability of the PCA to carry out the terms of the agreement within the guidelines of this notice of intent.

3. FLBs and PCAs shall only enter into loan participation agreements on loans financing operations wholly located within the chartered territories of both participating institutions or on loans financing operations that both institutions can finance pursuant to FCA Regulation § 614.4070.

4. FLBs desiring to utilize differential interest rates to the borrower for the purpose of blending the FLB and PCA interest rates or for other reasons shall submit policies to FCA in accordance with FCA regulation § 614.4280. PCAs shall obtain approvals for differential interest rates to the borrower from the supervising FICB.

5. The amount of any loan retained or purchased by an individual bank or association shall be subject to any prior approval requirements for that bank or association and shall be in accordance with 12 CFR Part 614, Subpart J, of FCA Regulations.

6. No FLB or PCA shall have loan participations authorized by this memorandum that exceed in the aggregate 15 percent of its loan volume.

Loan Participation Agreement Guidelines

Borrower eligibility, membership, loan term, loan amount, loan security, and the requirement for the purchase of stock or participation certificates by the borrower shall be determined in accordance with statutory and regulatory provisions under which the institution that originates the loan operates. All other terms shall be as to the agreement of the participating institutions. Each agreement, as a whole, shall ensure an equitable financial and operational arrangement for the borrower and participating institutions.

All loan participation agreements shall include provisions that define the duties and responsibilities of both the originating and participant institutions consistent with good business practices. At a minimum, loan participation agreements shall:

1. Identify the particular loan or loans of the borrower to be covered by the agreement;

2. Provide for disbursement and repayment of loan funds;

3. Provide for sharing, dividing, or assigning collateral;

4. Provide a loan service plan;

5. Provide collection procedures;

6. Provide authorization and conditions for action in the event of borrower distress and default;

7. Provide for the sharing of loss;

8. Provide for capitalization requirements between participating institutions;

9. Set forth conditions for acceptance and termination of the agreement; and

10. Provide for arbitration of controversies and/or disagreements between parties arising under the agreement.

In addition, loan participation agreements shall contain any other applicable terms necessary to administer the loan and safeguard the interests of System institutions. Equity investments between institutions shall be in the form of participation certificates.

List of Subjects in 12 CFR Ch. VI

Agriculture, Banks, banking.

(Secs. 5.9, 5.12, Pub. L. 92–181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2246 and 2252)

Donald E. Wilkinson,

Governor.

FR Doc. 82–26675 Filed 9–28–82; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 216

[DoD Directive 1322.13]

Identification of Institutions of Higher Learning That Bar Recruiting Personnel From Their Premises

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule updates the implementation of the provisions of section 606 of the DoD Authorization Act for 1973. This law provides that no funds appropriated for Department of Defense may be used at any institution of higher learning that bars recruiting personnel from their premises. This proposed rule establishes

responsibilities and provides specific guidance and procedures to all heads of DoD Components and DoD commanders for identifying institutions of higher learning that bar recruiting personnel from their premises and establishes reporting requirements.

DATE: Written comments must be received by November 29, 1982.

ADDRESS: Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (Military Personnel & Force Management) (Accession Policy), the Pentagon, Room 2B269, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald G. Liveris, 202–697–9269.

SUPPLEMENTARY INFORMATION: In FR Doc. 76–3899 appearing in the Federal Register on February 10, 1976 (41 FR 5821), the Office of the Secretary of Defense (OSD) published a final rule establishing DoD policies and procedures with respect to identifying institutions of higher learning that bar recruiting personnel from their premises. The OSD proposes to revise these policies to clarify the procedure for acting in such cases and to establish certain reporting requirements.

List of Subjects in 32 CFR Part 216

Armed Forces, Colleges and universities, Recruiting personnel.

Accordingly, it is proposed to revise Chapter 1, 32 CFR Part 216, to read as follows:

PART 216—IDENTIFICATION OF INSTITUTIONS OF HIGHER LEARNING THAT BAR RECRUITING PERSONNEL FROM THEIR PREMISES

Sec.

Authority: Pub. L. 92–436, 606(a), 1973.

§ 216.1 Reissuance and purpose.

This part is reissued, ——— and establishes procedures to identify and take action in accordance with Pub. L. No. 92–436 ——— with respect to institutions of higher learning that bar recruiting personnel from their premises.

§ 216.2 Applicability.

This part —— applies to the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Service," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 216.3 Policy.

(a) Under Pub. L. No. 92–436, ——— funds appropriated for the Department of Defense may not be used at any institution of higher learning if the Secretary of Defense or his designee determines that recruiting personnel of any Military Service are barred by policy from the premises of the institution. If recruiting personnel are barred from the premises of a subordinate element of an institution by the policy of such subordinate element, and the policy does not effectively bar recruiting at other subordinate elements, the prohibition on use of funds applies only to the elements in which recruiting is effectively barred.

(b) A determination that military recruiting personnel are barred by policy from the premises of an institution will be made when military personnel cannot obtain permission to recruit on the premises of the institution, except when the institution:

(1) Excludes all employers from recruiting on the premises of the institution.

(2) Permits employers to recruit on the premises of the institution only in response to an expression of student interest, and the institution:

(i) Provides the Military Services with the same opportunities to inform the students of military recruiting activities as are available to other employers;

(ii) Certifies that an insufficient number of students have expressed an interest to warrant accommodating military recruiters, applying the same criteria that are applicable to other employers;

(iii) Does not base such action upon the policies or practices of the Department of Defense or any DoD Component;

(3) Has been unable to schedule military recruiting visits in the past academic year, but agrees to schedule military visits on the premises of the institution in the coming academic year; or

(4) Otherwise establishes reasonable restrictions on the time and place of recruiting activities that are generally applicable to all employers and are not based on the policies or practices of the Department of Defense or any DoD Component.

(c) Under Pub. L. No. 92–436, the ——— prohibition on use of funds may be waived if the Secretary of the Military Department certifies to the Congress in writing that a specific course of instruction is not available at any other institution of higher learning and furnishes to the Congress the reasons why such course of instruction is of vital importance to the security of the United States.

(d) Under Pub. L. No. 92–436, the ——— prohibition on use of research and development (R&D) funds may be waived if the Secretary of Defense, or his designee, determines that the expenditure is a continuation or a renewal of a previous program with the institution that is likely to make a significant contribution to the defense effort.

§ 216.4 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))* shall:

(1) Determine whether recruiting personnel have been barred by policy from the premises of an institution of higher learning.

(2) Disseminate to DoD Components the names of institutions of higher learning that are subject to the prohibition on use of funds.

(b) The *Under Secretary of Defense for Research and Engineering (USD (R&E))* shall exercise the authority to waive the prohibition on use of R&D funds under § 216.3(d). ——— Such waivers shall be reported promptly to ASD (MRA&L).

(c) The *Secretaries of the Military Departments shall:*

(1) Submit semi-annual reports to the ASD(MRA&L) under § 216.6(a) ——— with respect to institutions of higher learning that bar recruiting personnel from the premises of the institution.

(2) Determine whether to waive the prohibition on use of funds under §216.3(c).

(3) Submit the semi-annual reports required from Heads of DoD Components under § 216.6(b).

(d) The *Heads of DoD Components* shall submit semi-annual reports on actions related to the prohibition on use of funds under § 216.6(b).

§ 216.5 Procedures.

(a) Recruiters will continue to observe the traditional policy of the Department of Defense to accommodate an institution's preferences as to times and places for scheduling on-campus recruiting.

(b) The procedures in this part —— are intended for use with respect to institutions of higher learning visited for recruiting purposes. It is not intended that a survey of institutions of higher

learning be undertaken, or that other contact be initiated, for purposes of this part. —— Initiation of action under this Part —— will be limited to experiences obtained as a result of attempts to schedule or conduct normal recruiting visits and on any further information related to such recruiting endeavors.

(c) The following procedures shall be used by the Military Departments to determine whether recruiting personnel are barred by policy from the premises of an institution of higher learning.

(1) An inquiry as to the policy of the institution with respect to military recruiting shall be initiated when an official of the institution informs the Military Service, verbally or in writing, that the policy of the institution is not to permit recruiting by the Military Service, or when repeated requests to schedule recruiting visits are unsuccessful. An inquiry need not be initiated when the Military Service concerned has otherwise determined that recruiting personnel are not barred by policy under § 216.3(b)(1) through (4).

(2) The inquiry will consist solely of official contact with officers of the institution who are responsible for recruiting or placement activities, or their superiors.

(3) As an initial step, the Military Service will obtain written confirmation of the refusal to permit recruiting by the Military Service. If written confirmation cannot be obtained, verbal policy statements attributed to an appropriate official of the institution shall be used.

(4) Based upon the initial inquiry, written clarification of the institution's present policy shall be sought by a letter of inquiry to the head of the institution from the headquarters level of the Recruiting Service (or a higher official if so designated by the Secretary concerned). The prototype letter of inquiry at Enclosure 1 should be followed to the maximum extent possible.

(5) Under procedures established by the Secretary concerned, a determination will be made as to whether military recruiting personnel are being barred by the policy of the institution from the premises of the institution. The determination will be based on the responses to the letter or inquiry and on such other evidence obtained in accordance with this part as may be appropriate, consistent with the guidance in § 216.3.

(6) If it is determined that one or more of the provisions of §216.3(b)(1) through (4), are applicable, the action shall be terminated.

(7) The Secretary concerned shall submit a report for each military service to the ASD(MRA&L) and the USD(R&E) each January 31st and June 30th.

(i) The report shall list each institution of higher learning that is recommended for inclusion on the list of institutions subject to the prohibition on use of funds. Full documentation, including the basis for the listing, shall be furnished for each institution named, including the institution's formal response to the letter of inquiry.

(ii) Repetitive listing of institutions subject to the prohibition at the time of the report is not required.

(iii) Each institution which has been granted a waiver by the Secretary concerned under § 216.3(c), shall be listed in a separate portion of the report. A copy of the transmittal to Congress shall be included.

(iv) The USD(R&E) shall inform the ASD(MRA&L) promptly when the waiver provisions are invoked for research and development funds under § 216.3(d), with respect to any institution listed on the Military Department's report. Negative reports from the USD(R&E) are not required.

(d) Not later than 30 days after receipt of the reports from the Military Departments, the ASD(MRA&L) shall provide each institution listed by the Military Department under paragraph (c)(7)(i) of this section, with the following information:

(1) The portions of the Military Department's report that pertain to the institution, including the supporting documentation.

(2) Notice that the prohibition on use of funds under Pub. L. No. 92–436 and this part will be invoked within 60 days of the date of the letter unless the institution provides sufficient information to enable the ASD(MRA&L) to determine that the institution will permit recruiting by the Military Services during the coming academic year or that the provisions of § 216.3(b)(1) through (4), are otherwise applicable. A reasonable extension of time, not to exceed 30 days, may be granted at the request of the institution.

(3) Notice that communications concerning the waiver provisions based upon the availability of a specific course of instruction (§ 216.3(c)) or expenditure of research and development funds (§ 216.3(d)) should be submitted to the ASD(MRA&L) for transmittal to the appropriate official.

(e) When the response of the institution has been received, or if no response is received by the suspense date, the ASD(MRA&L) shall determine whether the institution shall be prohibited from receiving funds as provided in § 216.3. The determination shall be transmitted promptly to the institution and to all DoD Components. If the USD(R&E) has invoked the waiver provisions with respect to research and development funds under § 216.3(d), that fact shall be noted. If the prohibition on use of funds extends only to subordinate elements of an institution, only those elements that are subject to the prohibition shall be listed.

(f) On a semi-annual basis, but not later than November 30th and April 30th of each year, the ASD(MRA&L) shall transmit to the heads of DoD Components a cumulative list of all institutions currently subject to the prohibition on use of funds under § 216.3.

(1) An institution may be removed from the list under the following circumstances:

(i) When the institution provides information to the ASD(MRA&L) to permit a determination that the institution is willing to schedule recruiting by the Military Services on the premises of the institution in the coming academic year, or that § 216.3(b)(1) through (4), are otherwise applicable.

(ii) When the Secretary of a Military Department invokes the waiver provisions of § 216.3(c).

(2) If the USD(R&E) invokes the waiver provisions of § 216.3(d), permit the use of research and development funds at an institution on the list, that fact will be noted, but the institution will not be removed from the list solely on that basis.

(3) An institution may be added to the list only in accordance with this section. If the Secretary of a Military Department proposes to withdraw a waiver previously granted under § 216.3(c), the Secretary shall notify the institution of that fact and shall initiate an inquiry under this section to determine whether the institution intends to continue barring military recruiters by policy from the premises of the institution. If it is determined that such a bar is in effect, the matter shall be processed by the Secretary under the Military Department and the ASD(MRA&L) under this section.

§ 216.6 Information requirements.

(a) The semi-annual reports from the Secretaries of the Military Departments as to recommendations of institutions for inclusion on the list of institutions prohibited from receiving funds shall be submitted on January 31 and June 30 of each year. The reporting requirement has been assigned Report Control Symbol DD–M(SA) 1386.

(b) On January 31 and June 30 of each year, the Heads of DoD Components shall submit a list of all actions in which

an institution listed by the ASD(MRA&L) under § 216.5 (e) and (f), has been subjected to a termination of funding or other disqualification from eligibility to receive funds on the basis of this Directive. The reporting requirements has been assigned Report Control Symbol DD————.

September 24, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Prototype Letter of Inquiry

Dr. John Doe,
President, ———— University
Washington, D.C.

Dear Mr. Doe: Section 606 of Pub. L. No. 92–436, the Department of Defense Authorization Act for 1973, prohibits use of DoD appropriations at any institution of higher learning which by policy bars military recruiting personnel from the premises of the institution. It further provides that the Secretaries of the Military Departments shall furnish the Secretary of Defense the names of any institutions of higher learning which the Secretaries determine on such dates are affected by the prohibitions contained in this section on barring recruiting personnel from the premises or property of any such institution.

Funds for tuition assistance, research, development, test and evaluation for the Armed Forces are included in this Act. The applicable section of Pub. L. No. 92–436 is attached for your information.

In order to enable the [Service] Recruiting Command to provide authoritative information for use in complying with the requirements of this law, I would appreciate clarification of the current policy of your institution in regard to on-campus military recruiting. (Recite information previously received concerning the institution's policy or intentions in regard to on-campus recruiting, recite record of unsuccessful efforts to schedule recruiting visits, recite other facts or points of departure, as appropriate.).

Specifically, I would appreciate answers to the following questions:

Is it the present policy of ———— University to bar military recruiting personnel from its premises or property?

Does ———— University intend to permit military recruiting on campus in the near future and is is now able to schedule a date for a recruiting visit?

What is the policy of ———— University with respect to the visits of civilian employers (public or private) to the campus for the purpose of recruiting college students?

In order to comply with the reporting requirements of the law, it will be necessary to receive the answers to these questions, together with any clarifying information that will be helpful, no later than —— days from the date of this letter.

I earnestly solicit your cooperation in this matter and trust it will be possible for the [Service] to schedule a recruiting visit in the near future at a mutually agreed upon time and place.

Sincerely,

[FR Doc. 82-26699 Filed 9-28-82; 8:45 am]
BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2213-4]

Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes the approval of alternative emission reduction plans (bubbles) for boilers at three sources in Pennsylvania. These bubbles allow for more economical operation of the boilers with no degradation of air quality. The Pennsylvania Department of Environmental Resources requested the approval of these bubbles in a letter of June 8, 1982.

DATE: Comments must be submitted on or before October 29, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. EPA, Air Programs and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Gregory Ham (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Gary L. Triplett

All comments on the proposed revision submitted on or before October 29, 1982 will be considered and should be sent to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air & Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Ham at the address listed for Mr. Glenn Hanson above, or at (215) 597–2745.

SUPPLEMENTARY INFORMATION: The proposed changes to the Pennsylvania State Implementation Plan (SIP) were submitted by Secretary Peter S. Duncan, DER, on June 8, 1982. A public hearing on these bubbles was held on June 17, 1982. DER and EPA are holding concurrent public comment periods on these bubbles. Provided that no significant changes are made or that no comments are submitted which would significantly affect the approvability of these bubbles, EPA is proposing to approve these when they are finalized by DER.

The bubbles involve several boilers at each of three plants in Pennsylvania. At each plant, one or two boilers will burn natural gas to offset higher emissions of sulfur dioxide from the remaining boilers. No net increases in emissions will occur at any plant. In addition, the emission points are located close together and the emissions increases will occur at sources with equal or higher effective plume heights. Therefore, no modeling was required for any of these bubbles. The following paragraphs discuss each bubble and the source-specific regulation for that bubble.

The bubble for Scott Paper Company in Chester, Pa., allows for the burning of higher sulfur fuel in two boilers while burning natural gas in the remaining two boilers. Compliance will be determined by averaging the emissions from all four boilers. The limitations are 0.53 lbs. $SO_2/10^6$ Btu heat input on an hourly average not to be exceeded, and 3.2 lbs. $SO_2/10^6$ Btu heat input as a maximum not to be exceeded at any time. These limits are in § 128.17 of Pennsylvania's Air Resources Regulations, which also prohibits the use of No. 6 commercial fuel oil with sulfur content in excess of 3.0% by weight. Previous regulations prohibitions use of No. 6 fuel oil in excess of 0.5% sulfur by weight.

Section 128.18 as proposed allows Arbogast & Bastian, Inc., of Allentown, Pa., to burn natural gas in one boiler while burning higher sulfur fuel in the two remaining boilers. This section sets an hourly average for all boilers not to exceed 1.75 lbs. $SO_2/10^6$ Btu heat input prior to August 1, 1982, and 1.57 lbs. $SO_2/10^6$ Btu heat input after August 1, 1982. Sulfur content in the No. 6 commercial fuel oil is limited to 2.5% by weight before August 1, 1982 and 2.25% after that date. Previous regulations limited sulfur content in No. 6 fuel oil to 2.0% before August 1, 1982 and 1.5% after the date.

The third bubble applies to J. H. Thompson, Inc., in Kennett Square, Pennsylvania. An hourly average of 1.0 lbs. $SO_2/10^6$ Btu heat input applies to all three boilers, with a maximum not to be exceeded at any time of 3.1 lbs. $SO_2/10^6$ Btu heat input. Natural gas will be burned in one boiler to offset higher sulfur fuel in the remaining two boilers.

The sulfur content of the No. 6 commercial fuel oil is limited to 3.0% by weight. These limits are set forth in

§ 128.19 of Pennsylvania's Air Resources Regulations. Previous regulations prohibited use of No. 6 fuel oil with greater than 1.0% sulfur by weight.

EPA has revised these proposed bubbles according to the proposed Emissions Trading Policy of April 7, 1982 (47 FR 15076), and is today proposing approval of these bubbles.

The public is invited to submit, to the address stated above, comments on whether the proposed changes should be approved as a SIP revision. The Administrator's decision to approve or disapprove the proposed revision will be based in part on the comments received.

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

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

List of Subjects in 40 CFR Part 52

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

(42 U.S.C. 7401–7642)

Dated: August 30, 1982.

W. T. Wisniewski,

Acting Regional Administrator.

[FR Doc. 82-26796 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-4-FRL 2216-1]

Mississippi's Application to Administer National Pollutant Discharge Elimination System (NPDES) Program for Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: The State of Mississippi has submitted a request to the Environmental Protection Agency for approval to expand its National Pollutant Discharge Elimination System (NPDES) permit program to include Federal facilities. According to the State's proposal, the Federal facilities program would be transferred from EPA Administration to the State of Mississippi Department of Natural Resources, Bureau of Pollution Control. This notice provides for a comment period on Mississippi's request. Under EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATES: Comments must be received on or before October 29, 1982.

Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing, prior notice of the date, time and location of such hearing will be given. All requests for a public hearing on the request must be submitted on or before October 29, 1982.

ADDRESSES: Comments should be addressed to: U.S. EPA, Region IV Office, 345 Courtland Street, Atlanta, Georgia, 30365, Attention: Water Management Division.

FOR FURTHER INFORMATION CONTACT: Arthur G. Linton, U.S. EPA, Region IV Office, 345 Courtland Street, Atlanta, Georgia, 30365, (404) 881–3776.

SUPPLEMENTARY INFORMATION: On October 18, 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972, (33 U.S.C. 1251–1376, Supp. 1973; hereinafter "the Act"). This legislation established the NPDES permit program under which the Administrator of the United States Environmental Protection Agency (U.S. EPA) or an approved State may issue permits to municipal, industrial, and agricultural entities to control the discharge of pollutants into navigable water.

On May 1, 1974, when Mississippi's NPDES program was approved, the Act prohibited State regulation of Federal faciltities (33 U.S.C. 1323(a)), and EPA retained responsibility over these facilities. The 1977 amendments to the Act removed this bar to full State regulation of all potential sources of water pollution within its boundaries.

The Mississippi Department of Natural Resources, Bureau of Pollution Control, has requested authority to issue permits to Federal facilities and has submitted a signed statement from the Mississippi Attorney General that the Mississippi Department of Natural Resources, Bureau of Pollution Control, has the necessary authority.

The Administrator's decision to approve or disapprove the proposed expansion will be based on the comments received and on a determination of whether the proposed program expansion meets the requirements of the Clean Water Act and 40 CFR Part 123.

Proposed conditions of transfer:

1. The NPDES permits issued by the EPA to Federal facilities located in Mississippi may be reissued by the State prior to their current expiration date in accordance with the Mississippi Air and Water Pollution Control Act, as amended.

2. This transfer does not grant the permittee or any other party the right to contest or appeal any terms and conditions of the EPA-issued permits.

3. Terms and conditions of the existing permits remain in effect and they will not be affected by this transfer.

The Mississippi submission may be reviewed from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holdiays, by the public at the Mississippi Department of Natural Resources, Bureau of Pollution Control at 2380 Highway 80 West, Southport Mall, P.O. 10385, Jackson, MS 39209 and at the EPA office in Atlanta at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20 cents a page) at the EPA office in Atlanta by contacting Ms. Earline Hanson.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Please bring the foregoing to the attention of persons you know would be interested.

Dated: August 25, 1982.

Charles Jeter,

Regional Administrator, Region IV.

[FR Doc. 82-26589 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300067; PH-FRL 2215-7]

Secondary Alkyl (C_{11}–C_{15}) Poly (Oxyethylene) Acetate, Sodium Salt; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The notice proposes that secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt be exempted from the requirement of a tolerance when used as inert ingredient in pesticide formulations. This proposed regulation was requested by Sandoz, Colors and Chemicals.

DATE: Written comments must be received on or before October 29, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703–557–7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of the Sandoz, Colors and Chemicals the Administrator proposes to amend 40 CFR 180.1001 (c) and (e) by establishing exemptions from the requirement of a tolerance for secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

Name and address of requestor: Sandoz, Colors and Chemicals, Charlotte, North Carolina.

Basis for approval: There are numerous clearances under 180.1001(c) of very closely related surfactant. The most closely related surfactant that is cleared in paragraph (c) is "tridecyl poly (oxyethylene) acetate, sodium salt," and is a linear fatty acid adduct of polyoxyethylene.

The new moiety is the same except that the alkyl portion consists of secondary fatty acids and covers the range (C_{11}–C_{15}). Secondary and tertiary alcohols and acids make up portions of cleared surfactants such as sodium isobutylnaphthalene sulfonate and poly(oxyethylene) (2–50 moles) dinonyl phenol.

Overall, the Agency concludes that the toxicity of the subject surfactant will not be greater than that of related and previously exempted materials.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation 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 this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemeking 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 both the subject and the petition and document control number, "[OPP–300067]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch 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 new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(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: September 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.1001 be amended by adding and alphabetically inserting the inert ingredient secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt to the tables in paragraphs (c) and (e) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant.
* * * * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant.
* * * * * * *		

[FR Doc. 82–26456 Filed 9–28–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 0E2341/P242; PH–FRL 2214–8]

Ethoprop Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the pesticide ethoprop in or on the raw agricultural commodity mushrooms. The proposed amendment to establish a maximum permissible level for residues

of ethoprop in or on the commodity was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before October 29, 1982.

ADDRESS: Written comments to: Donal R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donal 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 0E2341 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Pennsylvania.

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 pesticide ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate) in or on the raw agricultural commodity mushrooms at 0.02 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 included: two 90-day feeding studies (rat and dog) with no-observed-effect levels (NOEL's) for cholinesterase inhibition of 0.3 ppm and 10.0 ppm, respectively; an acute inhalation study in the rat using technical ethoprop with an LC_{50} for 4 hours of exposure at 0.123 milligrams (mg)/liter; an acute delayed neurotoxicity study in adult hens with no signs of delayed neurotoxicity when dosed at levels above the acute oral LD_{50} (9.9 mg/kilogram (kg)).

The acceptable daily intake (ADI), based on the 90-day rat feeding study (NOEL of 0.015 mg/kg/day), and using a 200-fold safety factor, is calculated to be 0.000075 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.0045 mg/day. The current action will increase the TMRC by 0.0001 mg/day and will utilize an additional 0.2 percent of the ADI. The tolerance that will be established by this proposed rule is considered to pose a negligible incremental dietary risk since dietary exposure will not be significantly increased.

The nature of the residues is adequately understood and an adequate analytical method, gas-chromatography using a flame photometric detector, 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 0E2341/P242]". 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 new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(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: September 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.262 be revised by reformatting into alphabetical order and by adding and alphabetically inserting the raw agricultural commodity mushrooms to read as follows:

§ 180.262 Ethoprop; tolerances for residues.

Tolerances are established for residues of the nematocide and insecticide ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Bananas	0.02 (N)
Beans, lima	0.02 (N)
Beans, lima, forage	0.02 (N)
Beans, snap	0.02 (N)
Beans, snap, forage	0.02 (N)
Cabbage	0.02 (N)
Corn, fodder	0.02 (N)
Corn, forage	0.02 (N)
Corn, fresh (inc. sweet K+CWHR)	0.02 (N)
Corn, grain	0.02 (N)
Cucumbers	0.02 (N)
Mushrooms	0.02
Peanuts	0.02 (N)
Peanuts, hay	0.02 (N)
Pineapples, fodder	0.02 (N)
Pineapples, forage	0.02 (N)
Potatoes	0.02 (N)
Soybeans, forage	0.02 (N)
Soybeans, hay	0.02 (N)
Sugarcane	0.02 (N)
Sugarcane, fodder	0.02 (N)
Sugarcane, forage	0.02 (N)
Sweet potatoes	0.02 (N)

[FR Doc. 82–26482 Filed 9–27–82; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

Office of Plans, Programs, and Financial Management

41 CFR Part 101–41

Facsimile Signature on Standard Form 1113

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations to permit carriers to use facsimile signatures of its certifying officials on the "Payee's Certificate" of the Public Voucher for Transportation Charges, Standard Form (SF) 1113, without the requirement that such signatures be initialed by duly authorized persons. The intent of this proposal is to reduce the time and cost to the carriers and to facilitate carrier preparation of SF 1113.

DATE: Comments must be received by October 29, 1982.

ADDRESS: Written comments should be sent to General Services Administration (BWCPR), Chester A. Arthur Building, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audit (202–275–0664).

SUPPLEMENTARY INFORMATION: Based upon a carrier's inquiry to this office, GSA reviewed the current regulations that require an authorized person to initial a facsimile signature of SF 1113, (see FPMR 101–41.214–5(c) and 101–41.310–2(c)). The use of a facsimile signature in the certification space is adequate if authorized by the certifying official. It also assumes a personal examination and familiarization with the facts contained in the document. Accountability for certification therefore remains with the individual so designated in the signature block.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101–41 as follows:

Subpart 101–41.2 Passenger Transportation Services Furnished for the Account of the United States

1. Section 101–41.214–5(c) is revised as follows:

§ 101–41.214–5 Preparation of carrier billing form.

* * * * *

(c) The carrier shall complete the "Payee's Certificate" section of the voucher. Carriers may use a machine-typed name of the carrier's certifying official provided the machine-typed name is initialed by a duly authorized person, or carriers may use a facsimile signature of the carrier's certifying official, as authorized by that official. The carrier shall complete the tear-off portion of the SF 1113 and shall not substitute a memorandum copy (SF 1113–A) for the tear-off portion.

* * * * *

2. Section 101–41.310–2(c) is revised as follows:

§ 101–41.310–2 Preparation of carrier billing form.

* * * * *

(c) Carriers may use a machine-typed name of the carrier's certifying official in the "Payee's Certificate" section of the voucher provided the machine-typed name is initialed by a duly authorized person, or carriers may use a facsimile signature of the carrier's certifying official as authorized by that official.

* * * * *

(31 U.S.C. 244 and 40 U.S.C. 486(c)).

Dated: September 10, 1982.

Raymond A. Fontaine,

Assistant Administrator of General Services.

[FR Doc. 82–26806 Filed 9–28–82; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–538; RM–3983]

Hours of Operation of Daytime-Only AM Broadcast Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a typographical error made concerning the FCC number assigned to this action regarding hours of operation of Daytime-Only AM Broadcast Stations.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau, (202) 632–7792 or Wilson LaFollette, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

In the Matter of Hours of Operation of Daytime-Only AM Broadcast Stations, BC Docket No. 82–538 RM–3983; (9–3–82; 47 FR 38937).

Released: September 21, 1982.

On August 4, 1982, the Commission adopted a Notice of Inquiry and Notice of Proposed Rule Making (released August 19, 1982) in the above-captioned proceeding. Inadvertently, the assigned FCC number was misstated as 82–570. The correct FCC number is *82–370.*

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–26813 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Notice is hereby given in accordance with § 800.6(d)(3) of the regulations of the Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Council will meet on October 19, 1982, to consider the proposed construction of a barge unloading/loading facility at Ohio River Mile 477.3 in Hamilton County, Ohio. It has been determined that this undertaking, for which the Corps of Engineers has issued a permit, will adversely affect Anderson's Ferry, a property included in the National Register of Historic Places.

Pursuant to § 800.6(d)(2) of the Council's regulations, the Chairman of the Council decided on September 20, 1982, that the Council should consider this project in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470f, as amended).

The Council was established by the National Historic Preservation Act to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretary of the Interior, the Architect of the Capitol, the Secretary of Agriculture, and the heads of four other Federal agencies appointed by the President, one Governor and one mayor appointed by the President, the President of the National Conference of State Historic Preservation Officers, the Chairman of the National Trust for Historic Preservation, and seven private citizens appointed by the President.

The Council will meet at 9 a.m. in the Board Room of the American Institute of Architects, 1735 New York Avenue, NW., Washington, D.C.

The Council will consider written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by October 12, 1982. Persons wishing to make oral statements should notify the Executive Director by October 15, 1982. Additional information concerning the meeting or the submission of statements is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005 (202–254–3967).

Dated: September 23, 1982.

Frank L. Suman,

Acting Executive Director.

[FR Doc. 82–26674 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 24, 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

• Farmers Home Administration
7 CFR 1945-D, Emergency Loan Policies, Procedures
FmHA 1940–38, 1945–22
On occasion
State on local government, farms, businesses: 283,150 responses; 157,710 hours; not applicable under 3504(h)
James E. Vollmer (202) 382–1647.

• Food and Nutrition Service
Special Distribution of Surplus Commodities (See. 1114, P.L. 97–98)
• On Occasion, monthly
• Individuals, state and local governments, businesses: 2,451 responses; 3,236 hours; not applicable under 3504(h)
• Donald McCreary (703) 756–3660

Rural Electrification Administration
Financial Forecast—Electric Distributor Systems
REA Forms 325 a–k
On occasion
Businesses or other institutions: 500 responses; 10,000 hours; not applicable under 3504(h)
• Carl Anderson (202) 382–1908

Extension

• Food and Nutrition Service
• Food Stamp Accountability Report
• FNS–250
• Monthly
• State or local governments: 59,088 responses; 177,264 hours; not applicable under 3504(h)
• David Rathbun (703) 756–3431

• Forest Service
• Collection and Analysis of Timber Purchaser's Cost and Sales Data Annually
• Buinesses or other institutions: 150 responses; 1,200 hours; not applicable under 3504(h)
Ted Yarosh (703) 475–3755

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82–26690 Filed 9–28–82; 8:45 am]

BILLING CODE 3410–01–M

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1033, as amended. This notice announces those determinations for the fourth calendar quarter of 1982.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the fourth calendar quarter of 1982 is 20.73 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the fourth calendar quarter of 1982 has been calculated to be 21.0017 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 20.73 cents. Accordingly, the fee for items 956.05 and 957.15 for the fourth calendar quarter of 1982 is 1.00 cent per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the fourth calendar quarter of 1982 shall be as follows:

Item	Fee (cent per pound)
956.05	1.00
956.15	0.00
957.15	1.00

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C. on September 24, 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82–26705 Filed 9–24–82; 2:26 pm]

BILLING CODE 3410–10–M

CIVIL AERONAUTICS BOARD

[Docket 40747]

Emerald Air, Inc. d.b.a. Emerald Airlines; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding will be held on October 13, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 24, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82–26825 Filed 9–28–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40350]

North Pacific Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on October 14, 1982, at 2:00 p.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit on or before October 1, 1982, one copy to each party and prospective party and six copies to the Judge of (1) a proposed statement of issues; (2) proposed stipulations; (3) proposed requests for additional information and evidence; (4) statements of positions; and (5) proposed procedural dates.

Dated at Washington, D.C., September 23, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82–26826 Filed 9–28–82; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:30p, and will end at 4:30p, on October 20, 1982, at the Harrisburg Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108. The purpose of this meeting is to continue business and discussion of ideas for projects on plant shutdowns, and State and local governments' responses to violence and extremism.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph Fisher, 35 South Fourth Street, Philadelphia PA 19106, (215) 351–0776; or the Mid-Atlantic Regional Office, 2120 L Street, N.W., Washington DC 20036, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26763 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 19, 1982, at the home of Stanley Fleishman, 2100 North Spalding, Apt. 505N, Beverly Hills, California 90210. The purpose of this meeting is to discuss regulations pertaining to handicapped citizens.

Persons desiring additional information or planning a presentation to the Committee, should contact the chairperson, Mr. Maurice B. Mitchell, 1518 Alameda Padre Sierra, Santa Barbara, CA 93103, (805) 969-1563; or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles CA 90010, (213) 798-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26761 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00a, and will end at 3:00p, on October 15, 1982, at the Prophets of God, Eighteenth and Union Streets, Chicago, Illinois, 60654. The purpose of this meeting is to report on the National State Advisory Committee Chairpersons' Conference held September 13-14, 1982 in Washington, D.C., and discuss issues of concern to the Hispanic community.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas Pugh, 500 West Melbourne Avenue, Peoria, Illinois, 61604, (309) 686-3121 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26758 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00p and will end at 10:00p, on October 21, 1982, at the City County Building, 1 Maine Street, Ft. Wayne, Indiana 46802. The purpose of this meeting is to approve previous SAC minutes, receive a report from staff on status of past and present projects, discuss possible conference in Gary concerning racial hate groups, and new business.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana 47401, (812) 337-9632; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26756 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 28, 1982, at the Warwick Hotel, 1315 Gravier Street, New Orleans, Louisiana 70112. The purpose of this meeting is to plan future programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Gary, Shreveport, Louisiana 71103, (318) 424-1297; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio TX 78204, (512) 730-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26757 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 12 Noon, on October 16, 1982, at the Martin Luther King Multi-Service Center, 270 Kent Street, St. Paul, Minnesota 55102. The purpose of this meeting is the orientation of new members, planning new projects and followup on police task force.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Ruth A. Myers, 1006 East Second Street, Apt. #1, Duluth, Minnesota 55805, (218) 724-0954; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604, (312) 343-7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26762 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00a and will end at 3:00p, on October 23, 1982, at the Stouffer's Cincinnati Towers, 141 West Sixth Street, Cincinnati, Ohio 45202. The

purpose of this meeting is to report on and adopt project on Hispanics in Northwest Ohio, received an update on Cincinnati's Police Community Relations Program and set meeting dates for FY 83.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chair-Designate, Mrs. Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221–5656; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–26754 Filed 9–28–82; 8:45 am]

BILLING CODE 6335–01–M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00p, and will end at 9:00p, on November 4, 1982, at the Holiday Inn, in the Club Room, White River Junction, Vermont 05001. The purpose of this meeting is to discuss the progress of the Information Kit on Stereotyping and Prejudice, distribution of the Sexual Harassment Information Kit for Employers and the report on Franco-Americans.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, Burlington, Vermont 05401, (802) 658–4300 or the New England Regional Office, 55 Summer Street, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–26760 Filed 9–28–82; 8:45 am]

BILLING CODE 6335–01–M

West Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 1:00p and will end at 3:00p, on October 28, 1982, at 215 Professional Building, 1036 Quarrier Street, Conference Room (Human Rights Commission), Charleston, West Virginia 25301. The purpose of this meeting is to plan activities for the fiscal year.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Donald L. Pitts, 416 South Fayette, Beckley, West Virginia 25801, (304) 252–5309; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Washington, DC 20036, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–26759 Filed 9–28–82; 8:45 am]

BILLING CODE 6335–01–M

Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 20, 1982, at the Madison Inn, 601 Langdon Street, Madison, Wisconsin 73703. The purpose of this meeting is to review draft of Vocational Education Statement and Business Incentive report, also to discuss future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Herbert Hill, 2127 Van Hise Avenue, Madison, Wisconsin 53705, (608) 263–2330; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–26755 Filed 9–28–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–479–063]

Animal Glue and Inedible Gelatin from Yugoslavia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On June 30, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covered the one know exporter of this merchandise to the United States and the time period December 1, 1980 through November 30, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, an antidumping finding with respect to animal glue and inedible gelatin from Yugoslavia was published in the Federal Register as Treasury Decision 78–4 (42 FR 64116–7). On June 30, 1982, the Department of Commerce ("the Department") published in the Federal Register (47–FR 28443–4) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike material, They are used as general purpose adhesives in industries producing

abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the only known exporter of Yugoslavian animal glue and inedible gelatin to the United States, Kemija-Impex, and the period December 1, 1980 through November 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during the period and there are no known unliquidated entries.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 9.7 percent, based on the margin on the firm's last known shipments, shall be required on all shipments of Yugoslavian animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

September 23, 1982.

[FR Doc. 82-26616 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-583-023]

Clear Sheet Glass from Taiwan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 1, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on clear sheet glass from Taiwan. The review covered three of the four known exporters of this merchandise to the United States and the period August 1, 1980 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. At the request of the petitioner, we held a public hearing on March 26, 1982.

After analysis of the comments received, the Department has made no adjustments to the dumping margins published in the preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1971, a dumping finding with respect to clear sheet glass from Taiwan was published in the Federal Register as Treasury Decision 71-226 (36 FR 16508). On March 1, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 8607) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are shipments of clear sheet glass, currently classifiable under items 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the three known Taiwanese exporters of clear sheet glass to the United States, Hsinchu Glass Works, Inc., Taiwan Glass Corporation, and Yotak Trading Company, Ltd., and the period August 1, 1980 through July 31, 1981. We will cover the only known third-country reseller, Israeli International Trade Company, Ltd., in a subsequent review.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. The petitioner, PPG Industries, Inc. ("PPG"), requested a hearing which was conducted by the Department on March 26, 1982.

(1) *Comment:* PPG claimed that our acceptance without independent review, for use in assessment and establishing cash deposit rates, of Treasury's master list determinations of dumping margins violated the congressional intent that the antidumping laws be vigorously enforced.

Position: For the two firms which did not export during the period of review, we used their appraisement instructions for the most recent period in which they had shipments. It is our policy not to review the correctness of such master lists. As we stated at the hearing, "Where errors can be shown, or even potential error, we have re-evaluated Treasury calculations, but for us to go back and redo everything that Treasury had done would jeopardize our ability to administer the law effectively." This issue is currently being litigated in the Court of International Trade in the case of *PPG Industries, Inc.* v. *United States*, No. 81-9-01273. In this case, however, since PPG alleged discrepancies between Treasury's master list and the applicable response, we reviewed the petitioner's example against the response and master list and are satisfied that there are no discrepancies.

(2) *Comment:* PPG argued that we should further investigate the likely home market price in Taiwan to determine the best available information for foreign market value in the case of Yotak. PPG suggested that we either obtain the home market prices of the other Taiwanese manufacturers of the merchandise during this period or that we apply an inflation factor to the last known foreign market values for Yotak.

Position: Yotak Trading Company was non-responsive to our questionnaire prior to the preliminary review publication. Yotak has since responded, but the response was untimely and inadequate. We examined PPG's latter suggested approach and found no evidence that the margins would be higher than the 7% master list rate if actual price information was available. Since we had no information from Yotak, we compared Yotak's actual prices to the U.S. (as evidenced from Customs Form 6432) with the last known foreign market value for Yotak adjusted for inflation and found a margin less than 7%.

Therefore, we continue to adhere to our rule for non-responsive firms; that is, we used as best information available the higher of the most recent rates for other firms.

Final Results of the Review

After analysis of the comments received, the final results of our review

are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Manufacturer and exporter	Time period	Margin (percent)
Hsinchu Glass Works, Inc.	Aug. 1, 1980 to July 31, 1981	[1]7.0
Taiwan Glass Corp.	Aug. 1, 1980 to July 31, 1981	[1]1.6
Yotak Trading Co., Ltd.	Aug. 1, 1980 to July 31, 1981	7.0

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins for each firm shall be required on all shipments of Taiwanese clear sheet glass from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any of the covered firms, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration

September 22, 1982.

[FR Doc. 82-26614 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-588-066]

Impression Fabric of Man-Made Fiber from Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on impression fabric of man-made fiber from Japan. The review covers the four known exporters of this merchandise to the United States currently covered by the finding and varying time periods through April 30, 1981. The review indicates the existence of dumping margins in particular periods for certain exporters.

As a result of this review, the Department has preliminarily determined to assess dumping duties for one exporter equal to the calculated differences between United States price and foreign market value on each of its shipments during the period of review. The three other firms provided inadequate responses, and for these firms the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia McClenahan or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 17319) the final results of its first administrative review of the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 25, 1978) and announced its intent to conduct the next administrative review as soon as possible in 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has not conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber ("impression fabric"), currently classifiable under item numbers 338.5001, 338.5002, and 347.6020 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the four known exporters of impression fabric to the U.S. currently covered by the finding and varying time periods through April 30, 1981. Nissei Sangyo Co., Ltd. ("Sangyo") provided an adequate response. Three other firms, Nissei Co., Ltd. ("Nissei"), Mitsui and Co., Ltd. ("Mitsui"), and Marubeni Corporation ("Marubeni"), provided inadequate responses. For these non-responsive firms we used the best information available. The best information available for Nissei is its most recent rate, since it is higher than the rate for the responding firm in the current period. For Mitsui and Marubeni the best information available is the fair value rate, since it is higher than the rate for the responding firm in the current period.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, because the merchandise was sold to unrelated purchasers prior to its importation into the United States. Purchase price was based on the packed, delivered price from the Japanese firm's U.S. affiliate to unrelated purchasers in the United States. Where applicable, adjustments were made for U.S. duty, U.S. and foreign inland freight, shipping charges, ocean freight, and insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act. The foreign market value was based on the packed delivered price and was adjusted, where applicable, for inland freight, interest, discounts, and packing cost differences. We made adjustments for differences in technical service, warranty, and direct selling expenses, and for differences in the merchandise, in accordance with §§ 353.15 and 353.16 of the Commerce Regulations and §§ 153.10 and 153.11 of the Customs Regulations. Claims for differences in other selling expenses were not considered directly related to the sales in question and, therefore, were disallowed. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Exporter	Time period	Margin (percent)
Nissei Sangyo Co., Ltd.	May 25, 1978 to Apr. 30, 1981	5.76
Nissei Company Ltd.	May 1, 1980 to Apr. 30, 1981	10.12
Mitsui & Co., Ltd	Sept. 1, 1977 to Apr. 30, 1981	7.5
Marubeni Corp	May 25, 1978 to Apr. 30, 1981	7.5

Nichibo Co., Ltd. has consistently stated that all existing contracts and sales to its U.S. customers are of fabric of 100% pure silk. The Department has no information that the firm has ever shipped merchandise covered by this finding. The Department therefore preliminarily has decided not to include this company in this or future section 751 reviews unless it begins shipping Japanese impression fabric of man-made fiber to the United States.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administration protective order must be made no later than 5 days after the date of publication. The Department will publish, the final results of this administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the margins above shall be required on all shipments of impression fabric of man-made fiber from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26617 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-122-004]

Steel Reinforcing Bars from Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on steel reinforcing bars from Canada. The review covers the only manufacturer covered by the finding, Western Canada Steel Limited, for the period January 1, 1980 through March 31, 1981, and the two other possible exporters of reinforcing bars made by Western Canada Steel for varying periods through March 31, 1981.

Two of the firms did not respond to the Department's questionnaire and the third firm's response was inadequate. The Department intends to use the best information available, which is the most recent rate for Western Canada Steel, for assessment and estimated antidumping duty deposits. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 5252-53) the final results of its first administrative review of the antidumping finding on steel reinforcing bars from Canada (29 FR 5341-42, April 21, 1964) and announced its intent to conduct the next administrative review by the end of April 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of steel reinforcing bars, currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated (TSUSA), manufactured by Western Canada Steel Limited. The review covers the period January 1, 1980 through March 31, 1981 for Western Canada Steel Limited, and varying periods through March 31, 1981 for the two other possible exporters to the U.S. of reinforcing bars manufactured by Western Canada Steel, Russelsteel Limited and Rhodes Vaughn Reinforcing Limited. Two of the firms, Western Canada Steel and Rhodes Vaughn, did not respond to the Department's questionnaire and Russelsteel's response was inadequate. Therefore, the Department used the best information available, which is the rate determined for Western Canada Steel in our last administrative review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer and exporter	Time period	Margin (percent)
Western Canada Steel Ltd.	Jan. 1, 80 to Mar. 31, 1981	6.40
Western Canada Steel/Rhodes Vaughn Reinforcing Ltd.	Apr. 21, 64 to Mar. 31, 1981	6.40
Western Canada Steel/ Russelsteel Ltd.	Apr. 1, 77 to Mar 31, 1981	6.40

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess,

dumping duties on all appropriate entries with purchase dates during the time periods involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margins stated above shall be required on all shipments of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 22, 1982.

[FR Doc. 82-26615 Filed 9-28-8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: October 26, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Approval of minutes of the June 30, 1982 meeting.

(4) Discussion of International Machine Tool Show—82.

(5) Discussion of robots.

(6) New Business.

Executive Session

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: September 22, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-26736 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from France are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from France of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from France are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by Feburary 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under and administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from France are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; othewise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26738 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1779.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982, we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the Federal Republic of Germany of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by February 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26739 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from the United Kingdom are being, or are likely to be, sold in the United States at less than fair

value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1779.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982, we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the United Kingdom of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by February 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Judith Hippler Bello,

Deputy for Policy to the Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26737 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

The Federal Republic of Germany is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegatons. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in the Federal Republic of Germany of steel rails received benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "steel

rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in the Federal Republic of Germany receive the following benefits that constitute subsidies:

- Indirect subsidies to the rail industry through government aid for the purchase of steel rails by the government-owned railway.

The petition also alleges that producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails benefit from the following European Communities subsidies:

- Indirect subsidies to the rail industry through the provision of infrastructure aid to the German railway for the purchase of steel rails.

Therefore, we will investigate both German government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26741 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in France of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in France of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in France of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in France receive the following benefits from the government of France that constitute subsidies:

- Preferential financing including equity infusions
- Certain labor-related aid
- Research and development aid
- Indirect subsidies to the rail producing industry through government aid for the purchase of steel rails by the government-owned railway

The petition also alleges that producers, manufacturers, or exporters in France of steel rails benefit from the following European Communities subsidies:

- European Coal and Steel Community and European Investment Bank loans, loan guarantees and interest rebates
- Indirect subsidies to the rail industry through the provision of infrastructure

aid to the French railway for the purchase of steel rails

Therefore, we will investigate both French government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine this issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26742 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the United Kingdom of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in the United Kingdom of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

The United Kingdom is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in the United Kingdom of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in the United Kingdom receive the following benefits from the government of the United Kingdom that constitute subsidies:

- Public dividend capital and new capital
- National Loans Funds loans and loan conversions
- Regional development grants
- Iron & Steel Industry Training Board grants
- Preferential railroad transportation rates
- Indirect subsidies to the rail industry through the purchase of steel rails by the government owned railway.

The petition also alleges that producers, manufacturers, or exporters in the United Kingdom of steel rails benefit from the following European Communities subsidies:

- Industrial investment loans from the European Coal and Steel Community (ECSC)
- Loans from the European Investment Bank (EIB)
- Indirect subsidies to the rail industry through the provision of infrastructure aid to the British railway for the purchase of steel rails.

Therefore, we will investigate both British government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government-owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to

provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Judith Hippler Bello,

Deputy for Policy to the Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26743 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From Luxembourg

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Luxembourg of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. Interntional Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC, will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Luxembourg of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

Luxembourg is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in Luxembourg of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Luxembourg receive the following benefits from the government of Luxembourg that consititute subsidies:

- Capital grants
- Labor-related aid
- Indirect subsidies to the rail industry through government aid for the purchase of steel rails by the government owned railways

The petition also alleges that producers, manufacturers, or exporters of Luxembourg of steel rails benefit from the following European Communities subsidies:

- Interest rebates
- Indirect subsidies to the rail industry through the provision of infrastructure aid to the Luxembourg railway for the purchase of steel rails

Therefore, we will investigate both Luxembourg government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from Luxembourg are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26740 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Extension of Closing Date for Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice of Extension of Closing Date for Applications.

SUMMARY: The Minority Business Development Agency (MBDA) announced on August 26, 1982 (47 FR 37604) that it is soliciting applications for a cooperative agreement under its Indian Business Development Center (Project I.D. Number 08–10–82025–01) program to operate a pilot project for a twelve (12) month period.

This notice is to extend the closing date for submission of applications to October 15, 1982.

CLOSING DATE: October 15, 1982—Closing date for submitting applications.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Williams at (214) 767–8001.

Ruben Porras,

Deputy Regional Director.

[FR Doc. 82–26932 Filed 9–28–82; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Apparel Products from Macau

September 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing and carryforward, the level of restraint established for women's, girls', and infants' woven cotton blouses in Category 341 from 80,094 dozen to 90,507 dozen, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Portugal, concerning textile and apparel products produced or manufactured in Macau, provides, among other things, for percentage increases in certain specific ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. Pursuant to the terms of the bilateral agreement, the level of restraint for Category 341 is being adjusted for the twelve-month period which began on January 1, 1982.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202377–4212).

SUPPLEMENTARY INFORMATION: On December 14, 1981, there was published in the **Federal Register** (46 FR 60872) a l;etter dated December 9, 1981, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 341, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint previously established for cotton textile products in Category 341 to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: On December 9, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, Between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 30, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 341, produced or manufactured in Macau, in excess of 90,507 dozen.[2]

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–26795 Filed 9–28–82; 8:45 am]

BILLING CODE 3510–25–M

Adjusting the Import Restraint Level for Certain Wool Apparel Products from Malaysia

September 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for wool sweaters in Category 445/446, produced or manufactured in Malaysia and exported during the agreement year which began on January 1, 1982 by the application of 1,489 dozen of carryforward and the reduction of 1,474 dozen of carryforward

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Portugal, which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

used in 1981. The level will be increased to 22,506 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia, provides, among other things, for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. In accordance with the terms of the bilateral agreement, carryforward in the amount of 1,489 dozen is being applied to the level of restraint for wool textile products in Category 445/446, and 1,474 dozen in carryforward used in 1981 in being deducted, resulting in a net increase in the 1982 level to 22,506 dozen.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the Federal Register (46 FR 61690) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 445/446, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the terms of the bilateral agreement, the United States Government is adjusting the level of restraint for wool textile products in Category 445/446 increasing it to 22,506 dozen during the agreement year which began on January 1, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1981 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Malaysia.

Effective on September 24, 1982, paragraph 1 of the directive of December 14, 1981 is amended to include an adjusted level of restraint for wool textile products in Category 445/446 of 22,506 dozen.[1]

The action taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–26794 Filed 9–28–82; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted for an imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) For a Proposed Flood Control Project on Sowashee Creek in Meridian, Mississippi

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. The proposed action is to provide flood damage reduction for the City of Meridian, Mississippi. This locale is currently undergoing rapid development in areas which include the flood plain areas of Sowashee Creek. The extensive flood damages which have been previously experienced indicate that a feasible flood control study could be developed for Sowashee Creek.

2. Alternatives: Several flood control alternatives are being developed for the Sowashee Creek area. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with each alternative plan. The following alternatives are being considered:

a. Snagging and clearing in various reaches of Sowashee Creek.

b. Channel and overbank modification of various lengths of Sowashee Creek.

c. Flood retention structures.

d. Evacuation of the flood plain of Sowashee Creek.

e. Levee constructon and/or modification.

f. Flood proofing of structures within the flood plain of Sowashee Creek.

3. Scoping Process:

a. The scoping process as outlined by the Council on Environmental Quality in the November 29, 1978 Federal Register, National Environmental Policy Act Regulations, will be utilized to involve Federal, State, and local agencies, and other interested persons in the preparation of the DEIS. Identification of significant issues to be addressed in the DEIS will be determined through the scoping process. The views and concerns of agencies and individuals will be obtained through personal, telephone, and mail contracts as well as public workshops in lieu of a formal scoping meeting.

b. Coordination with the US Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act and the Endangered Species Act is being undertaken. Coordination as required by other laws will also be conducted.

4. DEIS Preparation: It is estimated that the DEIS will be available to the public in February 1983.

5. Address: Questions about the proposed action can be answered by: Ms. Carol Gorbics, US Army Engineer District, Mobile, ATTN: SAMPD–ES, PO Box 2288, Mobile, Alabama 36628.

Dated: September 20, 1982.

Patrick J. Kelly,

Colonel, CE District Engineer.

[FR Doc. 82–26696 Filed 9–28–82; 8:45 am]

BILLING CODE 3710-CR-M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

DIS Courtesy Letter

The Defense Investigative Service (DIS) uses the Courtesy Letter Program to determine if each DIS Investigator is performing his/her duties in an ethical and professional manner. Responses are sought, on a voluntary basis, from individuals interviewed by DIS Investigators. Information obtained identifies potential problem areas or shortcomings of an individual investigator which through additional investigation may lead to administrative or discplinary action.

Individuals interviewed by DIS: 12,000 responses; 1,200 hours.

Forward comments to Edward Springer, OMB Desk Office, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C) DIRMS, IRAD, Room 1A658 Pentagon, Washington, D.C. 20301, telephone, (202) 697–1195.

A copy of the information proposal may be obtained from Thomas G. Vanalek, DIS Program Management Division, Room 5631, 1900 Half Street S.W., Washington, D.C. 20324, telephone (202) 693–1735.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 24, 1982.

[FR Doc. 82-26681 Filed 9-28-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-09-NG]

Natural Gas Imports; Northern Natural Gas Co., Division of InterNorth, Inc., Application To Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of petition to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the receipt on July 16, 1982, of the application of Northern Natural Gas Company, Division of InterNorth, Inc., (Northern) to amend its existing ERA authorization to import Canadian natural gas purchased from Consolidated Natural Gas Limited (Consolidated) at a point near Emerson, Manitoba. Northern requests an increase in its authorized maximum daily volumes from 200,000 Mcf per day to 300,000 per day, less any volumes it imports under a related Federal Energy Regulatory Commission (FERC) authorization at Monchy, Saskatchewan. Northern does not request an increase in the currently authorized total annual volume of 73,000,000 Mcf per year or any other change to its existing authorization.

The petition is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on October 14, 1982.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming (Natural Gas Branch, Oil and Gas Imports, Office of Fuels Programs), Economic Regulatory Administration, 12th & Pennsylvania Avenue, N.W., Room 6144, RG–631, Washington, D.C. 20461, 202–633–9296

Sue D. Sheriden (Office of General Counsel, Natural Gas and Mineral Leasing), Department of Energy, Forrestal Building, Room 6E–042, Washington, D.C. 20585, 202–252–6667

SUPPLEMENTARY INFORMATION: On August 29, 1980, the ERA issued DOE/ERA Opinion and Order No. 19 (ERA Docket No. 79–24–NG) authorizing Northern to import from Canada up to 200,000 Mcf of natural gas per day and up to 73,000,000 Mcf of natural gas per year through facilities near Emerson, Manitoba, for the period November 1, 1980, through October 1, 1981. For the period November 1, 1981, through October 31, 1987, Northern was authorized to import up to 200,000 Mcf per day and up to 73,000,000 Mcf per year at the point near Emerson, Manitoba, less any volumes Northern elects to import at Monchy, Saskatchewan under a separate order issued by the FERC on June 27, 1980 (Docket No. CP80–22), pursuant to the FERC's authority under DOE Delegation Order No. 0204–8 (42 FR 61491, December 5, 1977)). The pipeline facilities at Monchy are related to the Northern Border Pipeline Company (Northern Border) segment of the Alaska Natural Gas Transportation System (ANGTS).

Northern states that, because of a temporary supply surplus, it has reduced its takes of Canadian gas during the 1982 summer months and thus will likely be under its contract minimums for the current contract year. In order to enable it to take during the upcoming heating season the volumes for which deficiency payments have been made, Northern requests an increase in its maximum daily import authorization at Emerson from 200,000 Mcf per day to 300,000 Mcf per day, less any volumes it imports at Monchy. Northern does not request an increase in its currently authorized total annual volume of 73,000,000 Mcf per year. Northern states that these arrangements do not require any additional facilities.

Northern indicates that its supplier, Consolidated, has made a corresponding request of the National Energy Board of Canada to increase the daily volumes it is authorized to export on a best efforts basis at Emerson. Northern has also requested the FERC to increase its daily maximum authorization at Monchy from 100,000 Mcf to 200,000 Mcf per day (Docket No. CP80–22–004).

Northern asserts that the authorization requested is "in the public interest" since it will enable it to take, on a best efforts basis, increased volumes during the winter months. Thus, Northern states the increase in maximum daily volumes at Emerson will enable it to fulfill its minimum purchase obligation under the Consolidated contract in a manner which will best satisfy Northern's system requirements.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. In view of Northern's request that it be authorized to import the increased volumes during the 1982–83 winter heating season, the ERA is shortening the comment and intervention period to 15 days from the date this noticie is published. Any person may file a protest with respect to Northern's petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that were specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m. October 14, 1982.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northern's petition is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 23, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-26676 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

W. R. Hughey Operating Co.; Notice of 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 with W. R. Hughey Operating Company (Hughey) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: October 29, 1982.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 201W, Dallas, Texas 75347.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 201W, Dallas, Texas 75247, 214/767–7536. Copies of the Consent Orders may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On September 10, 1982, the ERA executed a proposed Consent Order with W. R. Hughey Operating Company of Tyler, Texas. Under 10 CFR § 205.199J(b), a proposed Consent Order which involves the 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 a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

W. R. Hughey Operating Company, with its home office located in Tyler, Texas, is a firm engaged in the business of producing and selling crude oil, and subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price Regulations and related regulations, 10 C.F.R., Parts 205, 210, 211, 212, in connection with Hughey's transactions involving crude oil during the period September 1, 1973 through September 30, 1980 ("the period covered by this Consent Order"), the ERA and W. R. Hughey Operating Company entered into this Consent Order. The ERA had alleged that during the period covered by this Consent Order, the W. R. Hughey Operating Company produced and sold domestic crude oil at prices in excess of the applicable ceiling prices. Hughey denied these allegations, but determined that this Consent Order was an equitable resolution of these allegations which avoided the disruption of its orderly business functions and the expense and inconvenience of protracted and complex litigation.

II. Refunds and Civil Penalty

Disposition of Refunds

Under this Consent Order, W. R. Hughey Operating Company will pay the sum of $595,000 as follows: Hughey shall deliver a certified check for $145,000 thirty (30) days after the effective date of this Consent Order, and certified checks each in the amount of $150,000 no later than January 1, 1983; April 1, 1983; and July 1, 1983. These sums shall be deposited as miscellaneous receipts in the United States Treasury. Hughey shall pay interest on any past due installments at the rate of 18% per annum until paid.

B. Civil Penalty

In addition, W. R. Hughey Operating Company agrees to pay the sum of $5,000 in compromise of civil penalties relating to the above-described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on W. R. Hughey Operating Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on October 29, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 20th day of September, 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-26677 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-1-20-000]

Algonquin Gas Transmission Co.; Tariff Filing Under Purchased Feedstock Adjustment Clause

September 23, 1982.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 16, 1982, tendered for filing 17th Revised Sheet No. 10–A and Second Revised Sheet No. 20–H.2 pursuant to its Rate Schedule SNG–1 Purchased Feedstock Adjustment Clause ("PFAC"), as contained in its FERC Gas Tariff, First Revised Volume No. 1, reducing the applicable rate by 83.47¢ per MMBtu reflecting a lower cost of feedstock for the 1982–83 season. The adjustments are filed to be effective as of October 16, 1982.

Take notice that Algonquin Gas also requested permission to defer the filing of the post audit cost of service study due at this time within respect to the 1981–82 SNG delivery season. Algonquin Gas stated that such relief was granted

last year with respect to the 1980–81 post audit report, on the grounds that applicable rate-making principles were at issue in Algonquin Gas' rate case in Docket No. RP80–72, and that similar relief is appropriate for the 1981–82 report because Docket No. RP80–72 is pending before the Commission for decision at this time.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26726 Filed 9–28–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–700–000]

Bangor Hydro-Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motions for Summary Disposition, and Establishing Procedures

Issued: September 24, 1982.

On July 30, 1982, Bangor Hydro-Electric Company (Bangor Hydro) tendered for filing a wholesale rate increase applicable to five customers.[1] Based on a calendar 1981 test year, the proposed rates would increase jurisdictional revenues by approximately $199,300 (12.3%).[2] Bangor Hydro requests an effective date of October 1, 1982.

Notice of the instant filing was published in the **Federal Register** with comments due on or before August 27, 1982. A timely motion to intervene was filed jointly by Eastern Maine Electric Cooperative, Inc. (Eastern Maine) and the Lubec Water and Electric District (Lubec). In addition, a timely notice of intervention was filed by the Maine Public Utilities Commission.

The intervenors request a five-month suspension of Bangor Hydro's rates on the basis of various cost of service and rate of return issues.[3] In addition, they request that the Commission grant summary disposition with respect to two issues: (1) The inclusion of short-term debt in capital structure; and (2) inclusion of a late payment charge in the company's rate schedule.

On September 9, 1982, Bangor Hydro filed an answer to the motion of Eastern Maine and Lubec. While not opposing their motion to intervene, Bangor Hydro contends that the request for a five month suspension and the motions for summary disposition should be denied. Bangor Hydro disputes the intervenors' cost of service allegations. With respect to the motions for summary disposition, the company alleges that: (1) the short-term debt included in its capital structure is a revolving line of credit and that the Commission denied a motion for summary disposition under similar circumstances in *Gulf States Utilities Co.*, Docket No. ER82–375–000 (July 9, 1982); and (2) the company' proposed late payment charge is cost-justified.

Discussion

The timely notice of intervention filed by the Maine Public Service Commission is sufficient, pursuant to Rule 214(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), to make it a party to this proceeding. Under Rule 214(c)(1), the joint motion of Eastern Maine and Lubec serves to make them parties to the proceeding, absent opposition within 15 days of their pleading.

With respect to the motions for summary disposition, we believe that the issues raise questions of law or fact most appropriately resolved following an evidentiary hearing. We shall therefore deny summary disposition as to both issues.

In view of the matters raised by Eastern Maine and Lubec and our preliminary review, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept Bangor Hydro's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not produce susbtantially excessive revenues, as defined in *West Texas*. Because our review suggests that the proposed increase may not yield excessive revenues, we shall suspend Bangor Hydro's proposed rates for one day, to become effective on October 2, 1982, subject to refund.

The Commission orders:

(A) Bangor Hydro's proposed rates, are hereby accepted for filing and suspended for 1 day, to become effective on October 2, 1982, subject to refund.

(B) The motions of Eastern Maine and Lubec for summary disposition are denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of Bangor Hydro's rates.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 12, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] Bangor-Hydro submitted an abbreviated filing pursuant to 18 CFR 35.13(a)(2)(i)(A).

[3] The issues include: an adjustment to operating expenses for certain increases in purchased power; the level of and amortization period for regulatory expenses; the level of fuel stocks and materials and supplies reflected in rate base; the treatment of deferred tax deficiencies; a cost of service adjustment for increased wages; and the requested rate of return on common equity.

Attachment A.—Bangor Hydro-Electric Company, Docket No. ER82-700-000; Rate Schedule Designations

Designation and Other parties

Supplement No. 9 to Rate Schedule FPC No. 1 (Supersedes Supplement No. 8)—Stonington and Deer Isle Power & Light Company
Supplement No. 9 to Rate Schedule FPC No. 4 (Supersedes Supplement No. 8)—Lubec Water & Electric District
Supplement No. 9 to Rate Schedule FPC No. 5 (Supersedes Supplement No. 8)—Union River Cooperative, Inc.
Supplement No. 9 to Rate Schedule FPC No. 7 (Supersedes Supplement No. 8)—Eastern Maine Electric Cooperative, Inc.
Supplement No. 7 to Rate Schedule FERC No. 27 (Supersedes Supplement No. 6)—Swans Island Electric Cooperative, Inc.

[FR Doc. 82-26779 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-704-000]

Central Louisiana Electric Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Granting Motion for Summary Disposition, Noting Intervention, and Establishing Procedures

Issued: September 23, 1982.

On July 30, 1982, Central Louisiana Electric Company (CLECO) tendered for filing increased rates for transmission of power by CLECO to Cajun Electric Power Cooperative's (Cajun) member cooperatives.[1] The proposed rates would increase revenues by approximately $2,100,000 (55%) based on the calendar year 1982 test period. CLECO requests that its proposed rates become effective on September 28, 1982.

Notice of the filing was published in the **Federal Register** with comments due on or before August 27, 1982. Cajun filed a timely protest and motion to intervene. In addition, Cajun moves for rejection of the filing or the issuance of a deficiency letter. If the filing is not rejected, Cajun seeks a maximum suspension and summary disposition with respect to CLECO's inclusion in its cost of service of contributions to the Electric Power Research Institute (EPRI).

In support of its motion to reject the filing, Cajun states that CLECO has substantially understated the revenues to be received from Cajun under the proposed rates inasmuch as CLECO has not included revenues attributable to off-system transmission of "excess power" available to Cajun under unit power purchase commitments. Cajun asserts that failure to file the correct revenue data taints the accuracy of other statements and renders the Period I data so unreliable as to justify rejecting the filing. In addition, according to Cajun, the failure to properly reflect these revenues results in a substantial overstatement of the rate increase needed by CLECO to compensate for its transmission service to Cajun. In further support of its motion, Cajun states that CLECO's submittal fails to comply substantially with the Commission's regulations in that many of the statements filed by CLECO do not contain information required by section 35.13(h). As grounds for a five month suspension, Cajun contends that the rate proposed by CLECO is substantially excessive based on an overstated allocation of distribution costs to Cajun, an excessive rate of return on common equity, and imporper recognition of revenues associated with Cajun's "excess power" delivered outside of CLECO's system.

CLECO responded to Cajun's motion on September 13, 1982. The company denies Cajun's claim that its filing is deficient and states that Cajun's adjustments to CLECO's costs which purport to show that CLECO's rates should be suspended for five months are in error.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Cajun's motion to intervene serves to make it a party to this proceeding absent opposition within 15 days of its pleading.

We agree with Cajun that summary disposition is warranted with respect to the EPRI issue. We have consistently found that such contributions should not be recovered through wholesale rates.[2] This matter has been resolved with sufficient clarity and in sufficiently generic terms to render further litigation inappropriate. While we shall grant summary disposition, we shall not require immediate refiling by CLECO in view of the relatively small revenue effect of this item. Furthermore, we shall deny Cajun's motion to reject the filing inasmuch as our review indicates that, in other respects, the submittal substantially complies with our regulations.[3]

Our preliminary review of the instant filing and Cajun's pleading indicates that the rates proposed by CLECO have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Contrary to Cajun's contentions, our examination suggests that the proposed transmission rates may not yield substantially excessive revenues. Accordingly, we shall suspend the rates for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.

As a final matter, the Commission notes that CLECO has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that CLECO's cost of service correctly reflects the effects of normalization, and that the submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) The motion to reject CLECO's filing or to issue a deficiency letter is hereby denied.

(B) CLECO's cost of service inclusion of contributions to EPRI is summarily rejected. The company shall reflect this determination in its compliance cost of service at the conclusion of this proceeding.

(C) CLECO's proposed rates are hereby accepted for filing and suspended for one day to become effective, subject to refund, on September 29, 1982.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections

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[1] Designated as: *Central Louisiana Electric Company* Supplement No. 1 to Supplement No. 2 to Supplement No. 3 to Rate Schedule FPC No. 21.

[2] *E.g., Central Maine Power Company*, 18 FERC ¶ 61,126 (1982); *Public Service Company of New Mexico*, 17 FERC ¶ 61,123 (1981); *Northern States Power Company (Wisconsin)*, 17 FERC ¶ 61,019 (1981).

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

205 and 206 thereof and pursuant to the Commission's Rules and Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CLECO's rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26727 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TC82-61-000 & RM79-15]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

September 24, 1982.

Take notice that Colorado Interstate Gas Company (CIG), on September 17, 1982, tendered for filing Third Revised Sheet No. 61H, superseding Second Revised Sheet No. 61H, to its FERC Gas Tariff, Original Volume No. 1. CIG states that the purpose of this filing is to comply with Order No. 145 issued in Docket No. RM79-15 by updating its index of Entitlements. An effective date of November 1, 1982, is requested for the revised tariff sheet.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 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 385.211, 385.214) 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 proceedings. 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 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. 82-26780 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-16-000]

Commonwealth Edison Co.; Order Denying Petition for Emergency Relief, Instituting Investigation, Establishing Procedures, and Consolidating Dockets

Issued: September 23, 1982.

On May 10, 1982, six muncicipal customers [1] (Cities) of Commonwealth Edison Company (Commonwealth) filed a petition for emergency relief and request for investigation.[2] The Cities allege that Commonwealth is recovering excessive costs through its fuel adjustment clause based on imprudent fuel purchase practices associated with its Collins generating station. These contentions are based on comparisons between fuel costs for the Collins station and another oil-fired unit at Commonwealth's Ridgeland station. Cities also refer to a *Moody's 1981 Nationwide Survey* as demonstrating that fuel costs at the Collins station are above regional averages. No further data or testimony have been filed by the Cities in support of their allegations.

The Cities have cited an order of the Illinois Commerce Commission, issued April 21, 1982, in which the Illinois Commission instituted an investigation into Commonwealth's fuel procurement practices at its Collins plant and directed Commonwealth, in the interim, to hold its retail fuel adjustment charge constant at its level on April 21, 1982. In the instant proceeding, the Cities ask that this Commission also initiate an investigation into Commonwealth's fuel procurement policies and order Commonwealth not to increase its fuel adjustment charge to its wholesale customers beyond the amount of Commonwealth's fuel adjustment charge to its retail customers. Absent such relief, the Cities suggest that a price squeeze may result.

Commonwealth filed an answer to Cities' petition on June 9, 1982. In its answer, Commonwealth states that it believes its fuel procurement practices have at all times been reasonable and prudent. Commonwealth also contends that this Commission could order a freeze in Commonwealth's fuel clause charge only after a finding, based upon the results of a hearing, that the charge is unjust and unreasonable. In addition, Commonwealth urges that the relief sought by the Cities would be inequitable because Commonwealth's wholesale fuel adjustment clause, in contrast to its retail fuel adjustment clause, does not provide a matching mechanism for deferred recovery of prior undercollections of fuel expenses. Thus, Commonwealth contends that a freeze of its wholesale fuel clause charge would result in a permanent failure to recover wholesale fuel costs, regardless of whether any impropriety in Commonwealth's fuel procurement practices is ever established.

Commonwealth further asserts that any impropriety that may be established can be adequately redressed through refunds in Commonwealth's ongoing rate case in Docket No. ER82-146-000. In order to avoid unnecessary duplication, however, Commonwealth urges that the Commission defer action on the Cities' petition, pending completion of the ongoing investigation into Commonwealth's fuel procurement practices by the Illinois Commission.

Discussion

The Cities' petition for an order freezing Commonwealth's wholesale fuel adjustment charge must be denied. Their request necessarily raises the issue of whether Commonwealth's fuel procurement practices have been

[1] The Cities of Batavia, Geneva, Naperville, Rochelle, Rock Falls and St. Charles, Illinois.

[2] Notice of the petition was issued on May 28, 1982, with responses due by June 25, 1982. On May 25, 1982, the Village of Winnetka, Illinois filed an answer in support of the Cities' petition without raising any new issues.

prudent. This is a factual issue requiring a fully-developed record as a predicate for an informed Commission decision. Cities' petition does not present sufficient uncontroverted evidence for the Commission to act without further development of the record. Pending such a determination, we agree with Commonwealth that it would be inequitable, particularly on the basis of the limited information provided thus far, to compel the company to forego revenues which may later be found to have been appropriate. This is true notwithstanding the Cities' vague allegations with respect to price squeeze ramifications resulting from the State commission's treatment of fuel costs for retail purposes.

We note that all aspects of Commonwealth's presently effective rates, including revenues attributable to fuel adjustment charges, are currently open to investigation in Docket No. ER82–146–000. In addition, the refund protection available in that docket will adequately protect the interests of all affected customers, including the Cities. In view of the pendency of that proceeding, it appears unnecessary to establish a separate hearing for purposes of pursuing the issue of Commonwealth's fuel procurement practices. Therefore, we shall consolidate Docket Nos. ER82–146–000 and EL82–16–000 and expand the scope of the pending proceeding to include as an issue the question of Commonwealth's prudence in its fuel procurement policies for the Collins station as well as the question of the scope of appropriate relief.

Commonwealth's suggestion that this Commission defer action on the Cities' petition pending action by the Illinois Commerce Commission on its investigation will be rejected at this time. We recognize that overlapping issues of fact may be involved in the consideration of Commonwealth's fuel procurement practices for retail and wholesale ratemaking purposes. Nevertheless, we are not persuaded that it would necessarily be appropriate to defer action where an issue germane to Commonwealth's currently pending wholesale rate increase proposal has been legitimately raised. It is not, however, our intention to preclude the presiding judge from determining on the basis of additional information that deferral of this issue is appropriate and will not engender unnecessary delay. Neither do we desire to cause unnecessary duplication of effort or resources. Thus, we encourage the presiding judge to evaluate the possibility of minimizing such duplication by permitting complete discovery of materials already provided in the context of the State commission proceeding, incorporation of pertinent materials by reference, or other appropriate procedures.

The Commission orders:

(A) Cities' petition for emergency relief is hereby denied.

(B) Docket No. EL82–16–000 is hereby consolidated with Docket No. ER82–146–000 for purposes of hearing and decision and the scope of the pending hearing is expanded to include the issues addressed in this order.

(C) The administrative law judge designated to preside in Docket No. ER82–146–000 shall determine the most appropriate procedures for consideration of the matters presented in the consolidated proceeding.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26729 Filed 9–28–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–801–000]

Commonwealth Electric Co.; Filing

September 24, 1982.

Take notice that on September 17, 1982, Commonwealth Electric Company (Commonweatlh) tendered for filing a proposed change in rate under Supplement No. 7 to its currently effective Rate Schedule FERC No. 34.

Commonwealth states that said change in rate under Supplement No. 7 ("23 KV Wheeling Rate") to Commonwealth's Rate Schedule FERC No. 34 has been computed according to the provisions of Section 6(b) of its Rate Schedule FERC No. 34. Commonwealth further states that such change is proposed to become effective January 1, 1981, thereby superseding the 23 KV Wheeling Rate in effect during calendar 1980.

Commonwealth requests an effective date of January 1, 1981, and therefore requests waiver of the Commision's notice requirements.

Copies of this filing have been served upon Boston Edison Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26781 Filed 9–28–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–802–000]

Commonwealth Electric Co.; Filing

September 24, 1982.

Take notice that on September 17, 1982, Commonwealth Electric Company (Commonwealth) tendered for filing a proposed change in rate under its currently effective Rate Schedule FERC No. 34.

Commonwealth states that said change in rate under Commonwealth's Rate schedule FERC No. 34 has been computed according to the provisions of Section 6(b) of its Rate Sechedule FERC No. 34. Commonwealth further states that such change is proposed to become effective January 1, 1982, thereby superseding the 23 KV Wheeling Rate in effect during calendar 1981.

Commonwealth requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have ben served upon the Boston Edison Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26782 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-683-000]

Connecticut Light and Power Co.; Order Accepting for Filing and Suspending Contract Revisions, Granting Waiver, Noting Interventions, and Establishing Procedures

Issued: September 23, 1982.

On July 26, 1982, Connecticut Light and Power Company (CL&P) tendered for filing revisions to 13 unit sales contracts [1] between CL&P and the Connecticut Municipal Electric Energy Cooperative (CMEEC).[2] The unit sales contracts are part of a restructured electric service relationship described in a Memorandum of Understanding dated September 15, 1980.[3] The unit contracts designate CMEEC's entitlements in capacity of various generating units of the Northeast Utilities Companies.

In the 1980 Memorandum of Understanding, the parties agreed that the amount of CMEEC's capacity entitlements would be adjusted, at the option of CMEEC, to recognize (1) increased loads experienced by Norwich as a result of a new Phelps Dodge factory, and (2) increased loads experienced by Jewett City as a result of the transfer of retail industrial customers from CP&L to Jewett City. The parties established a formula for calculating the adjustments which is set forth in Attachment B (sections C, D, and E) to the Memorandum of Understanding. The parties further agreed that final adjustments would be computed on or about May 1, 1982, and be made effective as of July 1, 1982.

CL&P states that the instant revisions provide solely for changes in the size of CMEEC's entitlements in the units, and do not affect the charges, terms, or conditions incorporated in the unit sales contracts. In order to implement the parties' agreement that the revisions would become effective as of July 1, 1982, CL&P requests waiver of the notice requirements.

Notice of the filing was published in the **Federal Register** with comments due on or before August 23, 1982. CMEEC filed a timely intervention and a protest.

In its pleading, CMEEC agrees that the adjustments proposed by CL&P should be made effective as of July 1, 1982, and supports CL&P's request for waiver of notice; however, CMEEC reserves its right to seek further adjustments to the amounts and allocation of its entitlements and appropriate compensation if it is successful.[4] CMEEC contends that CL&P has made two technical errors in calculating the adjustment to reflect the new Phelps Dodge plant.[5] First, CMEEC states that CL&P improperly calculated the Phelps Dodge factory peak load, so that the total amount of the adjustment is understated. Second, CMEEC asserts that CL&P improperly allocated additional capacity, so that CMEEC is allocated less additional capacity in nuclear and hydroelectric units than is appropriate under the unit contracts. CMEEC states that discussions between the parties in an effort to resolve their differences have reached an impasse. Therefore, CMEEC requests that the Commission initiate a hearing to resolve the dispute.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), CMEEC's timely intervention serves to make it a party to this proceeding absent opposition within fifteen days of its pleading.

Upon consideration of CL&P's filing and CMEEC's pleading, we find that the proper calculation of adjustments to CMEEC's capacity entitlements under the unit contracts presents questions of law and fact which should be determined on the basis of an evidentiary hearing. Accordingly, we are unable to conclude that the proposed contract revisions are just and reasonable and we find that they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept the proposed revisions for filing and suspend their operation as ordered below.

The contractual amendments at issue relate only to the stated entitlements in unit capacity and do not seek to effect any direct rate change. Inasmuch as the Memorandum of Understanding anticipated a July 1, 1982 effective date for revised entitlements and CMEEC has expressed its concurrence in this effective date as well as in the waiver of notice; we find that good cause exists to grant the request for waiver of notice. Accordingly, we shall suspend CL&P's proposed contract revisions to become effective, subject to further adjustment, on July 1, 1982.

The Commission orders:

(A) CL&P's request for waiver of the notice requirements is hereby granted.

(B) CL&P's proposed contract revisions are hereby accepted for filing and are suspended to become effective on July 1, 1982, subject to further adjustment and other remedies which may be found to be appropriate under the Federal Power Act.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CL&P's contract revisions and any appropriate remedies if capacity entitlements are further adjusted.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days after the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

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[1] *See* Attachment A for rate schedule designations.

[2] CMEEC is a municipal joint action agency which is authorized to finance, acquire, and construct generating resources and to implement power supply contracts on behalf of its participants, the Cities of Groton and Norwich and the Borough of Jewett City. CMEEC originally entered into 12 contracts with CL&P and one contract with the Hartford Electric Light Company (HELCO). CL&P and HELCO, both subsidiaries, of Northeast Utilities, were merged on June 30, 1982. Thus, CL&P and CMEEC are the only remaining parties to the contracts.

[3] The Memorandum of Understanding was filed with the Commission on October 31, 1980, and accepted for filing by letter order of December 30, 1980, in Docket Nos. ER81-79-000 and ER81-80-000.

[4] CL&P has agreed that CMEEC's acceptance of the adjustments filed in this proceeding does not constitute agreement by CMEEC that the adjustments are final.

[5] CMEEC states that the parties agree on the adjustment to provide for increased retail loads to Jewett City.

Connecticut Light and Power Company Rate Schedule Designations; Docket No. ER82-683-000

Designations and Decriptions

Connecticut Light and Power Company

(1) Supplement No. 3 to Rate Schedule FERC No. 221—First Revised Sheet No. 5—Vermont Yankee Nuclear Plant
(2) Supplement No. 3 to Rate Schedule FERC No. 222—First Revised Sheet No. 5—Yankee Atomic Nuclear Plant
(3) Supplement No. 3 to Rate Schedule FERC No. 223—First Revised Sheet No. 5—Main Yankee Nuclear Plant
(4) Supplement No. 3 to Rate Schedule FERC No. 224—First Revised Sheet Nos. 5 and 6—Norwalk Harbor Units Nos. 1, 2, 3
(5) Supplement No. 3 to Rate Schedule FERC No. 225—First Revised Sheet No. 5—Connecticut Yankee Nuclear Plant
(6) Supplement No. 3 to Rate Schedule FERC No. 226—First Revised Sheet Nos. 5 and 6—Montville Units Nos. 5, 6, 10, 11
(7) Supplement No. 3 to Rate Schedule FERC No. 227—First Revised Sheet No. 6—Devon Units Nos. 7, 8, 9
(8) Supplement No. 3 to Rate Schedule FERC No. 228—First Revised Sheet No. 6—Millstone Point Units Nos. 1, 2,
(9) Supplement No. 3 to Rate Schedule FERC No. 229—First Revised Sheet Nos. 8 and 9—Northfield Mountain Units Nos. 1, 2, 3, 4
(10) Supplement No. 3 to Rate Schedule FERC No. 230—First Revised Sheet Nos. 7 and 8—Tunnel Units Nos. 1, 2,
(11) Supplement No. 3 to Rate Schedule FERC No. 231—First Revised Sheet Nos. 8 and 9—Bulls Bridge Unit Nos. 1, 2, 3, 4, 5, 6
(12) Supplement No. 3 to Rate Schedule FERC No. 232—First Revised Sheet Nos. 7 and 8—Shepaug Unit No. 1,
(13) Supplement No. 3 to Rate Schedule FERC No. 256—First Revised Sheet Nos. x5 and 6—Middletown Units Nos. 1, 2, 3, 4, 10

[FR Doc. 82-26728 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES82-74-000]

Consumers Power Co.; Application

September 24, 1982.

Take notice that Consumers Power Company (Applicant) on September 13, 1982, filed an Application for authority to issue securities under Section 204 of the Federal Power Act. Consumers Power intends to enter into a Construction Financing Agreement with a special purpose corporation for the purpose of financing a Nuclear Training Center and other items of property. The Company proposes to enter into a Credit Agreement with the Toronto-Dominion Bank, Chicago Agency. Pursuant to the Credit Agreement, Toronto-Dominion will accept a note from the Company which in aggregate amount will not exceed $40,000,000. The commitment will be available to the Company until 364 days from the date of execution and delivery of the Construction Financing Agreement.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR § 385.211 or 385.214). All such petitions or protests should be filed on or before October 12, 1982. A copy of this filing is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26783 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-23-001]

Eastern Shore Natural Gas Co.; Tariff Filing

September 24, 1982.

Take notice that on September 13, 1982, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, identified as follows:

Proposed Tariff Sheets to Original Volume No. 1

Substitute Twenty-First Revised Sheet No. 5
Substitute Twenty-First Revised Sheet No. 6
Substitute Twenty-First Revised Sheet No. 7
Substitute Sixth Revised Sheet No. 10
Substitute Twenty-First Revised Sheet No. 11
Substitute Twenty-First Revised Sheet No. 12
Second Revised Sheet No. 245
Second Revised Sheet No. 248
Third Revised Sheet No. 252

Eastern Shore states that these tariff sheets, which are proposed to be effective September 1, 1982, reflect a change in the effective dates of Eastern Shore's semi-annual Purchased Gas Adjustment (PGA) and Demand Charge Adjustment (DCA) filing from the currently scheduled effective dates of March 1 and September 1 of each year to May 1 and November 1 of each year. Eastern Shore also requests authority to (1) "track" Transco's rates effective September 1, 1982 as proposed in their substitute tariff filing dated September 2, 1982 (Docket No. TA82-2-29-001) and (2) allow Eastern Shore's deferred account surcharge, demand charge unit adjustment and transportation surcharge that became effective on March 1, 1982 to remain in effect for an additional two months.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and Interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be come a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26784 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-792-000]

Empire District Electric Co.; Filing

September 23, 1982.

Take notice that on September 10, 1982, the Empire District Electric Company (EDE) tendered for filing a proposed Agreement for Interchange of Power and Interconnected Operation between EDE and the Associated Electric Cooperative, Inc. (AEC).

EDE states that the proposed contract provides for interconnected operation between EDE and AEC which will be of mutual advantage to the parties by allowing them to purchase and sell or exchange electric power and energy from one system to the other.

EDE further states that this agreement shall replace the agreement entered into on the 19th of March, 1969 and all amendments thereto.

Significant changes are the addition of the Strafford and Wanda interconnections and addition of the RE, SE, SP and UP Schedules.

Copies of the filing were served upon the Missouri Public Service Commission and Associated Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make proptestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26730 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-793-000]

Florida Power & Light Co.; Filing

September 23, 1982.

Take notice that Florida Power & Light Company (FP&L) tendered for filing on September 13, 1982, the following tariff sheets as part of its FERC Electric Tariff, First Revised Volume No. 1 applicable to 8 municipal customers and 7 rural electric cooperatives: Sheet Nos. 5 and 5a, Sheet Nos. 6 and 6a, Sheet Nos. 7, 7a and 7b, Reserved for Future Use Sheet No. 8, Sheet Nos. 9 and 9a, and Reserved for Future Use Sheet No. 11.

FP&L also tendered for filing certain tariff sheets containing a revised cover sheet, revisions to the terms and conditions of service under the tariff and a revised index of customers and delivery points.

FP&L also tendered for filing Proposed Amendment No. 3 to the November 19, 1979 Agreement to Provide Specified Firm Power Electric Service between Florida Power & Light Company and Seminole Electric Cooperative, Inc.

FP&L also tendered for filing proposed Amendment No. 1 to the November 19, 1979 Agreement for Alterations to Delivery Points and Service Voltage for Delivery of Electric Power and Energy between FP&L and Lee County Electric Cooperative, Inc.

FP&L proposes to place the revised tariff sheets and amendments containing the first phase of a proposed rate increase into effect on November 12, 1982, sixty days after the date of filing. FP&L proposes that the second phase of the rate increase take effect on November 3, 1982, sixty-one days after filing.

FP&L states that the proposed rates would increase revenues from wholesale sales by approximately $36 million for the 12 month period ending December 31, 1983. The first phase of the proposed rates would increase revenues from wholesale sales by approximately $23.2 million over the same period.

According to FP&L appropriate portions of this filing have been served upon FP&L's wholesale customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26717 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-701-000]

Florida Power Corp.; Order Accepting for Filing and Suspending Rates, Granting Summary Disposition in Part, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: September 24, 1982.

On July 30 1982, Florida Power Corporation (FPC) filed a proposed two-phase wholesale rate increase for full requirements, partial requirements, and transmission service.[1] The phase-one rates would increase revenues by approximately $11.1 million (5.6 percent) for the calendar year 1982 test period. The proposed phase-two rates would result in an additional increase in revenues of about $21.4 million, based on the inclusion of costs associated with the company's 640 MW coal-fired Crystal River No. 4 generating unit. FPC requests that the phase-one rates become effective on September 28, 1982. The company originally requested that the phase-two rates become effective upon the date of commercial operation of Crystal River Unit No. 4 although, as discussed below, FPC has since asked that the Commission defer both a filing date and an effective date for the phase-two rates. The company states that Unit No. 4 is expected to become operational on December 31, 1982.

Notice of FPC's filing was published in the **Federal Register**, with comments due on or before August 26, 1982. Timely motions to intervene have been filed by the Seminole Electric Cooperative, a group of FPC's municipal customers identifying themselves as Florida Cities,[2] and Reedy Creek Utilities Company. Reedy Creek has not raised any specific substantive issues.

The Florida Cities argue at length that FPC's attempt to file a phased increase should be rejected, that the two-phase increase should be viewed in its entirety, and that both phases should be suspended for five months. They further request summary disposition with respect to several matters asserting that the company's positions are unsupported, contrary to past experience, or otherwise inappropriate. In particular, the Florida Cities contend that: (1) FPC's proposed demand allocators deviate from historical experience without explanation, and that a minimal increase, if any, would be supportable based on an allocation using actual Period I demands; (2) FPC has improperly inflated rates by including cost of service "adjustments" to "correct" for the fact that this Commission or its predecessor have precluded rate base inclusion of CWIP or tax normalization in prior periods, contrary to retail regulatory practice; and (3) while Crystal River Unit No. 4 will be in service, at most, for the final month of the test period, FPC's phase-two rate base includes that unit on an annualized basis although other adjustments necessary for proper synchronization have not been made. In addition, the Florida Cities raise a number of specific cost of service and rate design issues, contend that the proposed transmission rates are excessive, allege price squeeze, and urge consideration of the price squeeze claim for suspension purposes.

Seminole, and its member systems served by FPC,[3] request rejection of the

[1] *See* Attachment A for rate schedule designations and affected customers.

[2] The Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, and the Sebring Utilities Commission seek to intervene with respect to the entire rate filing. The remaining Cities, Tallahassee, Lakeland, and Kissimmee, receive only transmission service and have intervened only for purposes of testing the validity of FPC's proposed transmission rate.

[3] The member systems include: Talquin Electric Cooperative, Tri-County Electric Cooperative, Suwannee Valley Electric Cooperative, Clay Electric Cooperative, Glades Electric Cooperative, Peace River Electric Cooperative, Withlacoochee River Electric Cooperative, Sumter Electric Cooperative, and Central Florida Electric Cooperative.

phase-two rate increase or a determination that the filing is deficient. Alternatively, they request a maximum suspension of both phases and the initiation of phased price squeeze proceedings. Seminole objects to FPC's annualization of Crystal River No. 4, contending that other offsetting cost of service adjustments are necessary and that the company's failure to observe the test year regulations warrants rejection of the phase-two rates or deferral of a filing date pending receipt of additional data. Seminole objects to FPC's stated capital structure, addresses the cost of capital issue (and the implications of rate of return and the tax allowance for suspension purposes), and challenges the weighted debt cost used by FPC for interest synchronization. In addition, Seminole raises issues concerning cash working capital, the absence of a load adjustment to the cost of service, spent nuclear fuel disposal costs, nuclear decommissioning costs, "inappropriately labeled" pollution control CWIP, purchased power expense and revenue credits, recovery of abandoned project costs, tax normalization, and the appropriate costs attributable to Crystal River No. 4.

On September 8, 1982, FPC responded to the interventions and protests. After having evaluated the pleadings and its submittal, FPC has acceded to several adjustments in response to the motions for summary disposition. Specifically, the company has agreed to modify its phase-one cost of service and rates to: (1) Eliminate Accumulated Deferred Investment Tax Credits (ADITC) from its capital structure; (2) amortize spent nuclear fuel disposal costs over a ten year period rather than five years;[4] (3) correct for an inadvertent failure to reflect a deduction for nuclear fuel in process in the tax calculation; and (4) correct for an error in calculating unfunded income tax liability. FPC states that the combined effect of these items is to reduce required revenues by $2,529,000; following issuance of the Commission's order in this docket, FPC has agreed to file reduced phase-one rates reflecting these adjustments. FPC, however, denies the remaining allegations of the intervenors with respect to the phase-one increase.

Concerning the phase-two rates, FPC states that it is in the process of reviewing its submittal to determine whether all necessary adjustments have been made to synchronize the annualization of Crystal River No. 4. In order to allow sufficient time for a thorough analysis, the company has asked that the Commission temporarily withhold both a filing date and an effective date for the phase-two increase. When the review is complete, FPC will make a supplemental filing (more than 60 days before the proposed effective date) and renew a request for an effective date. FPC indicates that this approach is preferable to outright rejection of the phase-two rates inasmuch as it will preserve the company's ability to utilize a 1982 test period for both wholesale and retail rate purposes.

[4] We note that the reasonableness of FPC's disposal cost estimates remains as an issue to be addressed at hearing.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Florida Cities', Seminole's, and Reedy Creek's unopposed motions to intervene serve to make them parties to this proceeding.

In view of FPC's voluntary request to defer a filing date for its phase-two rate increase, we need not address the intervenors' motions with respect to rejection, suspension, or summary disposition insofar as applicable to that portion of FPC's submittal. To the extent appropriate, these requests may be renewed at such time as FPC tenders revised phase-two rates or a subsequent request to implement the originally filed rates.

As noted, FPC has agreed to modify four aspects of its phase-one cost of service and to submit appropriately reduced rates. This voluntary accession moots two requests for summary disposition but leaves a number of issues remaining. While FPC denies that summary disposition is warranted as to the inclusion in rate base of nuclear radwaste-related CWIP at its Crystal River Unit No. 3, we find that Commission precedent supports summary disposition. In our order of August 5, 1982, in *Pennsylvania Electric Company*, Docket No. ER82–593–000, we reiterated our position that nuclear radwaste systems must be excluded from rate base inasmuch as these systems do not qualify as pollution control CWIP within the scope of section 2.16(a) of the regulations.[5] Thus, in revising its rates to reflect the items which FPC has agreed to amend, the company shall also reflect summary disposition by excluding nuclear radwaste-related CWIP from rate base. Having considered the remaining requests for summary disposition, we conclude that they present questions of law or fact more appropriately resolved on the basis of an evidentiary hearing.

[5] *See Jersey Central Power and Light Company*, Docket No. ER82–426–000, 19 FERC 61,206 (May 28, 1982). *See also Louisiana Power and Light Company*, Opinion No. 110, 14 FERC 61,075 (January 28, 1981).

Consistent with FPC's request, we shall withhold a filing date for the phase-two increase and permit the company to make a supplemental filing at an appropriate time. With respect to the phase-one rates, our preliminary review of FPC's submittal and the pleadings indicates that the rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept FPC's phase-one rates for filing, as modified by summary disposition and voluntary accession, and we shall suspend those rates as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where our preliminary review indicates that the proposed rates may be unjust and unreasonable, but may not produce substantially excessive revenues, as defined in *West Texas*. Our preliminary examination of the phase-one rates suggests that they may not yield excessive revenues. Accordingly, we shall suspend FPC's phase-one rates for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.[6]

In accordance with the policy and procedures established in *Arkansas Power & Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors.

As a final matter, the Commission notes that FPC has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that FPC's cost of service correctly reflects the effects of normalization, and that FPC's submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) A filing date for FPC's proposed phase-two rates is hereby deferred pending a supplemental filing by FPC. The motions to reject FPC's phase-two

[6] In response to the Florida Cities' suggestion that we consider the price squeeze allegations in our suspension determination, we note that we have stated consistently that, in the absence of extraordinary circumstances, unproved price squeeze claims will not serve as an independent factor in considering an appropriate suspension period. No such extraordinary circumstances are presented here.

rates or to find the filing deficient are denied without prejudice as moot.

(B) FPC's rate base inclusion of nuclear radwaste systems is summarily rejected. Within fifteen (15) days of the date of this order, the company shall file revised cost statements and rates reflecting this summary disposition as well as the four voluntary adjustments identified in the body of this order. In all other respects, the motions for summary disposition are hereby denied.

(C) FPC's proposed phase-one rate increase is hereby accepted for filing and suspended for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of FPC's rates.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of FPC's submittal in compliance with paragraph (B) above.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause shown. The price squeeze claim shall be governed by section 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Florida Power Corporation, Docket No. ER82-701-000

Dated: Undated.
Filed: July 30, 1982.
Other Parties: (1) & (2) The Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Sebring, and Williston; The Seminole Electric Cooperative, Inc. and The Orlando Utilities Commission.

Phase I Rates

Designations. FPC Electric Tariff, First Revised Volume No. 1.

(1) *Full Requirements (FR) and Transmission:*

Sheet No.—Supersedes

7th Revised Sheet No. 3—6th Revised Sheet No. 3
7th Revised Sheet No. 4—6th Revised Sheet No. 4
7th Revised Sheet No. 23—6th Revised Sheet No. 23
8th Revised Sheet No. 24—7th Revised Sheet No. 24
1st Revised Sheet No. 4A—Original Sheet No. 4A
4th Revised Sheet No. 36—3th Revised Sheet No. 36
4th Revised Sheet No. 37—3th Revised Sheet No. 37

(2) *Partial Requirements (PR) and Transmission:*

7th Revised Sheet No. 41—6th Revised Sheet No. 41
7th Revised Sheet No. 42—6th Revised Sheet No. 42
6th Revised Sheet No. 43—5th Revised Sheet No. 43
Original Sheet No. 43A

(3) Other Party: Reedy Creek Utility Company, Inc. Supplement No. 9 to Rate Schedule FPC No. 74. (Supersedes Supplement No. 8.)

(4) Other Party: City of Wauchula. Supplement No. 9 to Rate Schedule FPC No. 77. (Supersedes Supplement No. 8.)

Phase II Rates

FPC Electric Tariff, First Revised Volume No. 1.

(1) *Full Requirements (FR) and Transmission:*

Sheet No.—Supersedes

8th Revised Sheet No. 3—7th Revised Sheet No. 3
8th Revised Sheet No. 23—7th Revised Sheet No. 23
9th Revised Sheet No. 24—8th Revised Sheet No. 24

(1) *Partial Requirements (PR) and Transmission:*

Sheet No.—Supersedes

8th Revised Sheet No. 41—7th Revised Sheet No. 41

(3) Other Party: Reedy Creek Utility Company, Inc. Supplement No. 10 (Page 1) to Rate Schedule FPC No. 74. (Supersedes Page 1 to Supplement No. 9.)

(4) Other Party: City of Wauchula. Supplement No. 10 (Page 1) to Rate Schedule FPC No. 77. (Supersedes Page 1 to Supplement No. 9.)

[FR Doc. 82-26785 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-798-000]

Florida Public Utilities Co.; Filing

September 23, 1982.

The filing Company submits the following:

Take notice that on September 16, 1982, Florida Public Utilities Company (FPU) tendered for filing proposed changes in its FERC Electric Tariff. FPU states that the proposed changes would increase revenues from jurisdictional sales and service by $71,224 annually, based on the 12-month period ending June 30, 1982.

FPU further states that the proposed tariff changes are applicable to its wholesale sales and service to the City of Blountstown, Florida, which is the company's only jurisdictional customer. The company states that it purchases power from Gulf Power Company at the latter's Altha Substation, part of which is used in its distribution operations in its Marianna, Florida division and part of which is resold at wholesale to Blountstown. FPU indicates that the purpose of its tariff changes is to pass through to Blountstown the effect on its purchases at the Altha Substation of Gulf Power Company's increase in rates, pending in Docket No. ER82-689-000.

FPU requests an effective date of October 1, 1982.

Copies of this filing were served upon the City of Blountstown and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 395.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26718 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-689-000]

Gulf Power Co.; Order Accepting for Filing and Suspending Rates, Denying Motion to Reject, Noting Interventions, and Establishing Hearing Procedures

Issued: September 24, 1982.

On July 27, 1982, Gulf Power Company (GPC) tendered for filing increased rates for firm power service to two distribution cooperative customers [1] and Florida Public Utilities Company (FPU).[2] The proposed rates would increase revenues by approximately $1.3 million (7.3%) during the calendar year 1983 test period. GPC requests an effective date of October 1, 1982.

Notice of the filing was published in the **Federal Register** with responses due on or before August 23, 1982. Alabama Electric Cooperative (AEC), on behalf of its member distribution cooperatives, filed a timely intervention as well as a protest and motion to reject or (to the extent not rejected) to suspend for five months. As grounds for rejection, AEC maintains that the company has failed to satisfy the filing requirements of section 35.13 of the Commission's regulations relating to cost data in support of the stated test period fuel stock balances.[3] In support of a maximum suspension, AEC raises a number of cost of service issues including excessive rate of return, improper demand/energy tilt in rate design, and failure to amortize regulatory expense for a period of time greater than one year. AEC further contends that the single rate schedule proposed by GPC for the cooperative customers and FPU unlawfully discriminates against the cooperative customers by requiring them to pay more than their properly allocated share of the cost of service.

FPU also filed a timely intervention. Although FPU raises no specific substantive issues in its pleading, it states that, as an affected customer, it has an interest in this proceeding which cannot be adequately represented by other parties.

Subsequently, GPC filed a timely response denying that rejection of the filing is warranted, addressing the substantive issues raised by the intervenors, and asserting that a one day suspension is appropriate. While GPC does not oppose the cooperative customers' or FPU's participation as intervenors in this proceeding, it does challenge the sufficiency of AEC's interests as a separate intervening party. On September 13, 1982, GPC filed a supplemental response which raises an additional argument in support of a one day suspension.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make FPU and the cooperative customers parties to this proceeding. Notwithstanding GPC's opposition to AEC's separate participation as an intervening party, we find that AEC has stated sufficient grounds to warrant intervention as a representative of its cooperative members and a potential competitor of GPC. We further note that AEC has been granted intervenor status in a number of prior GPC rate cases. Accordingly, the Commission will grant AEC's motion to intervene.

Despite AEC's contentions, we find that GPC's submittal substantially complies with the Commission's filing regulations;[4] we shall therefore deny the request by AEC to reject GPC's submittal.

Our preliminary review of the instant filing and the pleadings indicates that the rates proposed by GPC have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No ER 82-23-000, 18 FERC ¶61,189 (February 26, 1982), we explained that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, however, our examination suggests that the proposed rates may produce substantially excessive revenues. Therefore, consistent with *West Texas*, we shall suspend GPC's proposed rates for five months to become effective, subject to refund, on March 1, 1983.

GPC has requested that the Commission issue an order approving the use of tax normalization with respect to Accelerated Cost Recovery System (ACRS) property in order to satisfy the requirements of the Economic Tax Recovery Act of 1981 (ERTA). According to our review, it appears that the instant filing reflects a normalization method of accounting for post-1980 property additions, that GPC's cost of service correctly reflects the effects of normalization, and that GPC's submittal meets the requirements of ERTA.

The Commission notes that GPC's cost of service indicates that the earned rate of return for service to the cooperative customers is significantly different from the earned rate of return for service to FPU. Nonetheless, the company has proposed that a single rate be applied to all three customers. We recognize that GPC has historically utilized a single rate for these customers. However, in view of the difference with respect to the earned rate of return, the reasonableness of continuing a single rate structure for firm power service is an issue which should be addressed at hearing.

The Commission orders: (A) AEC's motion to reject is hereby denied.

(B) GPC's submittal is hereby accepted for filing and suspended for five months from the proposed effective date, to become effective, subject to refund, on March 1, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of GPC's rates.

(D) AEC's motion to intervene is hereby granted pursuant to the Commission's Rules of Practice and Procedure.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding

[1] The affected cooperatives are Choctawhatchee Electric Cooperative and West Florida Electric Cooperative Association.

[2] *See* Attachment A for rate schedule designations.

[3] AEC contends that Statements BG, BH, and BI are seriously incomplete and fail to properly match Period II test year fuel revenues and fuel expenses. Also, with respect to Statement AL, AEC asserts that there is no indication of the number of days' supply represented by the fuel stock, or the data necessary to make this calculation.

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washigton, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commissions Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Gulf Power Company, Docket No. ER82-689-000, Rate Schedule Designations

FERC Electric Tariff, Second Revised Volume No. 1

Designation:
Third Revised Sheet No. 4 (supersedes Second Revised Sheet No. 4)
Third Revised Sheet No. 8 (supersedes Second Revised Sheet No. 8)
Third Revised Sheet No. 9 (supersedes Second Revised Sheet No. 9)

Tariff Customers:

Florida Public Utilities Company
Choctawhatchee Electric Cooperative
West Florida Electric Cooperative Association

[FR Doc. 82-26786 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-800-000]

Kansas Power and Light Co.; Filing

September 24, 1982.

Take notice that on September 16, 1982, Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated August 24, 1982 with the City of Seneca, Kansas for wholesale service to that community. KPL states that this contract permits the City of Seneca to receive service under rate schedule WSM-81 which succeeds their current rate schedule MWH-63 designated FERC No. 126. KPL further states that the proposed changes would increase revenues from sales by $348,655.20 based on the projected 12 month period ending October 31, 1983.

KPL requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the City of Seneca and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26787 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RA82-30-000]

MGPC, Inc.; Filing of Petition

September 24, 1982.

Take notice that MGPC, Inc. on September 1, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before October 8, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene by October 8, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26788 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-47-000]

MIGC, Inc.; Purchased Gas Adjustment Clause

September 23, 1982.

Take notice that on September 16, 1982 MIGC, Inc. tendered for filing copies of Twenty-Fifth Revised Sheet No. 32 and Second Revised Sheet No. 32A to its FERC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Twenty-Fifth Revised Sheet No. 32 and Second Revised Sheet No. 32-A provide for a Purchased Gas Adjustment rate increase of 47.12¢ per MMBtu, effective November 1, 1982, in order to: (1) Provide for a current gas cost adjustment to permit MIGC to reflect the higher cost of gas purchases which it is currently incurring (Table II), (2) provide for an adjustment to MIGC's Unrecovered Purchased Gas Cost Account as of July 31, 1981 and July 31, 1982 (Table III), (3) to recover a carrying surcharge as permitted under FERC Order No. 47 (Table VI) as set forth in MIGC's First Revised Sheet No. 31-A and (4) to set forth projected incremental pricing surcharges to become effective November 1, 1982 (Second Revised Sheet No. 32-A).

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 Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 1, 1982. Protests will be considered 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 the public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26731 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-776-000]

Montana Power Co.; Filing

September 23, 1982.

Take notice that the Montana Power Company (Montana) on September 13, 1982, tendered for filing a Residential Purchase and Sale Agreement (Agreement) with the United States of America Department of Energy, acting by and through Bonneville Power Administration (BPA). Montana states that this Agreement provides for the sale of firm power by Montana to BPA at Montana's Average System Cost. In return, BPA is required to sell an equivalent amount of power back to Montana at a rate determined pursuant to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act.

Montana indicates that estimates of jurisidictional transactions and revenues that will occur under this Agreement cannot be determined due to variances which may occur as a result of weather conditions, changes in the number of customers and changes in the levels of usage by Montana's customers.

An effective date of August 27, 1982, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26719 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-775-000]

Montana Power Co.; Filing

September 23, 1982.

Take notice that Montana Power Company (Montana) on September 13, 1982, tendered for filing in accordance with the Commission's regulations a letter agreement between City of Tacoma (Tacoma) and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Tacoma elects not to have the storage energy returned.

Montana indicates that it will receive revenues from jurisdictional transactions under the proposed Letter Agreement.

Montana proposes an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26720 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-803-000]

New York State Electric & Gas Corp.; Filing

September 24, 1982.

Take notice that New York State Electric & Gas Corporation (NYSEG) on September 17, 1982, tendered for filing proposed changes in its FPC Rate Schedule 36 and FERC Rate Schedule 84 under which the Company supplies firm transmission wheeling service to the Power Authority of the State of New York (PASNY) for the benefit of Allegheny Electric Cooperative, Inc.; and American Municipal Power—Ohio, Inc., respectively. The proposed changes would increase revenues from contract service by $841,008 based on the 12 month period ending December 31, 1981.

NYSEG proposes an effective date of November 16, 1982.

The rate filed for by NYSEG is $2.28 per month per contract kilowatt. The proposed changes are necessary to cover all expenses associated with this transmission service and to provide NYSEG an adequate rate of return.

Copies of the filing were served upon PASNY, the Public Service Commission of the State of New York, Allegheny Electric Cooperative, Inc., American Municipal Power—Ohio, Inc. and the City of Cleveland, Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26789 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-799-000]

Niagara Mohawk Power Corp.; Filing

September 23, 1982.

Take notice that on September 16, 1982, Niagara Mohawk Power Corporation (Niagara) tendered for filing a rate schedule pursuant to a "Stipulation of Settlement" agreement between Niagara and the Town of Massena (Massena) dated July 29, 1982.

Niagara states that the "Stipulation of Settlement" agreement established Niagara's right to a rate that provides just and reasonable compensation for reserving additional transmission capacity to permit Massena's unrestricted use of each of two delivery points to meet its requirements.

Copies of this filing were served upon the Massena Electric Department, Public Service Commission of the State of New York and the Power Authority of the State of New York.

Any person desiring protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26721 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-677-000]

Oklahoma Gas & Electric Co., et al.; Order Accepting Letter Agreements for Filing, Granting Waiver of Notice Requirements, and Noting Interventions

Issued: September 23, 1982.

In the matter of Oklahoma Gas & Electric Company, Docket No. ER82-677-000; Middle South Services, Inc., Docket No. ER82-678-000; Middle South Services, Inc., Docket No. ER82-679-000; Oklahoma Gas & Electric Company, Docket No. ER82-680-000; Public Service Company of Oklahoma, Docket No. ER82-681-000; and Gulf States Utilities Company, Docket No. ER82-682-000.

On July 26, 1982, the South Central Electric Companies (SCEC)[1] tendered for filing in Docket Nos. ER82-677-000 through ER82-682-000 letter agreements which reflect a changed component in the formula used to derive facilities charges under the parties' existing diversity exchange agreements.[2] These agreements provide for pro rata payments by the SCEC members of fixed costs associated with jointly constructed and operated transmission facilities. Specifically, the facilities are used to implement an exchange of diversity capacity between the Tennessee Valley Authority (TVA) and the SCEC members. While allocation of diversity entitlements among the SCEC members has varied from year to year, the total available capacity has remained at 1,500 MW. However, the SCEC members assert that the capacity which TVA will make available pursuant to this exchange has now been reduced below 1,500 MW. Thus, the letter agreements filed in these dockets modify the allocation of charges among the SCEC members to reflect this reduction in TVA entitlements. The SCEC members note that the lower transmission facilities charges result in rate reductions and request waiver of the notice requirements so that the changes may be made effective as of November 15, 1981, the beginning of the current year for exchanges between TVA and the SCEC members.

Notices of these filings were published in the **Federal Register** with responses due on or before August 23, 1982. The City of Lafayette, Louisiana (Lafayette) filed a timely intervention in Docket No. ER82-682-000. Lafayette states that it is a transmission customer of two SCEC members involved in that docket, Gulf States Utilities Company (Gulf States) and Central Louisiana Electric Company (CLECO). According to Lafayette, the submittals may increase Gulf States' and CLECO's costs thereby precipitating an increase in their transmission rates to Lafayatte. Lafayette requests that, absent cost justification for the changes proposed by the instant filings or an opportunity to participate in the SCEC agreements, the proposed changes should be suspended and set for investigation.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Lafayette's timely intervention serves to make it a party, absent opposition within fifteen days of its pleading.

We shall, however, deny Lafayette's requests to convene a hearing and to suspend the proposed changes in Docket No. ER82-682-000, because we find the arguments underlying these requests to be unpersuasive. Lafayette contends that the filing in that docket does not contain cost justification for the proposed changes. However, as stated in that rate filing, the changes proposed will result in a reduction in rates to CLECO and Gulf States.[3] Our review of the submittal confirms this; we find that the changes proposed in each of these dockets will result in a rate reduction. The proposed changes were properly submitted pursuant to § 35.13(a)(2)(ii) and paragraphs (b) and (c) of that section which do not require full cost justification. We therefore find that the filings are in substantial compliance with our regulations.[4]

Lafayette also states as a "preferred alternative" that its interests would be satisfied if it were allowed to participate in the underlying interchange agreements. However, the question of Lafayette's desired participation in such agreements is totally extraneous to the issues presented in the instant dockets. We perceive no justification for withholding approval of the proposed rate reductions based on Lafayette's desire to utilize these dockets as a vehicle for obtaining new services.

As noted previously, we have determined that the proposed changes will result in a reduction in rates. Based on our review, we conclude that acceptance of the submittals is in the public interest. We further find that good cause exists to grant the requested waivers of the notice requirements and to make the changes proposed in Docket Nos. ER82-677-000 through ER82-682-000 effective as of November 15, 1981.

The Commission orders: (A) Waiver of the notice requirements is hereby granted and the rate changes filed by the SCEC members in Docket Nos. ER82-677-000 through ER82-682-000 are hereby accepted for filing to become effective as of November 15, 1981, without suspension.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Rate Schedule Designations

Filed: July 26, 1982.

Docket No. ER82-677-000

(1) *Oklahoma Gas & Electric Company,* Supplement No. 9 to Supplement No. 8 to Rate Schedule FERC No. 116 (Redesignation from Rate Schedule FPC No. 21A) (Service Schedule—E).

(2) *Arkansas Power & Light Company,* Supplement No. 14 to Rate Schedule FPC No. 19 (Concurs in (1) Above).

Docket No. ER82-678-000

(3) *Arkansas Power & Light Company,* Supplement No. 7 to Supplement No. 6 to Rate Schedule FPC No. 14 (Service Schedule—E).

(4) *Empire District Electric Company,* Supplement No. 9 to Rate Schedule FPC No. 45 (Concurs in (3) Above).

Docket No. ER82-679-000

(5) *Arkansas Power & Light Company,* Supplement No. 10 to Supplement No. 5 to Rate Schedule FPC No. 20 (Service Schedule—E).

(6) *Southwestern Electric Power Company,* Supplement No. 17 to Rate Schedule FPC No. 47 (Concurs in (5) Above).

Docket No. ER82-680-000

(7) *Oklahoma Gas & Electric Company,* Supplement No. 7 to Supplement No. 6 to Rate Schedule FPC No. 32 (Service Schedule—E).

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[1] Arkansas Power & Light Company, Central Louisian Electric Company, Empire District Electric Company, Gulf States Utilities Company, Kansas Gas & Electric Company, Lousiana Power & Light Company, Mississippi Power & Light Company, Oklahoma Gas and Electric Company, Public Service Company of Oklahoma, and Southwestern Electric POwer Company.

[2] *See* Attachment A for rate schedule designations.

[3] *See* July 26, 1982 filing by Gulf States in Docket No. ER82-682-000, at 3.

[4] *See, Municipal Light Board of Reading and Wakefield, Massachusetts* v. *FPC,* 450 F.2d 13141 (D.C. Cir. 1971).

(8) *Kansas Gas & Electric Company,* Supplement No. 14 to Rate Schedule FPC No. 75 (Concurs in (7) Above).

Docket No. ER82-681-000

(9) *Public Service Company of Oklahoma,* Supplement No. 19 to Suppplement No. 7 to Rate Schedule FPC No. 118 (Service Schedule—E).

(10) *Southwestern Electric Power Company,* Supplement No. 23 to Rate Schedule FPC No. 26 (Concurs in (9) Above).

Docket No. ER82-682-000

(11) *Gulf States Utilities Company* Supplement No. 8 to Supplement No. 10 to Rate Schedule FPC No. 82 (Service Schedule—E).

(12) *Central Louisiana Electric Company, Inc.,* Supplement No. 25 to Rate Schedule FPC No. 3 (Concurs in (11) Above).

(13) *Louisiana Power & Light Company,* Supplement No. 26 to Rate Schedule FPC No. 16 (Concurs in (11) Above).

[FR Doc. 82-26732 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-28-000]

Panhandle Eastern Pipe Line Co.; Change in Tariff

September 23, 1982.

Take notice that on Sept. 16, 1982 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fourth Revised Sheet No. 3-A
Twenty-First Revised Sheet No. 3-B

An effective date of November 1, 1982 is proposed.

Panhandle states that these revised tariff sheets reflect a PGA Rate Adjustment calculated in accordance with Section 18 of the General Terms and Conditions which reflects an increase from its pipeline supplier, Trunkline Gas Company, which increase is being filed concurrently herewith. The proposed effective date of these revised tariff sheets is November 1, 1982. Panhandle states that the rate increase being filed by Trunkline reflects purchases by Trunkline from a new supplier, Trunkline LNG Company (LNG Company). LNG Company has advised Trunkline that its facilities are completed and will be capable of delivering gas in the near future, in advance of November 1, 1982, the proposed effective date of this instant PGA rate change, and that volumes of regasified LNG will be delivered to Trunkline before such effective date.

The deliveries by LNG Company to Trunkline will be pusuant to LNG Company's Rate Schedule PLNG-1 of its FERC Gas Tariff, Original Volume No. 1, which rate schedule was the subject of the Commission's order dated July 31, 1981 in LNG Company's Docket No. RP81-85-000. The Commission's order of July 31, 1981 accepted for filing, subject to refund, certain tariff sheets filed by LNG Company in that proceeding, and stated that they would become effective one day after the date of "initial delivery", which is the first day on which quantities of regasified LNG are delivered to Trunkline. LNG Company's importation of LNG from Algeria is pursuant to Commission authorization granted in Docket No. CP74-138, *et al.,* and the pricing of this supply is pursuant to the price provisions approved by the Commission in that proceeding, and does not reflect any revisions in such price clause.

Panhandle further states that it respectfully requests waiver of § 154.38(d)(4)(iv) of the Commission's regulations which limits the filing of PGA rate adjustments to semi-annually. As the Commission is aware Panhandle's normal PGA rate adjustments are effective on March 1 and September 1 of each year. Such waiver is appropriate because of the magnitude of the carrying costs involved if Panhandle were not allowed to reflect these additional costs in its rates, which costs are associated with the implementation of this important source of supply to its pipeline supplier, and the resulting further increase in rates to its customers because of the delay in implementing this "special" PGA rate adjustment. Without such waiver Panhandle estimates that its Deferred Purchased Gas Cost Account would increase substantially between the commencement of deliveries from LNG Company to Trunkline and its next scheduled PGA rate adjustment on March 1, 1983. This increase in the Deferred Account would generate substantial carrying charges which would ultimately be borne by its customers. These additional carrying charges can be avoided by implementing the PGA rate adjustment as proposed herein by Panhandle.

Panhandle states that supporting computation sheets are enclosed and copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Oct. 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed 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. 82-26734 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-796-000]

Puget Sound Power & Light Co.; Filing

September 23, 1982.

Take notice that on September 13, 1982, Puget Sound Power & Light Company (Puget) tendered for filing an energy exchange agreement with Pacific Gas & Electric Company (PG&E).

Puget states that under the terms and conditions of the agreement, Puget and PG&E will exchange energy made available by Puget to PG&E from April through September for energy made available by PG&E to Puget from October through March.

Puget requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Pacific Gas & Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26722 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-448-000, etc.]

Puget Sound Power & Light Co., et al.; Order Accepting for Filing and Suspending Rates and Noting Interventions

Issued: September 23, 1982.

In the matter of Puget Sound Power & Light Company, Portland General Electric Company, Pacific Power & Light Company and Idaho Power Company, Docket Nos. ER82-448-000, ER82-462-000, ER82-471-000, ER82-473-000, ER82-533-000, ER82-539-000, ER82-549-000, ER82-568-000, ER82-578-000, ER82-618-000, ER82-662-000, ER82-661-000, ER82-671-000 and ER82-688-000.

Pursuant to § 35.13a(5)(i) of the Commission's regulations, Puget Sound Power & Light Company, Portland General Electric Company, Pacific Power & Light Company, and Idaho Power Company (the Companies) have filed Average System Cost (ASC) rates[1] in the above mentioned dockets. The ASC rates filed by the Companies reflect Bonneville Power Administration's (BPA) adjustments to certain initial ASC rate proposals which were accepted for filing prior to completion of BPA's review and report[2] and changes in ASC rates to reflect an approved increase in the utility's retail rates. In each of the instant submittals, the filing utility has contested certain aspects of BPA's ASC calculation. The contested issues generally reflect the use of the different functionalization procedures by the utilities and BPA under the ASC methodology. The controversy in the submittals centers on whether the appropriate functionalization procedure—or sufficient data to support that procedure—has been used for a specific cost category.

Notices of the filings were issued with an opportunity for comments, protests or interventions. In each docket a group of BPA's industrial customers (DSIs) and BPA filed petitions to intervene. The petitions raised no substantive issues, but requested that DSIs and BPA be made parties to any proceedings.

In addition, in Docket No. ER82-448-000, the Public Power Council (PPC)[3] filed a petition to intervene stating that its principal objection concerned Puget's intent to include the Washington Public Utility Tax in its ASC calculations.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the motions to intervene by the DSIs, BPA and Public Power Council serve to make them parties to this proceding because there has been no oppostion within 15 days of the intervenors' filing of pleadings.

We find that BPA's determinations are in substantial compliance with the ASC methodology established by the Interim Rules. The cost of service impact of each of the contested issues for an ASC determination is minimal.

We note that the ASC rates are interim in nature pending final action by the Commission in Docket No. RM81-41. Because the ASC rates are consistent with the Commission's November 24, 1981 order in Docket Nos. ER81-778-000, *et al.*, concerning other ASC rates filings, we shall accept the submittal for filing below to become effective, subject to refund or further adjustment, and subject to the outcome of the Commission's final order in Docket No. RM81-41. In accordance with the Interim Rule, the ASC rate would become effective on the date an exchange agreement was negotiated or on the date an increase in the utility's retail rates for the specific jurisdiction became effective.

In light of the fact that the objections concern interpretations of the functionalization procedures under the current ASC methodology and that the ASC methodology is interim in nature, we believe that it would be premature to consider arguments on the ASC methodology until a final rule is issued. Furthermore, we note that all parties had the opportunity to file comments on the proposed rule in Docket No. RM81-41. In addition, the ASC rates will be collected subject to refund pending approval of a final rule; therefore, the parties are protected should changes in the methodology be ordered. We shall accept the instant submittals for filing without prejudice to the parties' right to raise, after issuance of the final rule in Docket No. RM81-41, those issues which they believe have not been resolved by the final rule.

We also note that the Interim Rule procedures provide only for oral argument on contested issues if the Commission so decides. At the time the final rule is issued, the Commission can address the procedures for resolving disputed ASC rate determinations.

Until a final rule is approved in Docket No. RM81-41, the filings of ASC rate determinations shall be afforded the same treatment as in the instant dockets, *e.g.*, the ASC rates established by the BPA will be accepted for filing subject to the outcome of the final rule in Docket No. RM81-41. Such established rates, however, will be subject to refund or further adjustment.

Regarding Public Power Council's intervention, we note that Puget's transmittal letter stated that the company intended to contest BPA's exclusion of the Washington Public Utility Tax from the ASC determination; however, no further comments were filed by Puget. Staff also notes that comments concerning the appropriate treatment of the Washington Public Utility Tax were filed by the parties in response to the notice issued in Docket No. RM81-41.

The Commission orders:

(A) The Companies' ASC rates are hereby accepted for filing and suspended to become effective, as shown on Attachment A, subject to refund or further adjustment. The ASC rates are also subject to the outcome of the Commission's final order in Docket No. RM81-41.

(B) The acceptance for filing shall be without prejudice to the parties' right to raise, after issuance of the final rule in Docket No. RM81-41, those issues which they believe have not been resolved by the final rule.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] See Attachment A for rate schedule designations.

[2] By order dated November 24, 1981, in Docket Nos. ER81-778-000, *et al.*, the Commission waived that portion of the Interim Rule that would require the concurrent filing of a utility's ASC rate proposal, BPA's report and any required adjustment; accepted for filing the initial ASC rate proposals of several utilities; and suspended the rates to become effective October 1, 1981, subject to refund or other adjustment and subject to the Commission's final rule on the ASC methodology in Docket No. RM81-41. Such action was taken because BPA had not completed its review of the ASC rate proposals prior to the commencement of exchanges between BPA and the utilities.

[3] The Public Power Council represents 110 consumer-owned utility systems in Idaho, Oregon, Washington, Montana, Nevada, Utah, California and Wyoming.

Attachment A.—Rate Schedule Designations

The BPA determined ASC rates in the indicated dockets are designated as supplements to the Filing Utility/Bonneville Power Administration Service Agreement under the Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff, Original Volume No. 1 as indicated below:

Docket No.	Filing utility	Jurisdiction	Supp No.—suppp. No. 3	Supersedes supp. No. to supp. No. 3	Effective date
ER82-448-000	Puget	Washington	2	1	10/1/81
ER82-462-000	Portland	Oregon	2	1	10/1/81
ER82-473-000	Pacific	Idaho	5	1	10/1/81
		Montana	6	2	10/1/81
		Oregon	7	3	10/1/81
		Washington	8	4	10/1/81
ER82-471-000	Pacific	Oregon	9	8	11/8/81
ER82-533-000	Pacific	Washington	10	8	12/24/81
ER82-539-000	Portland	Oregon	3	2	1/1/82
ER82-578-000	Pacific	Montana	11	6	1/18/82
ER82-618-000	Idaho	Idaho	5	1	12/2/81
		Nevada	6	2	12/2/81
ER82-622-000	Idaho	Idaho	7	5	12/2/81
ER82-661-000	Idaho	Oregon	8	3	1/1/82
ER82-671-000	Pacific	Idaho	12	5	3/5/82
ER82-688-000	Pacific	Idaho	13	12	3/13/82

[FR Doc. 82-26733 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-794-000]

Sierra Pacific Power Co.; Filing

September 23, 1982.

Take notice that on September 7, 1982, Sierra Pacific Power Company (Sierra Pacific) tendered for filing its first energy charge revision to reflect increases in Sierra's purchased power fixed costs associated with Utah Power and Light Company (Utah) purchases.

Sierra Pacific states that on August 11, 1982 Utah increased its demand charge applicable to Sierra's purchases to $17.81/KW compared to $9.89/KW included in the present base purchased power cost of $.00912 per KWHR applicable to Sierra's present resale rates R-1 and R.2. This results in an increase of $.00346 per KWH, which increases the present energy charge of $0.02993 per KWH to $0.03339 per KWH.

Sierra Pacific requests an effective date of August 11, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26723 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. FR82-105-000]

Sierra Pacific Power Co.; Refund Compliance Report

September 24, 1982.

Take notice that on September 14, 1982, Sierra Pacific Power Company filed a refund compliance report pursuant to the Commission's order issued on August 2, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 13, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26790 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-795-000]

Southern California Edison Co.; Filing

September 23, 1982.

Take notice that on September 13, 1982, Southern California Edison Company (Edison) tendered for filing as an initial rate schedule, an Agreement dated August 19, 1982, with Imperial Irrigation District (IID). The Agreement is entitled "Salton Sea Geothermal Project Power Purchase and Sales Agreement between Imperial Irrigation District and Southern California Edison Company".

Edison states that the Agreement, in relevant part, sets forth the terms and conditions under which Edison will deliver to IID, and IID will pay Edison for energy generated by Edison's Salton Sea Geothermal Project which is excess to the Project's requirements until such time as the parties find other arrangements for disposition of the Net Energy generated by the Project.

Edison requests an effective date of July 20, 1982, and therefore requests waiver of the Commission's notice requirement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Imperial Irrigation District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26724 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-204-000]

Texaco U.S.A., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 24, 1982.

On August 19, 1982, Texaco U.S. 1111 Rusk Street, Houston, Texas 77002, 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 being constructed at a petroleum refinery in Wilmington, California. The primary energy source of the facility is refinery gas. The electric power production capacity of the facility is 60 megawatts. Approximately 276,000 lbs./hr of 225 psig, 450° steam will be

produced in waste heat recovery boilers. Installation of the facility began in May 1981. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26791 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-30-000]

Trunkline Gas Co.; Change in Tariff

September 23, 1982.

Take notice that on September 16, 1982 Trunkline Gas Company (Trunkline) tendered for filing Forty-First Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect a PGA Rate Adjustment in accordance with Section 18 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1 and Section 154.38 of the Federal Energy Regulatory Commission's (Commission) regulations. Trunkline states that this PGA Rate Adjustment reflects purchases from a new supplier, Trunkline LNG Company (LNG Company). An effective date of November 1, 1982 is proposed.

LNG Company has advised Trunkline that its facilities are completed and will be capable of delivering gas in the near future, in advance of November 1, 1982, the proposed effective date of the instant PGA rate change, and that volumes of regasified LNG will be delivered to Trunkline before such effective date.

The deliveries by LNG Company to Trunkline will be pursuant to LNG Company's Rate Schedule PLNG-1 of its FERC Gas Tariff, Original Volume No. 1, which rate schedule was the subject of the Commission's order dated July 31, 1981 in LNG Company's Docket No. RP81-85-000. The Commission's order of July 31, 1981 accepted for filing, subject to refund, certain tariff sheets filed by LNG Company in that proceeding, and stated that they would become effective one day after the date of "initial delivery", which is the first day on which quantities of regasified LNG are delivered to Trunkline.

It should be emphasized that LNG Company's importation of LNG from Algeria is pursuant to Commission authorization granted in Docket No. CP74-138 *et al.*, and the pricing of this supply is pursuant to the price provisions approved by the Commission in that proceeding, and does not reflect any revision in such price clause.

Trunkline respectfully requests waiver of § 154.38(d)(4)(iv) of the Commission's regulations, which limits the filing of PGA rate adjustments to semi-annually. As the Commission is aware Trunkline's normal PGA rate adjustments are effective on March 1 and September 1 of each year. Such waiver is appropriate because of the magnitude of the carrying costs involved in the implementation of the new source of supply. If Trunkline were not allowed to reflect these additional costs in its rates, on November 1, as requested, by implementing this "special" PGA rate adjustment not only would there be a severe hardship upon Trunkline in providing the funds for the new supply for an extended period, but also there would be unnecessary burdens on the jurisdictional customer resulting from carrying charges on the deferred account. Without such waiver Trunkline's Deferred Purchased Gas Cost Account would increase by a substantial amount between the commencement of delivery from LNG Company and its next scheduled PGA rate adjustment on March 1, 1983. This increase in the Deferred Account would generate additional carrying charges which would ultimately be borne by its customers. These additional carrying charges can be avoided by implementing the PGA rate adjustment as proposed herein by Trunkline.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Oct. 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26735 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-213-000]

Wehran Energy Corp.—Holtsville; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New York 10940, 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 biomass small power production facility will be located at the Holtsville Landfill, in Brookhaven, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. 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 rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26793 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-214-000]

Wehran Energy Corp.—Horseblock; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New York 10940, 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 biomass small power production facility will be located at the Horseblock Road Landfill in Brookhaven, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. 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 Commisison, 825 North Capitol Street, NE., Washington, D.C. 20426, in acordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26795 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-212-000]

Wehran Energy Corp.—Pelham Bay; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New Yor, 10940, filed with the Federal Energy Regulatory Commission (Commission) an applciation for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located at Pelham Bay in the Bronx, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. 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 rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed witin 30 days after the date of publication of this notice and must be served on the applicant. Protest 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 intervent. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26792 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-708-000]

West Texas Utilities Co.; Order Accepting for Filing and Suspending Rates, Denying Motions for Rejection or Summary Disposition, Noting Interventions, and Initiating Hearing, Price Squeeze and CWIP Procedures

Issued: September 24, 1982.

On August 2, 1982, West Texas Utilities Company (WTU) tendered for filing a two-phase rate for service to Texas-New Mexico Power Company (TNP), two partial requirements customers, and fifteen customers served under its Electric Tariff.[1] The Step A rates would provide for an increase in revenues of approximately $1.6 million (2.3%) for the calendar year 1983 test period. The Step B rates would further increase revenues by about $480,000. Although proposing effective dates of October 1, 1982, and October 2, 1982, for the Step A and B rates, respectively, in accordance with the terms of a settlement in *West Texas Utilities Company*, Docket No. ER82-23-000, WTU requests that the rates be suspended to become effective on January 1, 1983. In the event that the Step B rates are allowed to become effective on January 1, 1983, the Step A rates are to be deemed withdrawn.

In addition, WTU has filed alternative rates reflecting the inclusion in rate base of construction work in progress. WTU seeks an evidentiary hearing pursuant to § 2.16 of the Commission's regulations in order to prospectively implement the CWIP-based rates.[2] WTU also asks that the hearing in this docket include as an issue to be litigated the company's request for waiver of section 35.14 of the Commission's regulations so as to allow WTU to collect through its fuel adjustment clause all amounts paid for purchases of power and energy from cogenerators and small power producers.

Notice of WTU's filing was published in the **Federal Register** with responses due on or before August 30, 1982. TNP filed a timely motion to intervene and a request for a declaratory ruling. TNP objects to WTU's rolled-in transmission allocation and seeks a Commission ruling that the rates for service to TNP should reflect an appropriate credit for transmission expenses incurred by TNP for WTU's benefit.

WTU's Cooperative and Municipal Wholesale Customers (Customers) also filed a timely protest and intervention.[3] In addition to raising a number of cost of service issues and seeking maximum suspension of both the Step A and Step B rates, the Customers seek rejection of WTU's phased rate increase and

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[1] *See* Attachment A for customers and rate schedule designations.

[2] The alternative rates represent an increase in test period revenues of approximately $4.2 million or 5.8%.

[3] Under Rule 215 of the Commission's Rules of Practice and Procedure, the Customers filed an amendment to their protest and intervention to include one section which had been omitted inadvertently.

rejection of the request to include CWIP in rate base. As to WTU's request for CWIP relief, the Customers ask in the alternative that the matter not be set for hearing until the Commission adopts a final rule in its pending CWIP rulemaking proceeding. The Customers also ask that price squeeze procedures be initiated.

WTU filed a timely answer to TNP's motion to intervene and request for a declaratory ruling. WTU does not oppose intervention but asks that TNP's request for a declaratory ruling be denied and that the issue, instead, be considered at hearing.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, the timely motions to intervene serve to make TNP and the Customers parties to this proceeding absent opposition within 15 days of their respective motions.

We note that the Customers have objected to WTU's efforts to phase the instant rate increase. Here, WTU has submitted both rates concurrently and, consistent with prior orders permitting such phasing, we shall deny the Customers' motion to reject WTU's filing. [4]

We shall also deny the Customers' motion to reject WTU's CWIP application. In a number of recent cases in which applications to include CWIP in rate base would otherwise be summarily dismissed on the basis of current standards, we have instead, phased consideration of the CWIP issue to follow our pending rulemaking in Docket No. RM81–38–000, in order to preserve the *status quo ante*.[5] In view of WTU's request to place its proposed CWIP-based rates into effect prospectively only after a hearing under section 2.16 of the regulations, we conclude that this approach is appropriate in the instant case as well.

The remaining issues, including WTU's requested waiver of the Commission's fuel adjustment clause regulations and TNP's requested credit for certain transmission expenses, present questions of law or fact which should be resolved on the basis of an evidentiary hearing. At this time, we decline to entertain TNP's request for a declaratory ruling.

Our preliminary review of the instant filing and pleadings indicates that the rates proposed by WTU have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the Step A and B rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982) we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our examination suggests that the Step A rate increase may not yield excessive revenues. In accordance with the terms of WTU's settlement agreement in Docket No ER82–23–000 and its request with respect to suspension of the Step A rates in this docket, we shall therefore suspend the Step A rates to become effective, subject to refund, on January 1, 1983. As to the Step B rate increase, however, our examination indicates that these rates may produce substantially excessive revenues. Accordingly, consistent with *West Texas*, we shall suspend the proposed Step B rates for five months, to become effective on March 2, 1983, subject to refund.

In addition, in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by the Customers.

The Commission orders:

(A) The Customers' motions for rejection or summary disposition are hereby denied as discussed in the body of this order.

(B) WTU's proposed Step A rates are hereby accepted for filing and suspended to become effective, subject to refund, on January 1, 1983. WTU's proposed Step B rates are hereby accepted for filing and suspended for five months from sixty days after filing, to become effective, subject to refund, on March 2, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WTU's rates.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of topsheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The hearing on the inclusion of CWIP in rate base shall be phased as discussed in the body of this order to follow final Commission action in Docket No. RM81–38–000.

(G) The Commission hereby orders initiation of price squeeze proceedings and further orders that this case be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause. The price squeeze claim shall be governed by § 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—West Texas Utilities Company, Docket No. ER82–708–000; Rate Schedule Designation

Designation and Description

(1) Fifth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes Fourth Revised sheet Nos. 4 through 7)—Tariff Customers (Step I, TR–1 Rates Excluding Full-CWIP)

(2) Sixth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes (1) above)—Tariff Customers (Step II, TR–1 Rates Excluding Full-CWIP)

(3) Supplement No. 8 to Rate Schedule FPC No. 39 (Supersedes Supplement No. 7)—Texas-New Mexico Power Company (Step I, TNP–2 Rates Excluding Full-CWIP)

(4) Supplement No. 9 to Rate Schedule FPC No. 39 (Supersedes (3) above)—Texas-New

[4] *See, e.g., Indiana & Michigan Electric Company*, 20 FERC ¶ 61,079 (1982); *Jersey Central Power and Light Company*, 19 FERC ¶ 61,208 (1982).

[5] *See, e.g., Oklahoma Gas & Electric Company*, 18 FERC ¶ 61,287 (1982).

Mexico Power Company (Step II, TNP–2 Rates Excluding Full-CWIP)
(5) Supplement No. 3 to Rate Schedule FERC No. 40 (Redesignation of Supplement No. 1 to Supplement No. 1)—City of Coleman, Texas (Letter agreement dated June 5, 1980 Filed in Docket No. ER80–489–000)
(6) Supplement No. 4 to Rate Schedule FERC No. 40 (Supersedes Supplement No. 1)—City of Coleman, Texas (Step I, COB–2 Rates Excluding Full-CWIP)
(7) Supplement No. 5 to Rate Schedule FERC No. 40 (Supersedes (6) above)—City of Coleman Texas (Step II, COB–2 Rates Excluding Full-CWIP)
(8) Supplement No. 3 to Rate Schedule FERC No. 42 (Redesignation of Supplement No. 1 to Supplement No. 1)—City of Brady, Texas (Letter Agreement dated May 22, 1980, Filed in Docket No. ER80–489–000)
(9) Supplement No. 4 to Rate Schedule FERC No. 42 (Supersedes Supplement No. 1)—City of Brady, Texas (Step I, COB–2 Rates Excluding Full-CWIP)
(10) Supplement No. 5 to Rate Schedule FERC No. 42 (Supersedes (9) above)—City of Brady, Texas (Step II, COB–2 Rates Excluding Full-CWIP)

[FR Doc. 82–26777 Filed 9–28–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER82–807–000]

Western Massachusetts Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, the Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Doreen and Woodland Road Gas Turbine Units (Purchase Agreement) dated April 11, 1982 between WMECO and Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T).

WMECO states that the Purchase Agreement provides for a sale to VEG&T of a specific percentage of capacity and associated energy from two gas turbine generating units during the period from April 11, 1982 to August 31, 1982.

WMECO further states that the Capacity Charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The Variable Maintenance Charge is derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations.

WMECO requests an effective date of April 11, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon VEG&T.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26778 Filed 9–28–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER82–797–000]

Wisconsin Power and Light Co.; Filing

September 23, 1982.

Take notice that on September 14, 1982, Wisconsin Power and Light Company (WPL) tendered for filing amendments to its existing wholesale power contract dated August 16, 1982 between the City of Wisconsin Dells ("Municipality") and WPL. WPL states that this filing is for the purpose of modifying the current agreement between the parties to add an additional delivery point for energy and power to the Municipality. The current contract was previously designated FERC Rate Schedule 125 by the Commission.

WPL requests an effective date of August 16, 1982 and respectfully prays that a waiver of Commission notice requirements be granted. WPL states that a copy of the amendments and the filing have been provided to the Municipality and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26725 Filed 9–28–82; 8:45 am]
BILLING CODE 6717–01–M

Office of the Secretary

[Docket No. EP–40–82–1]

Energy Emergency Preparedness

AGENCY: Office of Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Notice of inquiry and request for public comments.

SUMMARY: On August 3, 1982, the President signed into law the Energy Emergency Preparedness Act of 1982 (EEPA, the Act) (Pub. L. 97–229) (42 U.S.C. 6202–6245). The Act, among other provisions, adopts a series of amendments to certain available legal authorities related to the International Energy Program, the Strategic Petroleum Reserve, and other energy emergency preparedness programs. It further prescribes a variety of actions, study efforts, and reports to be pursued in implementing specified energy emergency planning and preparedness efforts. The Department of Energy invites interested persons and organizations to submit written comments and other material to the Department for its consideration in complying with the requirements of the EEPA.

DATES: Seven (7) copies of written comments and other materials should be submitted to DOE by 5:00 p.m. on the following dates to ensure their consideration:

1. *November 5, 1982:* EEPA, to be cited at 42 U.S.C. 6234 note, 6245 note (SPR Drawdown Plan and Report), other general comments;

2. *December 3, 1982:* EEPA, to be cited at 42 U.S.C. 6282 (Comprehensive Energy Emergency Response Procedures); and to be cited at 42 U.S.C. 6245 note (Regional Reserve Report, Strategic Alcohol Fuel Reserve Report);

3. *January 28, 1983:* EEPA, to be cited at 42 U.S.C. 6245 note (Petroleum Supply Interruption Impact Analysis).

ADDRESSES: Comments should be addressed to William A. Vaughan, Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, Department of Energy, Forrestal Building, Room 4G–084, (Mail

Stop EP–1), 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ronald L. Winkler, U.S. Department of Energy, Deputy Assistant Secretary for Energy Emergencies, Forrestal Building, Room 3G–072 (Mail Stop EP–40), 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252–2443.

SUPPLEMENTARY INFORMATION:

I. Summary of EEPA Requirements

Section 2, International Energy Program Amendments. Section 2 amends section 252 of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6272(j)) to extend from August 1, 1982, to December 31, 1983, the limited antitrust defense for U.S. oil company participation in the International Energy Program (IEP). Section 2 also imposes limits on the use of EPCA section 252, as well as EPCA section 251, which provides authority to mandate certain actions by United States companies in order to fulfill U.S. obligations under the IEP. As amended, EPCA section 251 essentially prohibits the Federal Government from ordering U.S. oil companies to participate in any oil sharing activities prior to activation of the IEP emergency sharing system. The amended EPCA section 252 effectively provides that the limited antitrust defense would not apply to any actions taken by U.S. oil companies in response to so-called "subcrisis" supply disruptions—disruptions that are less than the 7 percent shortfall necessary to activate the IEP emergency sharing system.

Section 3, Energy Emergency Preparedness. This section of the Act amends Title II of the EPCA by adding a new section 272(a) which requires that the President submit to the Congress by November 15, 1982, a memorandum of law prepared by the Attorney General, in consultation with the Secretary of Energy, describing the nature and extent of the authorities available to the President under existing law to respond to severe energy supply interruptions or other substantial reductions in the amount of petroleum products available to the United States. Included among the subjects to be covered are:

—U.S. activities in support of the IEP, including the National Emergency Sharing Organization, emergency sharing systems, and the supply right project;
—U.S. activities being pursued with respect to energy emergency preparedness obligations under the North Atlantic Treaty Organization;
—Development and use of the Strategic Petroleum Reserve (SPR);
—Government incentives to encourage private petroleum product stocks;
—Reactivation of the Executive Manpower Reserves: Emergency Electric Power Reserve, Emergency Petroleum and Gas Reserve, and the Emergency Solid Fuels Reserve;
—Energy emergency response management in coordination with State and local governments;
—Emergency public information activities.

In each of the above areas, the memorandum of law must distinguish among (1) situations involving limited or general war, international tensions that threaten national security, and other Presidentially-declared emergencies; (2) events resulting in activation of the IEP; and (3) less severe events or situations.

A new EPCA section 272(b) requires the President to submit to the Congress by December 31, 1982, comprehensive energy emergency response procedures describing the various options the President would consider to implement the authorities described in the memorandum of law noted above to respond to severe energy supply disruptions.

Finally, section 3 adds a new section 272(c) to the EPCA which states that the new amendments to the EPCA neither confer additional authority upon the President, nor limit his authority under any provision of law, in responding to energy supply emergencies. Additionally, this subsection states that the new EPCA amendments do not in any fashion preempt State laws or programs already in effect or which would become effective after enactment of the EEPA.

Section 4, Strategic Petroleum Reserve (SPR) Amendments. Section 4 of the Act, amending section 160(c) of the EPCA and related provisions, deals with the fill and drawdown of the SPR. It establishes 300,000 barrels per day as the minimum required average annual rate of fill for the SPR until the quantity of crude oil stored is at least 500 million barrels, to the extent funds are available, unless the President transmits to Congress his finding, for good cause, that compliance with this rate would not be in the national interest. In that case, the minimum required fill rate would be 220,000 barrels per day, subject to the availability of appropriations. A new section 160(c)(1)(D) of the EPCA would provide that if funds are available in a fiscal year to achieve a higher than 220,000 barrel per day average annual fill rate, then the minimum required fill rate must be "the highest practicable fill rate achievable." Interim facilities (e.g., steel tanks or floating storage) could be used to store oil in excess of that for which permanent SPR facilities are available. Up to 10 percent of amounts obligated each fiscal year could be used for interim storage facilities that year, or carried over to the next fiscal year.

After the 500 million barrel SPR storage level has been reached, the EEPA requires the President to seek to undertake such petroleum acquisition, transportation, and injection activities as will assure that the SPR is filled at a rate of 300,000 barrels per day until it reaches a storage level of 750 million barrels.

Section 4(c) of the EEPA requires that the President transmit to the Congress by December 1, 1982, a new Strategic Petroleum Reserve "Drawdown" (i.e., Distribution) Plan. The current SPR Distribution Plan became effective November 15, 1979, following Congressional review. The Plan would take effect on the date it is transmitted to the Congress, without Congressional review.

Section 5, Continuation of Petroleum Product Information Collection. This section amends Part A, Title V, of the EPCA to require the Administrator of DOE's Energy Information Administration to collect petroleum product information on a State-by-State basis. This includes the collection of such information on the pricing, supply, and distribution of petroleum products by product category at the wholesale and retail levels, as was being collected on September 1, 1981, by the Energy Information Administration.

Section 6, Reports to Congress on Petroleum Supply Interruptions. This section requires the submission to the Congress of a number of reports related to emergency preparedness programs and policies.

Section 6(a) of the EEPA requires the Secretary of Energy to submit within one year of the enactment of EEPA, an analysis of the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. The analysis must include an assessment of equity and efficiency considerations; distinguish between the impacts on various categories of business and on households of different income levels; specify the nature and administration of monetary and fiscal policies that would be followed (including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs); and describe the likely impact on the distribution of petroleum

products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products. The analysis also must include projections of the effects on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

Section 6(b) requires the President to submit by December 1, 1982, a Strategic Petroleum Reserve (SPR) Drawdown and Distribution Report to accompany the SPR Drawdown Plan required under section 4.

Section 6(c) requires submission to Congress by December 31, 1982, of an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves. The analysis is to include an assessment of the ability to transport petroleum products to refiners, distributors, and end users; the comparative costs of creating Regional Petroleum Reserves as compared to the costs of continuing current plans for the Strategic Petroleum reserve; and a list of potential sites for the Regional Petroleum Reserves.

Finally, section 6(d) requires the Secretary of Energy, in consultation with the Secretary of Agriculture, to transmit to the Congress by December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

II. Written Comment Procedures

You are invited to participate in the development of the Department of Energy's response to the EEPA requirements by submitting views, reports, analyses or other materials to the Department. Comments should be submitted to the address indicated in the **"ADDRESSES"** section of this notice and should be identified on the outside envelope and on documents submitted with the designation "Energy Emergency Preparedness, Docket No. EP–40–82–1." Seven (7) copies, if possible, should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 8:00 a.m. and 4:00 p.m., Monday through Friday. Comments should be received by the **"DATES"** section of this notice in, order to ensure consideration.

Pursuant to the provisions of 10 CFR 1004.11, if you are submitting material which you believe to be confidential and exempt by law from public disclosure, you should submit one complete copy of the document, and six copies from which the material claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the material and to treat it according to that determination.

Issued in Washington, D.C., September 27, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82–27022 Filed 9–28–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–31058; pH–FRL 2216–6]

Certain Companies; Applications To Register Pesticide Products Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pecticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by October 29, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–31058] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Product Manager (PM), Registration Division (TS–767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 7969–EUP–RI. Applicant: BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054. Product name: Campogran B Seed Treatment Fungicide. Fungicide. Active ingredient: *N*-cyclohexyl-*N*-methoxy-2,5-dimethyl-3-furancarboxamide 50.9%. Proposed classification/Use: None proposed. To include in its presently registered use the use as a seed treatment for cottonseed. Type registration: Conditional. (Product Manager (PM) 21-Henry Jacoby, (703–557–1900)).

2. File Symbol: 39398–RU. Applicant: Sumitomo Chemical Co., Ltd. c/o Dr. Eugene J. Gerberg, 1330 Dillion Heights Ave., Baltimore, MD 21228. Product name: Sumithion NP EC. Insecticide. Active ingredients: *O,O*-dimethyl *O*-(3-methyl-4-nitrophenyl) phosphorothioate 50% and 1-(cyclohexane-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 5%. Proposed classification/Use: General. To include in its presently registered non-aquatic use the aquatic use in drainage where mosquitoes breed. Type registration: Conditional. (PM 16-William Miller, (703–557–2600)).

3. EPA Registration No.: 10182–38. Applicant: ICI Americas, Inc., Wilmington, DE 19897. Product name: Talon-G. Rodenticide. Active ingredient: 3-[3-(4'-bromo-[1,1'-biphenyl]-4-yl)-1,2,3,4-tetrahydro-l-naphalenyl]-4-hydroxy-2*H*-benzopyran-2-one 0.005%. Proposed classification/Use: General. To include in its presently registerd use for control of mice and rats the use on ground squirrels in and around buildings. (PM 16-William Miller, (703–557–2600)).

Notice of approval or denial of an application to register, or amend registration of, a persticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decesion may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the sepcified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to insure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of the FIFRA, as amended)

Dated: September 21, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26562 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30221; PH-FRL 2215-6]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by October 29, 1982.

ADDRESS: Written comments, identified by the document control number [OPP-30221] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS-767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 47159-R. Applicant: Ralph R. Grams, MD, 2025 NW 24th St., Gainesville, FL 32605. Product name: Compound X. Anti-foulant. Active ingredients: 4S-(4 alpha, 4a alpha, 5a alpha, 6 beta, 12a alpha)]-4-(dimethylamino)-1,4,4a,5,5a,6,11,12,-octahydro-3,6,10,12,12a,-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide 50%. Proposed classification/Use: For general use as an additive to oil-based paint to deter attachment of barnacles on vessels. (Product Manager (PM) 23—Richard Mountfort, (703-557-1830)).

2. File Symbol: 42943-I. Applicant: Sherex Chemical Co., Inc., 577 Frantz Road., PO Box 646, Dublin, OH 43017. Product name: Arosurf MSF. Insecticide. Active ingredients: Poly(oxy-1,2-ethanediyl), alpha-isooctadecyl-w-hydroxy 100%. Proposed classification/Use: For general use for control of mosquito larvae and pupae. (PM 16-William Miller, (703-557-2600)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: September 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26454 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66095; PH-FRL 2212-7]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: October 29, 1982.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
279-2190	Tedion 1.0 Bidrin 1.0 EC	FMC Corporation, 2000 Market St., Philadelphia, PA 19103	Mar. 1, 1965.
401-3	Common Sense Rat and Mouse Bait	Mrs. Betty Fernbach, Common Sense Mfg. Co. Inc., 721 Lafayette Ave., Buffalo, NY 14222.	July 1, 1969.
401-4	Common Sense Residual Spray	do	July 16, 1970.
401-5	Common Sense Fog or Spray	do	May 22, 1970.
401-6	Common Sense Rat Preparation #2	do	Feb. 25, 1970.
401-10	Common Sense Drione 79700 Insecticide	do	June 24, 1970.
401-12	Common Sense Household Insect Spray Conc.	do	July 17, 1970.
477-286	Farmrite 0-20-20 with Boron Fertilizer with Simazine	do	Nov. 2, 1971.
539-191	Sears Termite Killer and Control	Central Chemical Corp., 49 North Jonathan St., Hagerstown, MD 21740	Mar. 29, 1965.
2568-19	Regatta Yacht Paint Vinyltex 57 White Antifouling	Sears, Roebuck and Company, Sears Tower, Chicago, IL 60684	July 6, 1964.
2568-21	Regatta Yacht Paint Vinyltex 52 Green Antifouling	Jotun-Baltimore Copper Paint Co., 840 Key Highway, Baltimore, MD 21230.	July 6, 1964.
2568-25	Regatta Yacht Paint Vinyltex 56 Golden Yellow Antifouling	do	Aug. 13, 1965
2568-38	Regatta Yacht Paint Vinyltex 60 Black Antifouling	do	July 28, 1972.
2568-50	Regatta 3021 Baltoguard Red	do	May 13, 1974.
2568-51	Regatta 3022 Baltoguard Blue	do	May 13, 1974.

Registration No.	Product name	Registrant	Date registered
2568-52	Regatta 3023 Baltoguard Green Antifouling	do	May 13, 1974.
11655-2	Sampson Penta Wood—Treat	Sampson Paint Mfg. Co., Inc., P.O. Box 6625, Richmond, VA 23230	Mar. 19, 1974.
11655-3	20 Percent Copper Naphthenate Solution	do	July 17, 1975.

The Agency has agreed that such cancellation shall be effective October 29, 1982 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this section.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier, provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pecticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66095]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: September 15, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-26233 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-291; PH-FRL 2217-3]

Certain Companies; Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, and food and feed items.

ADDRESS: Written comments to the Product Manager cited in each petition at the address given below:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-291]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, food and feed items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 1H5309. Interregional Research Project No. 4, New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. Proposes amending 21 CFR 193.140 by establishing a regulation permitting residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the processed agricultural commodity dried figs at 0.5 part per million (ppm), resulting from application to the growing crop. (Donald R. Stubbs, 703-557-1192).

FAP 8H5181. Interregional Research Project No. 4. Proposes amending 21 CFR 561.289 by establishing a regulation permitting residues of the defoliant, desiccant, and herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on spearmint hay at 3.0 ppm when present therein as a result of the application to growing peppermint and spearmint. (Donald R. Stubbs, 703-557-1192).

PP 7E1941. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the fungicide 5-butyl-2-(ethylamino)-4-hydroxy-6-methylpyrimidine in or on the raw agricultural commodity cantaloupe melons at 0.1 ppm. Proposed analytical method for determining residues is gas chromatography using a nitrogen detector. (PM 21, Henry Jacoby, 703-557-1900).

PP 2F2732. Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl in or on the raw agricultural commodity squash at 1.0 ppm. Proposed analytical method for determining residues is gas chromatography with an alkali flame ionization detector. (PM 21, Henry Jacoby, 703-557-1900).

FAP 2H5359. Stauffer Chemical Company, 1200 S. 47th St., Richmond, CA 94804. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonodithioate including its oxygen analog *S*-ethyl *S*-phenyl ethylphosphonothioate on the commodity potato waste (peels) at 3.0 ppm. (PM 16, William Miller, 703-557-2600).

PP 2F2716. Stauffer Chemical Company. Proposes amending 40 CFR 180.221 by increasing the established tolerances for the combined residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonothioate including its oxygen analog *S*-ethyl *S*-phenyl ethylphosphonodithioate in or on the raw agricultural commodity potatoes from 0.1 ppm to 0.2 ppm. The present 0.1 ppm on root crop vegetables would thus be revised to read root crop vegetables (except potatoes). Proposed analytical method for determining residues is gas-liquid chromatography using a phosphorous-specific detector. (PM 16 William Miller, 703-557-2600).

PP 2E2736. Merck and Company, P.O. Box 2000, Rahway, NJ 07065. Proposes amending 40 CFR 180.242 by establishing tolerances for the residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the raw agricultural commodities cantaloupes, at 12.0 ppm, strawberries, at 5.0 ppm, and tomatoes at 0.5 ppm. Proposes analytical method for determining residues is by spectrophotofluorometrical analysis. (PM 21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)); (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)))

Dated: September 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26938 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[A-8-FRL 2216-8]

Preliminary Approval of Use of Nonguideline Air Quality Model in Specific Pending PSD Permit Actions in North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to approve North Dakota's request to use a Nonguideline air quality model in evaluating four specific pending PSD permit applications.

SUMMARY: This notice announces EPA's preliminary determination that a Nonguideline medium-range (50–200 Kilometers) computer dispersion model (MESOPUFF) is appropriate for use by the State of North Dakota in evaluating the air quality impacts of four specific sources proposed for construction under the Prevention of Significant Deterioration provisions of the Clean Air Act. Although the State has provided substantial opportunities for public comment on this Nonguideline model and EPA is not required to provide additional opportunity for comment, EPA has decided, as a matter of policy, to invite additional comment prior to making a final determination.

DATE: Comments due October 29, 1982.

ADDRESSES: Written comments should be addressed (preferably in duplicate) to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Copies of the materials submitted by the State are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Bill Bernardo, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–6131

SUPPLEMENTARY INFORMATION:

Background

The State of North Dakota has adopted regulations for the Prevention of Significant Deterioration of Air Quality (PSD) in accordance with Part C of the Clean Air Act (Act) 42 U.S.C. 7471–7479. North Dakota's PSD permitting program has been approved by EPA and the State Department of Health (Department) has responsibility for acting on PSD permit applications for new major stationary sources and major modification wishing to construct in the State. *See* 40 CFR 52.1829. Although the Department has authority to issue PSD permits, EPA retains the authority and responsibility for approving air quality models used in evaluating PSD permit applications 42 U.S.C. 7475(e)(3)(D) and 7620.

In accordance with Sections 165(e)(3)(D) and 320 of the Act, EPA has specified models to be used in conducting air quality impact analyses for PSD sources. *See* "Guideline on Air Quality Models" (OAQPS 1.2–080, EPA, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). If a Guideline model is inappropriate for use in a specific PSD permit action, the Act authorizes modification or substitution of another model. In cases where a State has assumed responsibility for the PSD program, any Nonguideline model must be subject to public comment in accordance with the public participation procedures of the approved State regulations. In addition, written approval of the EPA Administrator must be obtained for any such change. 40 CFR 51.24(l)(1) (iii) and (iv). EPA makes case-by-case decisions regarding Nonguideline model approval and normally issues a decision based on the State permit proceedings record.

The Department has requested EPA approval of a Nonguideline model which has been used to evaluate air quality impacts of four sources proposed for construction and subject to the PSD requirements, including Amoco Production Company, Basin Electric Power Cooperative, The Nokota Company, and Warren Petroleum Company. EPA is today announcing its preliminary determination that the Nonguideline model is appropriate for use by the Department in evaluating the pending PSD applications.

A brief chronology of events leading to this proposed approval of the use of a Nonguideline air quality model in North Dakota follows. The Department, having been delegated the authority to process PSD permit applications in 1977, began evaluating the air quality impacts of proposed new sources and modifications using dispersion models recommended in EPA's "Guideline on Air Quality Models". The principal Guideline model used to predict cummulative multiple source impacts from sources scattered over the State was the RAM-rural (RAMR) Guassian model. RAMR was the best model in the Guideline for use when considering large source-receptor distances even though the EPA stated a maximum useful range for reliable predictions of this model, and all Guassian steady state models, of not greater than 50 km.

In 1978, the Department used RAMR to predict that the 24-hour SO_2 Class I increment at the Theodore Roosevelt National Park (TRNP) South Unit has been consumed by new or modified sources east of the TRNP. New and potential PSD permit applicants, many of whom were farther than 50 km from TRNP, were faced with not receiving permits or demonstrating that emissions from their facility together with emissions from the other already permitted sources would not exceed the PSD increments. Thus, applicants, along with the Department, began searching for and evaluating Nonguideline medium-scale (about 50 to 200 km) transport and dispersion models, of which there are none recommended in the Guideline. These efforts resulted in a total of seven separate medium range (meso-scale) models being proposed for use by potential PSD permit applicants and the Department. Models were received by the Department about the same time that the corresponding PSD permit applications were received from the proposed facilities.

In 1979, the Department began an evaluation of the models following procedures mentioned in the PSD regulation and the Guideline on Air Quality Models. The evaluation consisted primarily of sensitivity studies and use of the "Workbook for Comparison of Air Quality Models", EPA–450/2–78–028b. Results and conclusions from these analyses are contained in "The Selection of a

Computer Modeling Procedure for the Simulation of Mesoscale Ground Level Air Quality Concentrations," North Dakota State Department of Health, June 1981. The Department's completed evaluation of the proposed mesoscale dispersion models was distributed for public comment in July 1981. A public hearing held jointly by EPA, Region VIII and the Department to receive oral and written comment on procedures proposed for use by the Department was convened on September 1–3, 1981. After substantial debate on all of the models and careful consideration of comments received, several suggested changes to the preferred models were made and the Department determined that both the MESOPUFF and Regional Transport Model (RTM) computer dispersion models were most appropriate for use in North Dakota where source receptor distances are greater than 50 km.

Description of Model

MESOPUFF is a dispersion model that tracks a puff of effluent from the source to a downwind receptor. It uses various mechanisms to estimate the decay rate of SO_2. However, MESOPUFF will not determine the products (e.g., acidity, particles) of that decay.

When compared against Gaussian models of the conventional type and the other models proposed for use in North Dakota, MESOPUFF was found to be one of the two most appropriate models. MESOPUFF was found to be appropriate because it operates with a complete meteorological processor, its output more closely corresponds to the plume behavior of EPA recommended models, it received the best ranking in the workbook comparison, it is readily available, and an unbiased third party review by Stanford Research Institute International stated MESOPUFF is the most scientifically sound model for use in North Dakota's situation.

RTM has not been used by the Department to make regulatory decisions because computer programming of changes recommended during the hearing process has not yet been completed.

EPA's Preliminary Determination

At the 1981 State public hearing, EPA stated that it did not intend to make any general determination regarding the appropriateness of any Nonguideline models for use by the State in any PSD permit decision. Rather, EPA indicated that Section 165(e)(3)(D) of the Act authorizes case-by-case approval of Nonguideline models in response to requests related to specific PSD permit actions. On August 27, 1982, the Department requested EPA approval for use of the MESOPUFF model in evaluating the air quality impacts from four proposed PSD sources. The Department has issued public notices of its proposal to grant the pending PSD permit requests and has scheduled public hearings for September 29 through October 6, 1982.

EPA is soliciting public comment on its preliminary determination to approve the Department's request to use the Nonguideline MESOPUFF model in evaluating the air quality impact of the four proposed sources (i.e., Amoco Production Company, Basin Electric Power Cooperative, The Nokota Company, and Warren Petroleum Company) under the PSD provisions of the Act. EPA believes that the Guideline models are not appropriate for use in estimating medium-range transport of pollutants from the proposed sources and, for the same reasons cited by the Department, EPA believes the MESOPUFF model is appropriate for use in evaluating the impacts of the specific proposed sources.

EPA is not required by the Act nor applicable regulations to provide this additional opportunity for public comments in addition to that provided by the State prior to making case-by-case decisions regarding approval of Nonguideline models. In cases, such as here, where the State has been delegated PSD permitting authority, the requirement in Section 165(e)(3)(D) of the Act is satisfied if the State provides for public comment and a hearing on any Nonguideline model in accordance with the applicable State regulations regarding public participation in PSD permit action. See 40 CFR 51.24(l)(1)(iii).

Nonetheless, EPA has decided to invite public comments on its preliminary determination to approve this Nonguideline model for use in evaluating the four pending PSD permit requests. The Nonguideline MESOPUFF model, as modified by the Department for use in determinations such as these, represents a rather innovative approach to modeling medium-range transport of pollutants. In addition, because of the predicted impact of these proposed sources on Class I areas,[1] there has been considerable public interest in the Department's proposed permit decisions and the modeling approach. Therefore, EPA believes it is advisable to provide this opportunity for public comment. Any comments received related to the appropriateness of this Nonguideline model for use in evaluating the air quality impacts of these four, specific, proposed sources will be considered by EPA prior to making a final determination regarding approval of this model for use in each pending PSD permit action. EPA will, of course, also consider any comments or other information received during the scheduled State proceedings on these PSD permit applications.

Any final approval issued by EPA will be limited to use of the Nonguideline model in the specific PSD permit action(s) at issue. EPA's preliminary determination, and any final determination, that this Nonguideline model is appropriate for use in evaluating the air quality impacts of these four proposed sources should in no way be construed as a determination by EPA that this model is appropriate for use in othe regulatory contexts or in any subsequent PSD permit decisions made by the Department. EPA intends to continue to make case-by-case decisions regarding use of this or any Nonguideline model.

This notice is exempt from the requirements of Executive Order 12291.

(Secs. 165 and 301(a)(1) of the Clean Air Act (42 U.S.C. 7475 and 7601(a)(1)))

Dated: September 10, 1982.

Robert C. Dupray,

Acting Regional Administrator.

[FR Doc. 82-26689 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[1] The model predicts that the Class I SO_2 increments at Theodore Roosevelt National Park and Lostwood National Wildlife Refuge are currently being exceeded and that exceedances will continue if these sources are constructed. Under Section 164(d)(2)(C) of the Act, these new sources may only be permitted if there will be no adverse impact on air quality related values in the affected Class I areas. The PSD applicants have requested a certification of no adverse impact from the Federal Land Manager. *See* 47 FR 30222 and 47 FR 37967.

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-635, File No. BPCT-820108KE et al.]

Madison Independent Television, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 7, 1982.

Released: September 16, 1982.

In re applications of Madison Independent Television, Inc., Madison, Wisconsin, BC Docket No. 82-635, File No. BPCT-820108KE; Center City Broadcasting, Inc., Madison, Wisconsin, BC Docket No. 82-636, File No. BPCT-820312KG; Channel 47, Inc., Madison, Wisconsin, BC Docket No. 82-637, File No. BPCT-820315KF; tvUSA/Madison, Ltd., Madison, Wisconsin, BC Docket

No. 82-638, File No. BPCT-820315KH; Madison Family Television, Ltd., Madison, Wisconsin, BC Docket No. 82-639, File No. BPCT-820315KL; for construction permit for a new television station.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) The above-captioned mutually exclusive applications of Madison Independent Television, Inc. (Madison Independent), Center City Broadcating, Inc. (CCB), Channel 47, Inc. (Channel 47), tvUSA/Madison, Ltd. (tvUSA), and Madison Family Television, Ltd., (Madison Family), for a new commercial television station to operate on Channel 47, Madison, Wisconsin; (b) a petition to deny filed by CCB against Channel 47; [1] and (c) related pleadings.

2. Since we have not received determinations from the Federal Aviation Administration that Madison Independent's, CCB's, and Channel 47's proposed tower heights and locations would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

3. Madison Independent proposes to operate from a tower 746 feet above ground. Section 1.1305(a)(2) of the Rules considers a tower in excess of 300 feet above ground to be a major action within the meaning of the National Environmental Policy Act, and § 1.1311 requires the submission of an environmental narrative statement from applicants proposing such major actions. The narrative statement included in Madison Independent's application does not fully address the matters set forth in § 1.1311, e.g., extensive surface feature changes resulting from construction, a complete description of facilities site, communications with local authorities and possible local controversy. Consequently, Madison Independent will be required to submit a complete environmental narrative statement to the Administrative Law Judge within 30 days of the mailing of this Order.

4. TvUSA proposes to operate from a tower 1,072 feet above ground. The tower location proposed by tvUSA is located near four existing television towers ranging in distance from 1.1 to 2.4 miles from the proposed tvUSA site. In its application, tvUSA contends that its proposed tower location is within a "de facto" antenna farm. As a result, tvUSA believes the construction of its tower to be a minor action within the meaning of the National Environmental Policy Act and has not submitted a complete environmental narrative with its application. The tower location proposed by tvUSA does not comply with the Commission's policy regarding "de facto" antenna farms. Accordingly, tvUSA will be required to submit a complete environmental narrative statement to the Administrative Law Judge within 30 days of the mailing of this Order.

[1] Such a petition is, in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, they will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979). In any event, the petition to deny was, in effect, mooted by a petition for leave to amend filed by Channel 47 which satisfied the questions raised in CCB's petition to deny.

Conclusion and Order

5. The applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That the petition to deny filed by Center City Broadcasting, Inc., is dismissed.

7. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Madison Independent Television, Inc., Center City Broadcasting, Inc., and Channel 47, Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That Madison Independent TV, Inc. and tvUSA/Madison, Ltd., shall submit an environmental narrative statement fully addressing the matters set out in § 1.1311 of the Commission's Rules, as supplements to their applications to the Administrative Law Judge, within 30 days of the mailing of this Order.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issue specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-26664 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-641, File No. BPH-810603AG et al.]

Radio Jonesboro, Inc. et. al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 7, 1982.

Released: September 16, 1982.

In re applications of Radio Jonesboro, Inc., Jonesboro, Arkansas, Req: 100.1 MHz Channel 261A, 3 kW (H&V), 225 feet, BC Docket No. 82-641, File No. BPH-810603AG; Becmar Communications, Inc., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-642, Filed No. BPH-810624AD; MSB Communications Corp., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-643, File No. BPH-811027AC; Larry A. Wood, Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-644, File No. BPH-811027AE; Whispering Sounds, Inc., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-645, File No. BPH-811028AL; Wesley Godfrey, Jr & A.T. Moore d/b/a CLB of Arkansas, Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-646, File No. BPH-811028AM; Hearing Designation Order.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Radio Jonesboro, Inc., Becmar Communications, Inc. (hereafter

Becmar), MSB Communications Corporation, Larry A. Wood, Whispering Sounds, Inc., and Wesley Godfrey, Jr. and A.T. Moore d/b/a CLB of Arkansas (hereafter CLB) for a new FM broadcast station at Jonesboro, Arkansas.

2. The material submitted in the application does not demonstrate Becmar's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378.

3. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Becmar or CLB published the required notice. To remedy this deficiency, they must publish local notice, if they have not already done so, and so inform the presiding Administrative Law Judge.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Becmar Communications, Inc. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. It is further ordered, That Becmar Communications, Inc. and Wesley Godfrey, Jr. and A. T. Moore d/b/a CLB of Arkansas shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

Appendix

11. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, That the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by CLB.

12. It is further Ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

[FR Doc. 82–26863 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of meetings of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet on Tuesday, October 12, 1982, and Tuesday, October 26, 1982. Both meetings will be open to the public. The October 12th meeting will be held at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, NW., Washington, D.C. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

The October 26th meeting will be held at 9:30 a.m. in Suite 1735 at the Ernst & Whinney offices located at 1201 Pacific Avenue, Tacoma, Washington. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged may be allowed if time premits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–26865 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Wednesday, October 13, 1982. The meeting will be held at 9:30 a.m. in Conference Room B, (10th Floor) of the AT&T offices located at 1120 20th Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Expense Subcommittee Directions.
III. Discussion of Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393–4029) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–26666 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 82–647; File No. 22806–CD–P–(1)–82 etc.]

Westside Communications of Tampa, Inc. and Howard A. Maddox, Inc., d.b.a. Constant Communication; Order Designating Applications for Hearing

Adopted September 15, 1982; Related September 20, 1982.

In re applications of Westside Communications of Tampa, Inc., CC Docket No. 82–647, File No. 22806–CD–P–(1)–82, For a construction permit to add a new location to operate on frequency 158.70 MHz for Station KLF659 in the Domestic Public Land Mobile Radio Service (DPLMRS) at Wauchula, Florida; Howard A Maddox, Inc., d.b.a. Constant Communications CC Docket No. 82–648, File No. 21839–CD–P–(1)–81, For a construction permit for a new station to operate on frequency 158.70 MHz in the DFLMRS at Sebring, Florida, and CC Docket No. 82–649, File No. 23392–CD–P–(02)–62; For a construction permit for a new base station to operate on frequency 158.70 MHz at Wauchula, Florida, and a control station of frequency 72.9 MHz in the DPLMRS AT Sebring, Florida; Designating applications for consolidated hearing on stated issues.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Westside Communications of Tampa, Inc. (Westside) and Howard A. Maddox, Inc., d.b.a. Constant Communications (CC). Westside proposes to add another location for Station KLF659 to operate on frequency 158.70 at Wauchula, Florida. CC proposes to build new stations to operate on frequency 158.70 MHz at Sebring and Wauchula, Florida. CC also proposes to build a control station at Sebring, Florida, to operate on frequency 72.9 MHz.

2. The proposal of Westside and CC to use frequency 158.70 MHz in the same geographical area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. The CC proposal to construct a control station on frequency 72.9 MHz is not mutually exclusive with any other pending application.

3. We find both applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities.

4. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Westside Communications of Tampa, Inc., File No. 22806–CD–P–(1)–82 and the application of Howard A. Maddox, Inc., d.b.a. Constant Communications, File Nos. 21839–CD–P–(1)–81 and 23392–CD–P–(02)–82 to operate on frequency 158.70 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, conveience, and necessity.

5. It is further Ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

8. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82–26662 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

[1] For the purposes of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R–6404, equation B.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 159 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the faciliteis involved in this proceeidng. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed

agreement. Comments shall discuss with particularly allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–3685–1.

Filing party: Mr. Richard L. Landes, Deputy City Attorney, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3685–1 between the City of Long Beach (Port) and Maersk Line Pacific, Ltd. (Maersk), modifies the basic agreement which provides for the nonexclusive preferential assignment to Maersk of premises at Berths 228–229, Pier G, Long Beach, California, to be used by Maersk for the operation of a marine terminal. Agreement No. T–3685–1 provides for improvements at the premises, primarily the adding of reefer outlets. As compensation, Maersk shall pay to Port for use of the improvements, 126 monthly payments as provided for in the agreement. The agreement shall become effective upon Commission approval, or on January 1, 1983, whichever is later.

Agreement No.: T–4069.

Filing party: Mr. Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, Box 3529, Portland, Oregon 97208.

Summary: Agreement No. T–4069, between the Port of Portland (Port) and Orgeon Terminal Company (OTC), provides that OTC will operate the Port's container freight station at Terminal 6 for a term of 3 years. Port will pay OTC a management fee of $2,000.00 per month and other costs/charges as specified under the labor union contracts which are involved in this arrangement.

Agreement No.: T–4070.

Filing party: Samuel B. Nemirow, Esquire, Hill, Betts & Nash, 1220 Nineteenth Street, N.W., Suite 302, Washington, D.C. 20036.

Summary: Agreement No. T–4070 between the San Francisco Port Commission (Port) and Crescent Wharf and Warehouse Company (Crescent) provides that Crescent will perform terminal operating and cargo solicitation services within Piers 94 and 96 at the Port of San Francisco. The facility will include 4-container gantry cranes and 1-heavy-lift barge crane. Crescent will promote the use of the facility. As compensation the Port shall pay to Crescent 25 percent of the Tariff Revenue collected by the Port in the preceding month during the term of the agreement. If the Tariff Revenue in any year exceeds 3-million dollars, the Port shall also pay to Crecent 25 percent of the excess. The term of the agreement starts the first day of the month following approval by the Commission and shall run for a period of 5 years, with an extension option of an additional 5-year period.

Agreement No.: 8090–23.

Filing party: Robert A Hazel, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8090–23 amends Article 20 of the basic agreement of the Mediterranean North Pacific Coast Freight Conference for the purpose of incorporating general arbitration procedures to cover disputes which do not fall within the jurisdiction of the Enforcement Authority.

Agreement No.: 8260–23.

Filing party: Robert A. Hazel, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8260–23 amends the Mediterranean/U.S.A. Great Lakes Westbound Freight Conference by adding a new Article 14 to the basic agreement which requires (1) each member to deposit with the Secretary a bank guarantee in the amount of $10,000 (U.S.) as security for the fulfillment of obligations under the Agreement, and (2) a vote of four-fifths of the members entitled to vote to alter the amount of such guarantee.

Agreement No.: 9938–4.

Filing party: Neal M. Mayer, Esq., Hoppel, Mayer & Coleman, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 9938–4 amends the basic agreement between Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar, which authorizes the parties to divide the Brazilian flag portion of any pooling agreements that may exist in the trade between ports of the River Plate and Belem, Brazil, and ports on the East Coast of the United and Canada, and, optionally, Great Lakes ports. The purpose of the amendment is to extend the December 31, 1982 expiration date of the agreement to December 31, 1986.

Agreement No.: 10159–11.

Filing party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 50 Broadway, New York, New York 10004.

Summary: Agreement No. 10159–11 modifies the Lagos/Apapa Berth Services Rationalization Agreement, which permits the member lines to rationalize their berth services at Lagos/Apapa, Nigeria. The purpose of the modification is to increase the amount of the security deposit, strengthen procedures for collection of assessments and to permit the adoption of amendments to the Agreement upon a vote of unanimity less one.

Agreement No.: 10436–1.

Filing party: David F. Anderson, Associate General Counsel, Matson Navigation Company, P.O. Box 3933, San Francisco, California 94119.

Summary: Agreement No. 10436–1 amends the basic transshipment agreement between United States Lines, Inc. and Matson Navigation Company, Inc. to add Panama as a destination for eastbound shipments from Honolulu, Hawaii.

Agreement No.: 10459.

Filing party: John M. Ridlon, Esquire, Sea-Land Industries, Inc., P.O. Box 800, Iselin, N.J. 08830.

Summary: Agreement No. 10459, between Sea-Land Service, Inc. (Sea-Land) and American President Lines, Ltd. (APL), proposes a joint feeder vessel service between Taiwan and the Philippines, in connection with each party's individual transpacific linehaul services. APL will dedicate a vessel for this feeder service that will be modified to suit the needs of both parties, with Sea-Land paying the costs for modifying and subsequent retrofitting. The parties will agree on the scheduling of the feeder vessel, and each will be entitled to 50 percent of its capacity. Sea-Land will pay APL a daily rental per container space, plus 50 percent of certain expenses. The agreement proposes a 5-year term.

By Order of the Federal Maritime Commission.

Dated: September 24, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–26776 Filed 9–28–82; 8:45 am]

BILLING CODE 6730–01–M

Kawasaki Kisen Kaisha, Ltd. and Foss Alaska Line, Inc.; Notice of Cancellation of Agreement

Filing party: L. L. Curtis, District Manager, "K" Line-Kerr Corporation, Seafirst Fifth Avenue Plaza, 800–5th Avenue, Suite 3550, Seattle, Washington 98104.

Summary: On September 3, 1982, the Commission received notice from the agent for "K" Line to cancel Agreement

No. 10124 between Kawasaki Kisen Kaisha, Ltd., and Foss Alaska Line, Inc. Therefore, Agreement No. 10124 has been terminated effective September 3, 1982, the date the notice was received by the Commission.

Dated: September 24, 1982.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 82-26775 Filed 9-28-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 23, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register.** This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Request for Implementation of a Temporary Survey To Be Conducted on Two Occasions

1. Report title: Report of Loans to, and Deposits of, U.S. Nonbank Residents at the Non-U.S. Offices of Foreign Banks with U.S. Offices.

Agency form number: FR 3022

Frequency: Twice

Reporters: U.S. branches and agencies of foreign bank families

SIC Code: 605

Small businesses are not affected.

General description of report: approximately 384 responses; approximately 3,840 hours needed to complete the form; average response time of 10 hours; respondent's obligation to reply is voluntary (12 U.S.C. §§ 248(a) and 353 *et seq.*); a pledge of confidentiality is promised; cost to the Federal Government is approximately $7,500; cost to the public is approximately $76,800; 2 forms submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96-511.

These data will provide an indication of the volume of transactions between U.S. nonbank residents and the non-U.S offices of foreign banks with U.S. offices. This information will be used by the Federal Reserve in interpreting U.S. monetary and credit aggregates.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26659 Filed 9-28-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-82-682]

San Francisco, Calif.; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Acting Regional Administrator and Acting Deputy Regional Administrator; Order of Succession.

SUMMARY: The Regional Administrator, Region IX, is updating the designation of officials who may serve as Acting Regional Administrator and Acting Deputy Regional Administrator for the San Francisco Regional Office, Region IX, during the absence, disability or vacancy in the position of the Regional Administrator and Deputy Regional Administrator.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Beverly G. Agee, Regional Counsel, Department of Housing and Urban Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, California 94102.

Designation of Acting Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region IX, San Francisco, during the absence, disability or vacancy in the position of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,*

That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose title precede his or hers in this designation are unable to act by reason of absence, disability or vacancy in said listed position:

1. Deputy Regional Administrator.
2. Director, Office of Regional Community Planning & Development.
3. Director, Office of Regional Housing.
4. Director, Office of Regional Administration.

Designation of Acting Deputy Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Deputy Regional Administrator, Region IX, San Francisco, during the absence, disability or vacancy in the position of the Deputy Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Deputy Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Deputy Regional Administrator unless all other officers whose titles precede his or hers in this designation are unable to act by reason of absence,

disability or vacancy in said position. *Provided, further,* That in the absence, disability or vacancy in the position of both the Regional Administrator and Deputy Regional Administrator, if any of the officers listed below are serving as Deputy Regional Administrator by virtue of the designation published concurrently herewith, the next officer in the order listed below shall serve as Acting Deputy Regional Administrator:

1. Director, Office of Regional Community Planning & Development.
2. Director, Office of Regional Housing.
3. Director, Office of Regional Administration.

These designations supersede and cancel the designation of Acting Regional Administrator and Acting Deputy Regional Administrator published on August 18, 1980 (45 FR 54870–71) and effective on June 20, 1980, and any supplemental designations, published or unpublished, that may be in effect prior to the date of this document.

(Delegation effective May 4, 1962, 27 FR 4319; Interim Order II, 31 FR 815, January 21, 1966)

Bill J. Sloan,

Regional Administrator, Region IX, San Francisco.

[FR Doc. 82-26811 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-82-1170]

Submission of Proposed Information Collections to OMB

AGENCY: Housing and Urban Development Department.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposals by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S.Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Oficer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for HUD-Insured Mortgages—Verification of Employment, Verification of Deposit
Office: Housing
Form No.: HUD–92900, HUD–92004F, HUD–92004G
Frequency of submission: On Occasion
Affected Public: Individuals or Households Seeking Mortgage Loans
Estimated burden hours: 220,000
Status: Extension
Contact: John Coonts, HUD, (202) 755–6720; Robert Neal, OMB, (202) 395–6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Survey of Market Absorption of New Apartment Buildings
Office: Policy Development and Research
Form No.: None
Frequency of submission: Monthly
Affected public: Builders, Managers or Landlords of Residential Apartments
Estimated burden hours: 3,640
Status: Revision
Contact: Connie Casey, HUD, (202) 755–5060; Robert Neal, OMB, (202) 395–6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-26809 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. NI-102]

Intended Environmental Impact Statement, Puerto Rico

The Department of Housing and Urban Development's Caribbean Area Office, gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project as described in the appendix to this Notice: El Coqui Community, San Juan, Puerto Rico. This notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., September 23, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

EIS on the El Coqui Community

The Department of Housing and Urban Development's Caribbean Area Office intends to prepare an Environmental Impact Statement on the project described below and solicits information and comments for consideration in the EIS.

Description

The Coqui Project is located on the Cupey Ward, Municipality of San Juan. It is located on State Road No. 176, at km. 4.6. The site is one of the largest tracts of undeveloped land neighboring the highly populated metropolitan area. It represents one of the few areas for growth of San Juan and it falls in the center of the areas classified "Transition Zone" in a 1982 land use plan prepared by the Puerto Rico Planning Board, and approved on March 31, 1982.

The site comprises 377 cuerdas (366.1492 acres) and is characterized by rolling hills with elevations ranging from 40 meters (148 feet) to 130 meters (425 feet) above mean sea level. The project is bounded by the North with Los Guanos Creek, by the South with State Road PR-176 and Las Curias Creek, by the East with State Road PR-176 and a few private farms, and by the West with the Piedras River.

The proposed development consists of 3,500 units and two small supporting commercial facilities utilizing a total of approximately 262 cuerdas. The proposed land use will consist of different types of housing, consisting of condominium clustered garden apartments and row-houses constituting a medium density residential and some areas for single family houses with two small supporting commercial areas. The medium density parcels consist of approximately 143.5 cuerdas divided in tracts of land averaging approximately from 5 to 25 cuerdas, each tract with a proposed density of approximately twenty (20) units per cuerda for a total of 3,140 units. The low density area consists of 90 cuerdas divided in four (4) major tracts of land averaging approximately 20 cuerdas each with a proposed development density of approximately 4 units per cuerda for a total of 360 units.

Need

The Caribbean Area Office determined to prepare an EIS due to the large-scale nature of the project. Estimated date for completion of the Draft EIS is December 15, 1982. A copy of the Draft will be published in Spanish and will be available for inspection at the Caribbean Area Office.

Alternative

Alternatives to be considered are: accept project as proposed, consider changes to size and design and no project.

Scoping

The Caribbean Area Office plans to hold a scoping meeting with concerned Federal Agencies, local agencies and the general public. Responses to this Notice will be used to help determine significant environmental issues, identify agencies, groups, and individuals that will participate in the EIS process. The scoping meeting will be held: 10:00 a.m., October 19, 1982, Room 415-A, Degetau Federal Building, Hato Rey, Puerto Rico.

Comments: All interested parties comments should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft and shall become part of the project's environmental file.

These comments should be mailed or delivered to HUD at the following address on or before November 19, 1982. Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

[FR Doc. 82-26810 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14941-A]

Alaska Native Claims Selection

On November 19, 1974, Stony River Ltd., for the Native village of Stony River, filed selection application F-14941-A, as amended, under the provisions of Section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Stony River.

On April 25, 1977, in accordance with the Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F-14941-A, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 64,849 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Stony River) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Seward Meridian, Alaska (Surveyed)

T. 21 N., R. 38 W.,
- Sec. 3, excluding Native allotment F-16498;
- Secs. 4, 5, 8 and 9;
- Secs. 10 and 16;
- Sec. 17, excluding Native allotment F-16487 Parcel A;
- Secs. 19 and 24, inclusive;
- Sec. 30, excluding Native allotments F-12552 Parcel A and F-16497;
- Sec. 31, excluding Native allotment F-16497.

Containing approximately 8,352 acres.

T. 22 N., R. 38 W.,
- Secs. 16, 21, 22 and 28;
- Secs. 29, 32 and 33;
- Secs. 34 and 35, excluding Native allotment F-12552 Parcel B;
- Sec. 36.

Containing approximately 5,514 acres.

T. 18 N., R. 39 W.,
- Sec. 6;
- Sec. 7, excluding Native allotment F-16489;
- Sec. 8.

Containing approximately 1,437 acres.

T. 19 N., R. 39 W.,
- Sec. 31.

Containing approximately 618 acres.

T. 20 N., R. 39 W.,
- Sec. 2;
- Sec. 3, excluding Native allotment F-16487 Parcel B;
- Sec. 4, excluding Native allotments F-16496 Parcel A and F-17030;
- Secs. 5 to 10, inclusive;
- Sec. 18.

Containing approximately 5,215 acres.

T. 18 N., R. 40 W.,
- Sec. 1.

Containing approximately 570 acres.

T. 19 N., R. 40 W.,
- Secs. 5 and 6, excluding Native allotment F-16490 Parcel B;
- Sec. 7, excluding Native allotment F-16488 Parcel A;
- Secs. 8 and 17;
- Sec. 20, excluding Native allotment F-16492 Parcel C;
- Secs. 27 and 28;
- Sec. 29, excluding Native allotment F-16492 Parcel C;
- Secs. 34, 35 and 36.

Containing approximately 6,708 acres.

T. 20 N., R. 40 W.,
- Secs. 1 to 14, inclusive;

Sec. 15, excluding Native allotment F–029710;
Secs. 16 to 21, inclusive;
Sec. 22, excluding Native allotment F–029710;
Secs. 23 to 28, inclusive;
Secs. 29 and 30, excluding U.S. Survey No. 4490;
Sec. 31, excluding U.S. Survey No. 4309, U.S. Survey No. 4490 and Native allotments F–16490 Parcel B, F–16492 Parcel B and F–029355;
Sec. 32, excluding U.S. Survey No. 4309, U.S. Survey No. 4490 and Native allotments F–16490 Parcel B and F–029355;
Secs. 33 to 36, inclusive.

Containing approximately 20,490 acres.

T. 19 N., R. 41 W.,
Secs. 3 to 8, inclusive;
Sec. 18.

Containing approximately 3,540 acres.

T. 20 N., R. 41 W.,
Secs. 3 and 10;
Secs. 15 to 22, inclusive;
Sec. 25, excluding Native allotment F–16496 Parcel B;
Sec. 26, excluding native allotments F–16494 Parcel B, F–16495, F–17032 and F–029364;
Secs. 27 to 34, inclusive.

Containing approximately 11,407 acres.

T. 19 N., R. 42 W.,
Sec. 13, excluding Native allotment F–16493.

Containing approximately 358 acres.

T. 20 N., R. 42 W.,
Sec. 36.

Containing approximately 640 acres.
Aggregating approximately 64,849 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14941–EE:

Kuskokwim River
Stony River
Swift River
Tatlawiksuk River
Moose Creek
Stony River Cutoff

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14941–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25-Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 5 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 18, T. 20 N., R. 39 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 5a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 5 C4 on the Kuskokwim River in Sec. 18, T. 20 N., R. 39 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 7 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 17, T. 21 N., R. 38 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of an unnamed stream. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 7a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 7 C4 located in Sec. 17, T. 21 N., R. 38 W., Seward Meridian, westerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the unsurveyed lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Stony River) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 64,849 acres. The remaining entitlement of approximately 4,271 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to the Kuskokwim Corporation (for the village

of Stony River), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501.

Calista Corportion, 516 Denali Street, Anchorage, Alaska 99501.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26766 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19328-A, F-19328-B]

Alaska Native Claims Selection

On December 3, 1974, and December 9, 1974, Evansville, Inc., for the Native village of Evansville (Bettles Field), filed selection applications F-19328-A and F-19328-B, respectively, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Evansville.

The Native village of Evansville was not listed in Sec. 11(b)(1) of ANCSA. However, on July 20, 1972, Public Land Order 5242 withdrew T. 24 N., Rs. 19 and 20 W.; T. 25 N., Rs. 16 through 19 W.; and T. 26 N., Rs. 17 through 19 W., Fairbanks Meridian, pending determination of eligibility.

On July 23, 1973, the village filed an application for determination of eligibility as an unlisted village, naming T. 24 N., R. 18 W., Fairbanks Meridian, as the location of the village. This filing constitutes a withdrawal for the remaining lands in the vicinity of Evansville pursuant to Departmental regulation 43 CFR 2651.2.

On November 25, 1974, a Certificate of Eligibility was issued certifying the Native village of Bettles Field (Evansville) eligible for land benefits pursuant to Sec. 11(b)(3) of ANCSA.

As to the lands described below, the applications are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 65,208 acres, is considered proper for acquisition by Evansville, Inc., and is hereby approved for conveyance pursuant to sec. 14(a) of ANCSA.

Fairbanks Meridian, Alaska (Surveyed)

R. 24 N., R. 17 W.
Secs. 25 to 36, inclusive.
Containing 7,595.04 acres.

T. 25 N., R. 17 W.
Secs. 1 to 5, inclusive;
Sec. 7, excluding Native allotment F-16325;
Secs. 8, 9, 10, and 16;
Secs. 17 and 18, excluding Native allotment F-16325;
Secs. 19, 20, 29, and 30.
Containing approximately 9,469 acres.

T. 24 N., R. 18 W.
Secs. 1 to 6 inclusive;
Secs. 7 and 8, excluding Quitclaim Deed dated June 1, 1966;
Secs. 9 to 16, inclusive;
Sec. 17, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80210, and Quitclaim Deed dated June 1, 1966;
Sec. 18, excluding Alaska Native Claims Settlement Act Sec. 3(e) applications F-80211 and F-80210, and Quitclaim Deed dated June 1, 1966;
Sec. 19, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80211;
Secs. 20 to 36, inclusive.
Containing approximately 21,533 acres.

T. 25 N., R. 18 W.
Secs. 12, 13, and 19;
Secs. 23 to 26, inclusive;
Sec. 27, excluding Native allotment F-17746 Parcel A;
Secs. 30 to 33, inclusive;
Sec. 34, excluding Native allotment F-17746 Parcel A;
Secs. 35 and 36.
Containing approximately 8,946 acres.

T. 24 N., R. 19 W.
Secs. 1 to 4, inclusive;
Secs. 9 to 15, inclusive;
Sec. 16, excluding Native allotments F-17648 and F-14352;
Sec. 17, excluding Native allotment F-14352;
Secs. 18 and 19;
Secs. 20 and 21, excluding Native allotment F-14352;
Secs. 22 and 23;
Sec. 24, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80211;
Secs. 28 to 33, inclusive.
Containing approximately 15,105 acres.

T. 23 N., R. 20 W.
Secs. 1 and 12.
Containing 1,280 acres.

T. 24 N., R. 20 W.
Secs. 13 and 24.
Containing 1,280 acres.
Aggregating approximately 65,208 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the

ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–19328–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction, land are under applications pending further adjudication, or lands are pending a determination under Sec. 3(e) of ANCSA. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States.

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–19328–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail —The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail —The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snow-mobile, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site —The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D9, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement, except vehicles over 3,000 lbs. gross vehicle weight will be limited to winter use only.

b. (EIN 2 C1, C5, D9) An easement twenty-five (25) feet in width for an existing and proposed access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. Vehicle use will be limited to winter only.

c. (EIN 4 C3, C5, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 6 C3, C5, L) An easement twenty-five (25) feet in width for a proposed access trail from Sec. 36, T. 24 N., R. 19 W., Fairanks Meridian, southeasterly to public lands in Sec. 6, T. 23 N., R. 18 W., Fairbanks Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 19 C5, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 24 N., R. 19 W., Fairbanks Meridian, at the confluence of the John River and Koyukuk River, on the right bank of the Koyukuk River and the right bank of the John River. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 37 C5) An easement twenty-five (25) feet in width for a proposed access trail from trail EIN 4 C3, C5, L in Sec. 29, T. 24 N., R. 17 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those lister above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, ~~e~~contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

A special use permit, YF–5–82, was issued to U.S. Geological Survey by U.S. Fish and Wildlife Service authorizing the use of helicopters within the Kanuti National Wildlife Refuge. As this permit expires October 1, 1982, this conveyance document will not be made subject to the permit.

Evansville, Inc., is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA, as amended. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 65,208 acres. The remaining entitlement of approximately 3,912 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited, when the surface estate is conveyed to Evansville, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Evansville shall be subject to the consent of Evansville, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, Code of Federal Regulations (CFR), Part 4,

Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Evansville, Inc., Evansville, Alaska 99726

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26767 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14863–A, F–14863–B]

Alaska Native Claims Selection

On October 1, 1974, and December 16, 1974, Hee-yea-lingde Corporation filed selection applications F–14863–A and F–14863–B, respectively, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANSCA), as amended, for the surface estate of certain lands in the vicinity of Grayling.

As to the lands described below, the applications are properly filed and meet the requirements of ANSCA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 84,112 acres, is considered proper for acquisition by Hee-yea-lingde Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANSCA.

U.S. Survey No. 4258, Alaska, situated on the right bank of the Yukon River approximately one mile south of Grayling, Alaska.

Containing 40.21 acres.

Kateel River Meridian, Alaska (Surveyed)

T. 29 S., R. 6 W.
Sec. 2.
Containing 562.16 acres.

T. 29 S., R. 7 W.
Secs. 3 to 6, inclusive.
Containing 2,249.38 acres.

Seward Meridian, Alaska (Surveyed)

T. 34 N., R. 55 W.
Sec. 31.
Containing 595.43 acres.

T. 33 N., R. 56 W.
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotments F–15478 Parcel B, F–027928, Parcel B, F–15476 Parcel D, and F–14996 Parcel B;
Secs. 13, 14, and 15;
Sec. 16, excluding Native allotment F–13864;
Secs. 21 to 28, inclusive;
Secs. 32 to 36, inclusive.
Containing approximately 14,184 acres.

T. 34 N., R. 56 W.
Sec. 31, excluding Native allotment F–15478 Parcel B;
Secs. 32 to 36, inclusive.
Containing approximately 2,668 acres.

T. 32 N., R. 57 W.
Secs. 1 to 36, inclusive.
Containing approximately 21,701 acres.

T. 33 N., R. 57 W.
Sec. 1, excluding Native allotment F–14996 Parcel B;
Secs. 2 to 7, inclusive;
Sec. 8, excluding Native allotment F–13862;
Secs. 9 to 21, inclusive;
Secs. 22 and 23, excluding U.S. Survey No. 6588 and Native allotments, F–548 and F–385 Parcel B;
Secs. 24 and 25;
Sec. 26, excluding U.S. Survey No. 6588 and native allotments F–548 and F–385 Parcel A;
Sec. 27, excluding U.S. Survey No. 5384, U.S. Survey No. 6588, U.S. Survey No. 4226, and Native allotments F–548, F–027929 Parcel B, and F–385 Parcel A;
Sec. 28, excluding Native allotments F–14996 Parcel A and F–13863 Parcel B;
Secs. 29 to 33, inclusive;
Sec. 34, excluding U.S. Survey No. 4226, U.S. Survey No. 4268 (Alaska Native Claims Settlement Act Sec. 3(e) application AA–18103), and Native allotments F–030465 and F–15279 Parcel B;
Secs. 35 and 36.
Containing approximately 20,466 acres.

T. 34 N., R. 57 W.
Secs. 34, 35, and 36.
Containing 1,821.12 acres.

T. 32 N., R. 58 W.
Sec. 1, excluding U.S. Survey No. 4122, U.S. Survey No. 4258, U.S. Survey No. 4226, and Native allotments F–15279 Parcel B and F–030465;
Secs. 2 to 34, inclusive;
Secs. 35 and 36, excluding U.S. Survey No. 6609 (Native allotment F–15789 Parcel B).
Containing approximately 19,825 acres.
Aggregating approximately 84,072 acres.
Total aggregated acreage, approximately 84,112 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14863–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; or lands are pending a determination under Sec. 3(e) of ANCSA. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14863-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 8 D1) An easement, twenty-five (25) feet in width, for an existing access trail from Grayling in Sec. 34, T. 33 N., R. 57 W., and Sec. 1, T. 32 N., R. 58 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 34a C5) An easement, twenty-five (25) feet in width, for a proposed access trail from H Street at the north townsite boundary of Grayling in Sec. 27, T. 33 N., R. 57 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement,and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport Lease, F-998, located in U.S. Survey No. 4258, within T. 32 N., R. 58 W., Seward Meridian, Alaska, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (49 U.S.C. 211-214), as amended; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Hee-yea-lingde Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 84,112 acres. The remaining entitlement of approximately 8,048 acres will be conveyed at a later date.

Pursuant of Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Hee-yea-lingde Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Grayling shall be subject to the consent of Hee-yea-lingde Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office; Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 20 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 702 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Hee-yea-lingde Corporation, Grayling, Alaska 99590

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26768 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14897-A, F-14897-B, and F-14897-C]

Alaska Native Claims Selection

On October 8, 1974, and December 4, 1974, Seth-de-ya-ah Corporation filed selection applications F-14897-A, F-14897-B, and F-14897-C, all as amended, under the provision of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA) as amended for the surface estate of certain lands in the vicinity of Minto.

As to the lands described below, the village selection applications, as amended, are properly filed and meet

the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, as amended, aggregating approximately 108,398 acres, is considered proper for acquisition by Seth-de-ya-ah Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

U.S. Survey No. 4450B, Alaska, located on the north shore of an unnamed lake on Minto Flats approximately 21 miles north of Minto, Alaska, that portion lying within protracted Sec. 8, T. 4 N., R. 8 W., Fairbanks Meridian.
Containing approximately 20 acres.
U.S. Survey No. 4451A, Alaska, located on the left bank of the Tolovana River approximately 12 miles northwest of Minto, Alaska, that portion lying within protracted Secs. 26 and 27, T. 3 N., R. 9 W., Fairbanks Meridian.
Containing approximately 76 acres.
U.S. Survey No. 5606, Alaska, located on the north shore of an island in an unnamed lake at the northern limits of Minto Flats approximately 21 miles north of Minto, Alaska.
Containing 0.29 acres.
Aggregating approximately 96 acres.

Fairbanks Meridian, Alaska (Surveyed)

T. 3 N., R. 7 W.
Those portions of Tract A more particularly described as (protracted):
Secs. 4 to 7, inclusive;
Secs. 8 and 9, excluding Native allotment F-027064;
Sec. 17, excluding Native allotments F-17168 Parcel A and F-027064;
Sec. 18;
Sec. 19, excluding U.S. Survey No. 4137A (Native allotment F-027069 Parcel 1) and Native allotment F-027119 Parcel D;
Sec. 20, excluding U.S. Survey No. 4137A (Native allotment F-027069 Parcel 1) and Native allotment F-18277 Parcel B.
Containing approximately 5,853 acres.

T. 3 N., R. 8 W.
Those portions of surveyed township more particularly described as (protracted):
Sec. 2;
Sec. 3, excluding Native allotment F-15471 Parcel A;
Sec. 4;
Secs. 11, 12, 13, and 24.
Containing approximately 4,300 acres.

T. 4 N., R. 8 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 7;
Sec. 8, excluding U.S. Survey No. 4450B and U.S. Survey No. 5606;
Sec. 9;
Sec. 16, excluding U.S. Survey No. 4455C;
Secs. 17 to 21, inclusive;
Secs. 28, 29, and 32;
Secs. 33 and 34, excluding Native allotment F-15471 Parcel A.
Containing approximately 7,363 acres.

T. 3 N., R. 9 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 2, excluding U.S. Survey No. 4460A (Native allotment F-034705 Tract 1);
Sec. 3, excluding Native allotment F-18786;
Sec. 4, excluding Native allotments F-027062 Parcel C, F-027122 Parcel D, and F-18786;
Secs. 5 and 6;
Sec. 7, excluding Native allotment F-13524;
Sec. 8;
Sec. 9, excluding U.S. Survey No. 4467B (Native allotment F-034712 Parcel B);
Sec. 10;
Sec. 11, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B) and U.S. Survey No. 4449A;
Sec. 12, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B);
Sec. 13, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B) and U.S. Survey No. 4455B;
Sec. 14, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B), U.S. Survey No. 4455B, U.S. Survey No. 4449A, and U.S. Survey No. 4449B;
Secs. 15 to 20, inclusive;
Sec. 21, excluding U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 22, excluding U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1) and U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 23, excluding U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1);
Sec. 24;
Sec. 26, excluding U.S. Survey No. 4451A;
Sec. 27, excluding U.S. Survey No. 4451A, U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1), and U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 28, excluding U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 29;
Sec. 30, excluding U.S. Survey No. 4453C and U.S. Survey No. 4457B (Native allotment F-034702 Tract 2);
Secs. 31 and 32.
Containing approximately 17,458 acres.

T. 4 N., R. 9 W.
Tract A, excluding:
U.S. Survey No. 4220A (Native allotment F-027062 Parcel 1), U.S. Survey No. 4444A (Native allotment F-027061 Parcel A), U.S. Survey No. 4455D, U.S. Survey No. 4469, U.S. Survey No. 5014, and Native allotments F-034697 Parcel D, F-034714 Parcel A and Tract 2, F-14538, F-16317 and F-18786.
Containing approximately 20,035 acres.

T. 5 N., R. 9 W.
Those portions of surveyed township more particularly described as (protracted):
Secs. 19 and 30
Containing approximately 1,272 acres.

T. 3 N., R. 10 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 11, excluding U.S. Survey No. 4462B (Native allotment F-034707 Parcel 2);
Sec. 12, excluding U.S. Survey No. 4184, U.S. Survey No. 4462B (Native allotment F-034707 Parcel 2), and Native allotments F-13524 and F-027066;
Secs. 13 and 14.
Containing approximately 2,315 acres.

T. 4 N., R. 10 W.
Those portions of surveyed township more particularly described as (protracted):
Sec. 2;
Secs. 11 to 14, inclusive;
Sec. 24.
Containing approximately 3,840 acres.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 6 N., R. 7 W.
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 17, excluding those lands within Material Site right-of-way F-025508;
Secs. 18 to 24, inclusive;
Secs. 27, 28, and 29;
Sec. 30, excluding those lands within Material Site right-of-way F-025509;
Secs. 31 to 34, inclusive.
Containing approximately 17,836 acres.

T. 6 N., R. 9 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,926 acres.

T. 5 N., R. 10 W.
Sec. 25;
Sec. 26, excluding those lands within Material Site right-of-way F-025521;
Secs. 31 and 32, excluding those lands within Material Site right-of-way F-025524;
Sec. 33, excluding those lands within Material Site right-of-way F-025522;
Sec. 34;
Sec. 35, excluding those lands within Material Site right-of-way F-025521;
Sec. 36.
Containing approximately 5,104 acres.
Aggregating approximately 108,302 acres.
Total aggregated acreage, approximately 108,398 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14897-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction, lands are under

applications pending further adjudication, or lands are within material site rights-of-way that have not had a validity determination made on them. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F–14897–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 21 D1, L) An easement sixty (60) feet in width for an existing road from the Elliott Highway beginning in Sec. 6, T. 5 N., R. 8 W., Fairbanks Meridian, northerly, then westerly to public land and resources. The uses allowed are those listed for a sixty (60) foot wide road easement.

b. (EIN 21a C4, C5, E) An easement fifty (50) feet in width for a proposed access trail from road easement EIN 21 D1, L in Sec. 1, T. 6 N., R. 9 W., Fairbanks Meridian, northerly to public land and resources. The uses allowed are those listed for a fifty (50) foot wide trail easement.

c. (EIN 21f C4) A one (1) acre site easement adjacent to road easement EIN 21 D1, L in Sec. 1, T. 6 N., R. 9 W., Fairbanks Meridian. The uses allowed are those listed for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6 (g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. Airport lease, F–21416, located in protracted Secs. 22, 27, and 28, T. 4 N., R. 9 W., Fairbanks Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928, as amended (49 U.S.C. 211–214);

5. A right-of-way, F–19404, located in protracted Secs. 18, 19, 20, 21, 27, and 28, T. 4 N., R. 9 W., Fairbanks Meridian; protracted Secs. 2, 11, 13, and 14, T. 4 N., R. 10 W., Fairbanks Meridian; and Secs. 35 and 36, T. 5 N., R. 10 W., Fairbanks Meridian, for a Federal Aid Highway. Act of August 27, 1958 (23 U.S.C. 317); and

6. Any right-of-way interest in the Elliott Highway (FAS Route No. 680) transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to Secs. 2, 9, 10, 11, 16, 17, 19, 20, and 30, T. 6 N., R. 7 W.; protracted Sec. 19, T. 5 N., R. 9 W. and Secs. 25, 26, 31, 32, 33, 34, and 35, T. 5 N., R. 10 W., Fairbanks Meridian.

School site lease, F–24226, as amended, located within U.S. Survey No. 4469, U.S. Survey No. 4455D, and protracted Secs. 22 and 27, T. 4 N., R. 9 W., Fairbanks Meridian, Alaska, was granted to the State of Alaska, pursuant to and subject to the terms and conditions of Sec. 302 of the Federal Land Policy and Management Act of 1976, Pub. L. 94–579 of October 21, 1976 (90 Stat. 2743) and the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. Sec. 1622(i)). According to the terms of the lease, it is to terminate upon conveyance of title of said lands out of United States ownership. That portion of the lease outside of U.S. Survey No. 4469 and U.S. Survey No. 4455D will terminate upon conveyance of those lands approved for conveyance in this decision.

Seth-de-ya-ah Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 108,398 acres. The remaining entitlement of approximately 6,802 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Seth-de-ya-ah Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Minto shall be subject to the consent of Seth-de-ya-ah Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land

Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510
Seth-de-ya-ah Corporation, P.O. Box 849, Fairbanks, Alaska 99701
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26769 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14860–A]

Alaska Native Claims Selection

On November 18, 1974, Georgetown Incorporated, for the Native village of Georgetown, filed selection application F–14860–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Georgetown.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., amd Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14860–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 62,128 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Georgetown) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANSA:

Seward Meridian, Alaska (Surveyed)

T. 22 N., R. 44 W.,
Secs. 5, 6 and 7;
Sec. 18, excluding Native allotment F–18017;
Sec. 19.
Containing approximately 3,048 acres.

T. 23 N., R. 44 W.,
Sec. 31.
Containing approximately 617 acres.

T. 22 N., R. 45 W.,
Secs. 1 to 12, inclusive;
Sec. 13, excluding Native allotment F–18017;
Sec. 14, excluding Native allotment F–991 Parcel B;
Secs. 15 to 22, inclusive;
Sec. 23, excluding Native allotment F–991 Parcel B;
Sec. 24.
Containing approximately 15,123 acres.

T. 23 N., R. 45 W.,
Secs. 20 and 21;
Secs. 28 to 33, inclusive.
Containing approximately 5,073 acres.

T. 20 N., R. 46 W.,
Secs. 2, 3 and 4;
Secs. 7 to 10, inclusive;
Sec. 11, excluding Native allotment F–13973 Parcel B;
Secs. 12, 13 and 14;
Secs. 17, 19 and 20;
Sec. 24.
Containing approximately 8,575 acres.

T. 21 N., R. 46 W.,
Secs. 1, 2 and 3;
Secs. 5 to 20, inclusive;
Sec. 21, excluding Native allotment F–9876;
Sec. 22, excluding Native allotment F–14566 Parcel A;
Secs. 23 to 36, inclusive.
Containing approximately 20,770 acres.

T. 22 N., R. 46 W.,
Secs. 1;
Secs. 12 to 16, inclusive;
Secs. 31, 32 and 34.
Containing approximately 5,662 acres.

T. 23 N., R. 46 W.,
Sec. 36.
Containing approximately 640 acres.

T. 21 N., R. 47 W.,
Secs. 23 to 27, inclusive.
Containing approximately 2,620 acres.
Aggregating approximately 62,128 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14860–EE.

Kuskokwim River
George River
East Fork George River

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision.

Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for

conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14860–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATVs) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 3 C3) An easement fifty (50) feet in width for an existing access trail from public land in Sec. 25, T. 22 N., R. 45 W., Seward Meridian, northwesterly along the South Fork George River, thence northeasterly paralleling the East Fork George River to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 4 D1) A one (1) acre site easement upland of the ordinary high water mark in Sec. 26, T. 21 N., R. 46 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of California Creek. The uses allowed are those listed above for a one (1) acre site easement.

c. (EIN 4a D1) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 4 in Sec. 26, T. 21 N., R. 46 W., Seward Meridian, northeasterly, paralleling the left bank of California Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 7 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 20 N., R. 46 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

e. (EIN 7a C4) An easement fifty (50) feet in width for a proposed access trail from site EIN 7 C4 in Sec. 10, T. 20 N., R. 46 W., Seward Meridian, southwesterly to public land. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 10 C4) Rangel BillA one (1) acre site easement, upland of the ordinary high water mark, in Sec. 20, T. 21 N., R. 46 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of Steamboat Creek. The uses allowed are those listed above for a one (1) acre site easement.

g. (EIN 10a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 10 C4 located in Sec. 20, T. 21 N., R. 46 W., Seward Meridian, on the Kuskokwim River, northwesterly, paralleling Steamboat Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 11 C4) A one (1) acre site easement upland of the ordinary high water mark, in Sec. 1, T. 22 N., R. 46 W., Seward Meridian, on the right bank of the George River. The uses allowed are those listed above for a one (1) acre site easement.

i. (EIN 11a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 11 in Sec. 1, T. 22 N., R. 46 W., Seward Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by anly lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Georgetown) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 62,128 acres. The remaining entitlement of approximately 6,992 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Georgetown), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If the appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26770 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-13]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-13, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a) for the Native village of Evansville.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregating approximately 190,875 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Fairbanks Meridian, Alaska (Surveyed)

T. 26 N., R. 16 W.
Secs. 1 to 36, inclusive.
Containing approximately 21,979 acres.

T. 23 N., R. 17 W.
Secs. 1 to 25, inclusive;
Secs. 26 and 27, excluding Native allotment F-14353;
Secs. 28 to 33, inclusive;
Secs. 34 and 35, excluding Native allotment F-14353;
Sec. 36.
Containing approximately 22,528 acres.

T. 25 N., R. 17 W.
Sec. 6;
Secs. 11 to 15, inclusive;
Secs. 21 to 28, inclusive;
Secs. 31 to 36, inclusive;
Containing 12,786.40 acres.

T. 22 N., R. 18 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,685 acres.

T. 26 N., R. 18 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,658 acres.

T. 23 N., R. 19 W.
Secs. 1 to 18, inclusive;
Sec. 19, excluding Native allotment F-17650;
Secs. 20 to 36, inclusive.
Containing approximately 21,750 acres.

T. 25 N., R. 19 W.
Secs. 1 to 23, inclusive;
Sec. 24, excluding Native allotment F-17746 Parcel B;
Secs. 25 to 36 inclusive.
Containing approximately 22,091 acres.

T. 22 N., R. 20 W.
Secs. 1 to 36, inclusive.
Containing 22,919.28 acres.

T. 24 N., R. 20 W.
Secs. 1 to 12, inclusive;
Secs. 14 to 23, inclusive;
Secs. 25 to 36, inclusive.
Containing 21,478.24 acres.
Aggregating approximately 190,875 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identifed on the attached navigability maps, the original of which will be found in easement case file F-21779-13.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudication. These exclusions do not constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616 (b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-13, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D9, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, northwesterly to public lands. The uses

allowed are those listed above for a fifty (50) foot wide trail easement, except vehicles over 3,000 lbs. gross vehicle weight will be limited to winter use only.

b. (EIN 2 C1, C5, D9) An easement twenty-five (25) feet in width for an existing and proposed access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. Vehicle use will be limited to winter only.

c. (EIN 4 C3, C5, L) An easement fifty (5) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 9 L) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 9a C4 on the John River in Sec. 34, T. 25 N., R. 19 W., Fairbanks Meridian, southerly to isolated public land in Secs. 5, 6, 7, and 8, T. 24 N., R. 19 W., Fairbanks Meridian; thence northwesterly to isolated public land in T. 25 N., R. 20 W., Fairbanks Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 9a C4) An easement for a one (1) acre site easement upland of the ordinary high water mark in Sec. 34, T. 25 N., R. 19 W., Fairbanks Meridian, on the right bank of the John River. The uses allowed are those listed above for a one (1) acre site easement.

f. (EIN 22 C5) An easement twenty-five (25) feet in width for a proposed access trail from public lands in Sec. 6, T. 22 N., R. 19 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 23 C5) An easement twenty-five (25) feet in width for a proposed access trail from public lands in Sec. 1, T. 22 N., R. 19 W., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 34 C5) An easement fifty (50) feet in width for a proposed access trail from trail EIN 1 C3, C5, D9, L in Sec. 6, T. 25 N., R. 18 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the leasee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

A special use permit, YF–5–82, was issued to U.S. Geological Survey by the U.S. Fish and Wildlife Service authorizing the use of helicopters within the Kanuti National Wildlife Refuge. As this permit expires October 1, 1982, this conveyance document will not be made subject to the permit.

To date, approximately 4,230,348 acres of land, selected pursuant to Sec. 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Mangement, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the requlations governing such appeals. Further information on the manner of and reguirement for filing an appeal may be obtained from the Bureau Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–28771 Filed 9–28–82 8:45 am]

BILLING CODE 4310–84–M

[F–14888–A]

Alaska Native Claims Selection

On November 18, 1974, Lower Kalskag, Incorporated, for the Native village of Lower Kalskag, filed selection application F–14888–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Lower Kalskag, Alaska.

Lower Kalskag, Incorporated in application F–14888–A excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a)(1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands

within the township or townships within which the village is located, and that additional lands selection shall be compact and *in Whole Sections.* The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries. For these reasons, the water bodies which were improperly excluded in application F–14888–A are considered selected by Lower Kalskag, Incorporated.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Inc., a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag, Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14888–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 84,596 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Lower Kalskag), and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 14 N., R. 61 W.
Secs. 1 and 2;
Sec. 11, excluding Native allotments F–15679 and F–15680;
Sec. 12, excluding Native allotment F–15680;
Secs. 13 and 14;
Sec. 23, excluding Native allotment F–17303 Parcel A;
Sec. 24.
Containing approximately 4,915 acres.

T. 15 N., R. 61 W.
Sec. 1, excluding Native allotments F–17005 and F–17226 Parcel C;
Secs. 2 to 6, inclusive;
Secs. 11 and 12;
Sec. 13, excluding Native allotment F–16850;
Secs. 14 and 23;
Sec. 24, excluding Native allotment F–16850;
Secs. 25, 26, 35 and 36.
Containing approximately 10,009 acres.

T. 16 N., R. 61 W.
Secs. 30 to 36, inclusive.
Containing approximately 4,413 acres.

T. 16 N., R. 62 W.
Sec. 1;
Sec. 2, excluding U.S. Survey No. 4409 (ANCSA Sec. 3(e) application AA–44542), U.S. Survey No. 4414, Native allotments F–029263 and F–16349;
Sec. 3, excluding U.S. Survey No. 4409 (ANCSA Sec. 3(e) application AA–44552), U.S. Survey No. 4414, and Native allotment F–029309;
Sec. 4, excluding Native allotment F–17376;
Secs. 5 and 6;
Secs. 7 and 8, excluding Native allotments F–16350, F–17003 Parcel A, and F–17263 Parcel B;
Sec. 9;
Sec. 10, excluding Native allotment F–16019 Parcel B and F–16538 Parcel A;
Sec. 11, excluding Native allotments F–029259 Parcel B, F–16349, F–17004 Parcel A, and F–17380 Parcel B;
Secs. 12 to 14, inclusive;
Sec. 15, excluding Native allotments F–16533 Parcel A, F–16536 Parcel A, F–16538 Parcel A, and F–17001 Parcel A;
Sec. 16, excluding Native allotments F–9546 Parcel B and F–16533 Parcel A;
Sec. 17, excluding Native allotments F–16350 and F–16353;
Sec. 18, excluding Native allotments F–16350 and F–17263 Parcel B;
Sec. 19, excluding Native allotment F–16537 Parcel B;
Sec. 20, excluding Native allotments F–16537 Parcel B and F–17379 Parcel A;
Secs. 21 to 28, inclusive;
Sec. 29, excluding Native allotment F–17379 Parcel A;
Secs. 30 and 31, excluding Native allotment F–17384 Parcel B;
Secs. 32 to 36, inclusive.
Containing approximately 17,791 acres.

T. 14 N., R. 63 W.
Sec. 4;
Sec. 5, excluding Native allotment F–17372;
Secs. 6 to 9, inclusive;
Secs. 16 to 20, inclusive;
Sec. 21, excluding Native allotment F–17228 Parcel B.
Containing approximately 5,775 acres.

T. 15 N., R. 63 W.
Sec. 1;
Sec. 2, excluding Native allotments F–16352 Parcel A and F–17228 Parcel A;
Sec. 3, excluding Native allotments F–16534 Parcel A and F–17226 Parcel A;
Secs. 4 to 7, inclusive;
Secs. 8 and 9, excluding Native allotment F–17226 Parcel B;
Secs. 16 to 21, inclusive;
Secs. 28 to 31, inclusive;
Sec. 32 excluding Native allotment F–17372;
Sec. 33.
Containing approximately 10,514 acres.

T. 16 N., R. 63 W.
Secs. 1 and 2;
Sec. 3 and 4, excluding Native allotment F–16536 Parcel B;
Secs. 9 to 16, inclusive;
Secs. 20 to 24, inclusive;
Sec. 25, excluding Native allotment F–16535 Parcel B;
Sec. 26, excluding Native allotment F–17503 Parcel A;
Secs. 27 to 33, inclusive;
Sec. 34, excluding Native allotments F–16534 Parcel A and F–17226 Parcel A;
Sec. 35;
Sec. 36, excluding Native allotment F–16535 Parcel B;
Containing approximately 16,753 acres.

T. 15 N., R. 64 W.
Secs. 1, 12 and 13;
Secs. 24, 25 and 36.
Containing approximately 3,525 acres.

T. 16 N., R. 64 W.
Secs. 25 and 36.
Containing approximately 1,280 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 14 N., R. 60 W.
Sec. 7;
Sec. 8, excluding Native allotment F–17001 Parcel B;
Sec. 9;
Secs. 16 to 21 inclusive.
Containing approximately 5,340 acres.

T.15 N., R. 60 W.
Sec. 3, excluding Native allotments F–029275 Parcel D and F–015996;
Sec 4, excluding Native allotments F–015996, F–16534, Parcel B, F–16854 and F–17003 Parcel B;
Sec. 5, excluding Native allotment F–16022 Parcel A;
Sec. 6, excluding Native allotment F–15845 Parcel B.
Containing approximately 1,884 acres.

T. 16 N., R. 60 W.
Sec. 31, excluding Native allotment F–15652:
Secs. 32, 33, and 34, inclusive.
Containing approximately 2,397 acres.
Aggregating approximately 84,596 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in case file F–14888–EE.

The Kuskikwim River
Mud Creek
Whitefish Lake
Israthorak Creek

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so states.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 6113(f); and

Pursuant to Sec. 17(b) of the Alaska Native Claims Setlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14888–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 7 D9) An easement twenty-five (25) in width for an existing access trail from the village of Aniak southwesterly to the village of Tuluksak. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as in now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1871, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands herinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Lower Kalskag) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 84,596 acres. The remaining entitlement of approximately 7,564 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation, (for the village of Lower Kalskag), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage,Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Room 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26772 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–84–M

[F-14926-A]

Alaska Native Claims Selection

On November 18, 1974, the Chuathbaluk Company, for the Native village of Russian Mission (Kuskokwim), filed selection application F-14926-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Russian Mission.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown, Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, and formed a new corporation which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F-14926-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA aggregating approximately 81,656 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Russian Mission), and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Seward Meridian, Alaska (Unsurveyed)

T. 18 N., R. 53 W.
Secs. 5, 8, 17 and 19;
Secs. 20, 30 and 31.
Containing approximately 4,440 acres.

T. 19 N., R. 53 W.
Secs. 21, 28, 32 and 33.
Containing approximately 2,560 acres.

T. 17 N., R. 54 W.
Secs. 2 and 3, excluding Native allotment F-17814;
Secs. 4, 5 and 6;
Sec. 7, excluding Native allotment F-16090;
Secs. 8 to 12, inclusive;
Secs. 14 to 19, inclusive;
Sec. 21.
Containing approximately 9,542 acres.

T. 18 N., R. 54 W.
Secs. 4 to 9, inclusive;
Secs. 17 to 20, inclusive;
Secs. 24 to 35, inclusive.
Containing approximately 13,983 acres.

T. 19 N., R. 54 W.
Secs. 31, 32 and 33.
Containing approximately 1,898 acres.

T. 17 N., 55 W.
Secs. 1 to 7 inclusive;
Sec. 8, excluding U.S. Survey No. 6450 and Native allotment F-16088.
Sec. 9, excluding U.S. Survey No. 872 U.S. Survey No. 6450, and Native allotment F-16088;
Sec. 10, excluding U.S. Survey No. 872;
Sec. 11, excluding Native allotment F-029275 Parcel C;
Secs. 12 and 13, excluding Native allotment F-16087;
Sec. 14, excluding Native allotment F-029275 Parcel C;
Sec. 15, excluding U.S. Survey No. 872, U.S. Survey No. 6435, and Native allotment F-15668;
Sec. 16, excluding U.S. Survey No. 872, U.S. Survey No. 6435, U.S. Survey No. 6450, Native allotments F-16088 and F-15668;
Sec. 17, excluding U.S. Survey No. 6450 and Native allotment F-16088;
Sec. 18 to 36, inclusive.
Containing approximately 20,305 acres.

T. 18 N., R. 55 W.
Secs. 1, 2, 6 and 7;
Secs. 11 to 36, inclusive.
Containing approximately 19,103 acres.

T. 19 N., R. 55 W.
Secs. 6, 7, 18 and 19;
Secs. 30, 31, 34 and 35.
Containing approximately 4,960 acres.

T. 17 N., R. 56 W.
Sec. 1, excluding Native allotment F-16089;
Sec. 2, excluding Native allotment F-18203;
Secs. 11 and 12.
Containing approximately 1,745 acres.

T. 18 N., R. 56 W.
Sec. 24, 25 and 26;
Sec. 35, excluding Native allotment F-18203;
Sec. 36.
Containing approximately 3,120 acres.
Aggregating approximately 81,656 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce.

The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in case file F-14926-EE:

Kuskokwim River
Owhat River
Doestock Creek

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14926-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation.

The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 2b C4, C5) An easement twenty-five (25) feet in width for a

proposed access trail from public land in Sec. 8, T. 18 N., R. 55 W., Seward Meridian, westerly to public land in Sec. 12, T. 18 N., R. 56 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

b. (EIN 10 C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 29, T. 18 N., R. 53 W., Seward Meridian, northwesterly along Suter Creek to public land in Sec. 18, T. 18 N., R. 53 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

c. (EIN 11 C4 C5) A one (1) acre site easement upland of the ordinary high water mark in the NW¼, Sec. 16, T. 17 N., R. 54 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed for a one (1) acre site easement.

d. (EIN 11a C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 11 C4, C5 in the NW¼, Sec. 16, T. 17 N., R. 54 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the unsurveyed lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, AA-9094 Tracts I and II, containing approximately 107 acres, located in Secs. 3, 4 and 10, T. 17 N., R. 55 W., Seward Meridian, Alaska, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the Act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Russian Mission) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 81,656 acres. The remaining entitlement of approximately 10,504 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Russian Mission), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final adminstrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 416 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26773 Filed 9-28-82 8:45 am]

BILLING CODE 4310-84-M

[F-19155-4]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-4, as amended, under the provisions of sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Birch Creek. The application excluded the following water bodies as being navigable:

Chloya Lake in Secs. 12, 13, and 24, T. 16 N., R. 8 E., Fairbanks Meridian;

Hat Lie Lake in Secs. 14, 15, 22, 23, 26, and 27 T. 18 N., R. 10 E., Fairbanks Meridian;

Unnamed lakes in Secs. 18, 19, 29, and 30, T. 16 N., R. 10 E., Fairbanks Meridian.

As these are considered nonnavigable and as Sec. 12(c)(3) of ANCSA and Departmental regulation 43 CFR

2652.3(c) require the region to select all available lands within the townships, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leadings to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregrating approximately 201,748 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA, as amended:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 7 E.
Sec. 1;
Sec. 2, excluding Native allotment F–12114 Parcel A;
Sec. 3, excluding Native allotment F–035044 Parcel C;
Sec. 4;
Sec. 5, excluding Native allotment F–035044 Parcel D;
Secs. 6 and 7;
Sec. 8, excluding Native allotment F–035044 Parcel D
Sec. 9;
Sec. 10, excluding Native allotment F–12114 Parcel B;
Sec. 11, excluding Native allotment F–12114 Parcels A and B;
Secs. 12 to 24, inclusive:
Secs. 25, and 26, excluding Native allotment F–18824;
Secs. 27 to 34, inclusive;
Secs. 35, and 36, excluding Native allotment F–18824.
Containing approximately 21,856 acres.

T. 19 N., R. 7 E.
Sec. 1;
Sec. 2, excluding Native allotment F–13448 Parcel A;
Secs. 3 to 36, inclusive.
Containing approximately 22,588 acres.

T. 16 N., R. 8 E.
Secs. 1, excluding Native allotment F–14716 Parcel C, F–17740 Parcel C, and F–14726;
Sec. 2 to 11, inclusive;
Sec. 12, excluding Native allotments F–14811 Parcel B and F–14726;
Sec. 13, excluding Native allotment F–14776 Parcel C;
Secs. 14 to 20, inclusive;
Sec. 21, excluding Native allotments F–14716 Parcel A, F–14776 Parcel A, and F–17740 Parcel A;
Sec. 22, excluding Native allotment F–14716 Parcel A;
Secs. 23 to 26, inclusive;
Sec. 27, excluding Native allotment F–17758;
Secs. 28 to 36, inclusive.
Containing approximately 21,582 acres.

T. 18 N., R. 8 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,677 acres.

T. 15 N., R. 9 E.
Secs. 1 to 36, inclusive.
Containing approximately 22, 845 acres.

T. 16 N., R. 10 E.
Secs. 1 to 25, inclusive;
Sec. 26, excluding Native allotment F–16939;
Sec. 27, excluding Native allotment F–16938;
Secs. 28 and 29;
Sec. 30, excluding Native allotments F–12003 Parcel B and F–14728;
Sec. 31, excluding Native allotment F–14728;
Secs. 32 to 36, inclusive.
Containing approximately 22,247 acres.

T. 18 N., R. 10 E.
Secs. 1 to 7, inclusive;
Sec. 8, excluding Native allotments F–13705 and F–13076;
Sec. 9, excluding Native allotment F–13705;
Secs. 10 to 15, inclusive;
Secs. 16 and 17, excluding Native allotments F–13705 and F–14776 Parcel B;
Secs. 18 to 36, inclusive.
Containing approximately 22,477 acres.

T. 15 N., R. 11 E.
Secs. 1 to 4, inclusive;
Sec. 5, excluding Native allotment F–12001 Parcel B;
Secs. 6 to 36, inclusive.
Containing approximately 22,775 acres.

T. 17 N., R. 11 E.
Secs. 1 to 28, inclusive;
Sec. 29, excluding Native allotment F–15560 Parcel B;
Secs. 30 to 36, inclusive.
Containing approximately 22,701 acres.
Aggregating approximately 201,748 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–4.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because they are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–4, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 4 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Lower Mouth Birch Creek, in Sec. 12, T. 17 N., R. 7 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 8 C5) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Upper Mouth Birch Creek, in Secs. 4 and 5, T. 18 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 14 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Beaver Creek, in Sec. 24, T. 17 N., R. 7 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 21 M) An easement for an existing access trail twenty-five (25) feet in width from the north townsite boundary of Birch Creek in Secs. 27 and 28, T. 17 N., R. 9 E., Fairbanks Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 22 C5) An easement for a proposed access trail twenty-five (25) feet in width from trail EIN 3 C3, C5, D1, D9 in Sec. 35, T. 19 N., R. 10 E.,

Fairbanks Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 34 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 1, T. 15 N., R. 10 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 35 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 6, T. 18 N., R. 9 E., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 36 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 31, T. 18 N., R. 9 E., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 37 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 1, T. 17 N., R. 10 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 38 C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 4 C5, M on the right bank of Lower Mouth Birch Creek in Sec. 12, T. 17 N., R. 7 E., Fairbanks Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 39 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 36, T. 18 N., R. 11 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid exisiting rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 4,432,096 acres of land, selected pursuant to Sec. 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Managment, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Doyon, Limited, Land Department,
Doyon Building, 201 First Avenue,
Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-29774 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on November 9 and 10, 1982.

The meeting will begin at 9:00 a.m. at the Ravendale Fire Station of the Bureau of Land Management, Ravendale, California. The meeting will include a 2-day tour of the Cal-Neva Planning Unit with an evening meeting which will include the following items:

1. Accounting of Wild Hourse Adoption Fee Money
2. Wilderness Update
3. BLM/FS Boundary Adjustment
4. Challis Stewardship Meeting
5. Public Lands Council Meeting
6. Unauthorized Grazing Use
7. Secret Witness Program
8. Privatation Report
9. Massacre Mtn/High Rock Allotment Update.

The evening meeting is open to the public. Interested persons may make oral statements to the Board between 6:00 p.m. and 7:00 p.m. on November 9th, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130–1090, by November 1, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 21, 1982.

Ben F. Collins,

Acting District Manager.

[FR Doc. 82-26691 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30680, Survey Group 167]

Florida; Filing of Plat of Survey

1. On January 28, 1981, the plat representing the dependent resurvey of a portion of the subdivisional lines designed to restore the corners in their true original locations; a reestablishment of a portion of the record meander line; an extension survey to include lands omitted from the original survey in Sections 15, 22 and 27; and the survey of the meanders of a portion of East Bay, Pine Island and Little Pine Island, T. 5 S., R. 12 W., Tallahassee Meridian, Florida, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on December 28, 1982.

The lots shown below describe the lands omitted from the original survey.

Tallahassee Meridian, Florida

T. 5 S., R. 12 W.,
Sec. 15, Lot 1;
Sec. 22, Lots 5, 6, 7, 8, 9, 10, 11, and 12;
Sec. 27, Lots 8 and 9.

2. The character of the lands described above is similar in all respects to that of the adjacent surveyed and patented lands. The terrain in the area of the omitted lands is nearly level, ranging from 1 to 10 feet above sea level. The drainage in this area is fair to poor depending upon the elevation of the land. Timber consists of slash pine, cabbage palmetto, live oak, yaupon, cedar, and bay. Undergrowth consists of Spanish bayonet, sea myrtle, cabbage palmetto, scrub oak, and vines, with native grasses in the open areas. Many old stumps were found on the omitted lands. The soil is primarily sand and sandy loam with a mixture of shell.

3. The lands described above were found to be over 50 percent upland in character with the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 (90 days from date of publication).

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-26694 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of the Interior, Bureau of Land Management, Ukiah District Office, California, is giving notice that a joint environmental impact statement and environmental impact report will be prepared by Engineering-Science of Berkeley, California, for the Homestake Mining Company's McLaughlin Gold Mine Project.

FOR FURTHER INFORMATION CONTACT: William L. Larramendy, Clear Lake Resource Area Manager, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 954832, telephone (707) 462-3873.

SUPPLEMENTARY INFORMATION: In accordance with 43 CFR Part 3809, Homestake Mining Company submitted a Plan of Operations on September 1, 1982, for a gold mine on private and public lands near Knoxville, California. The plan involves an open pit mine, milling facility, tailings pond, waste rock disposal area, slurry pipelines, utility corridors, and roadways.

It has been determined that an environmental impact statement is necessary to comply with the National Environmental Policy Act (NEPA) and that an environmental impact report is necessary to comply with the California Environmental Quality Act (CEQA). The counties of Lake, Napa, and Yolo and the Bureau of Land Management have selected Engineering-Science of Berkeley to prepare the joint EIS/EIR for the McLaughlin Project. Napa County is the lead agency for CEQA and the BLM is the lead for NEPA.

Approximately 20 regulatory agencies have been notified of the project and have participated in the analysis of the baseline data prepared by D'Appolonia Consulting Engineers, Inc. Some of the more critical issues that have been identified are water quality degradation, impacts to public services, and impacts to existing uses of the land. Additional scoping meetings will be held to further identify issues and alternatives to the various facets of the project. Dates and times of the meetings will be published in local newspapers and sent to interested individuals. Those with comments or those who want to be placed on a mailing list should contact the Ukiah District Office, the planning departments of the various counties, or Project Coordinator James Goodfellow, 1195 Third Street, Room 210, Napa, California 94558, telephone (707) 253-4416.

Dated: September 21, 1982.

Van W. Manning,

District Manager.

[FR Doc. 82-26696 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

Wind Energy Resource Competitive Rights-of-Way Sale, San Gorgonio Pass, Riverside County, Calif.

Notice is hereby given that Windfarms, Ltd., is not a qualified bidder for the Whitewater Floodplain 14 parcel identified in the Notice of Wind Energy Resource Competitive Rights-of-Way Sale published in the September 10, 1982 edition of the **Federal Register.**

For further information, contract Walt Holmes at the California State Office, Division of Operations, Room E-2605, 2800 Cottage Way, Sacramento, California 95825 or call (916) 484-4431.

Dated: September 21, 1982.

Ron Hofman,

Acting State Director, Bureau of Land Management.

[FR Doc. 82-26693 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-36739, et al]

Nevada; Notice of Realty Action; Sale of Public Land

September 20, 1982.

Public Law 96-586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing competitive procedures, at not less than fair market value:

Parcel No.	Legal description	Acres
	T. 21 S., R. 60 E., MDM	
	Section 4	
N-36739	Lot 12	5.53
N-36740	Lots 22, 23, and 35	15.86
N-36741	Lot 39	5.28
N-36742	Lot 57	5.19
N-36743	Lots 69 and 70	10.61
N-36744	Lot 84	5.15

Parcel No.	Legal description	Acres
82-145	Lots 87 and 88	10.37
82-146	Lot 90	5.21
82-147	Lot 92	5.23
82-148	Lot 93	5.24
82-149	Lot 95	5.26
	Section 13	
82-150	NW¼NW¼NE¼NW¼, NE¼NE¼NW¼NW¼	5.0
82-151	NE¼NW¼NW¼NW¼	2.5
82-152	W½SW¼SW¼NW¼, NW¼NW¼NW¼SW¼	7.5
	Section 14	
82-153	W½SE¼NE¼SW¼	5.0
82-154	W½NE¼SE¼SW¼	5.0
	Section 24	
82-155	W½W½NE¼NW¼, E½NE¼NW¼NW¼	15.0
82-156	W½NE¼SW¼NW¼, NW¼SW¼NW¼, W½SW¼SW¼NW¼	20.0
	Section 25	
82-157	E½SW¼SE¼SE¼, W½SE¼SE¼SE¼	10.0
	T. 21 S., R. 61 E., MDM	
	Section 19	
82-158	S½NE¼NW¼	5.0
82-159	NW¼NW¼NE¼NW¼	2.5
82-160	NE¼SE¼SW¼NW¼	2.5.
	Section 30	
82-161	E½NW¼NW¼NE¼	5.0
82-162	N½SW¼NW¼NE¼	5.0
	T. 22 S., R. 61 E., MDM	
	Section 4	
82-163	Lot 48	2.5
	Section 5	
82-164	Lot 133	2.5
	T. 21 S., R. 61 E., MDM	
	Section 36	
82-165	E½NW¼NE¼NW¼	1.25
82-166	E½SW¼NW¼NE¼NW¼	1.25
82-167	E½NE¼SW¼NE¼NW¼	1.25
82-168	W½NE¼SW¼NE¼NW¼	1.25
82-169	E½NW¼SW¼NE¼NW¼	1.25
82-170	E½SE¼SW¼NE¼NW¼	1.25
82-171	W½SW¼SE¼NE¼NW¼	1.25
	T. 21 S., R. 62 E., MDM	
	Section 28	
82-172	W½SW¼SW¼	20.0
82-173	E½SW¼SE¼SW¼, W½SE¼SE¼SW¼	10.0
Total acres		227.68

Parcel numbers coincide with the last two digits of Bureau assigned serial numbers N–36739 through N–36773; Parcel 82–1(39) is N–367(39), Parcel 82–173 is N–36773.

These parcels, situated in the sourthern portion of the Las Vegas Valley, have potential for urban-suburban, commercial and industrial development.

Transfer of the land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. At least 212.68 acres of the land herein described will be offered for sale initially at a public auction to be held on November 16, 1982 in Las Vegas. The parcels not sold at the auction will be available at a later date for purchase "over-the-counter" on a first come-first served basis at the Bureau of Land Management's Las Vegas District Office, 4765 Vegas Drive, Las Vegas, Nevada. Prior to issuance of patent, the purchaser will also have an opportunity to buy the locatable and saleable mineral interests in accordance with 43 CFR 2720.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets, roads and public utilities, both existing and proposed, in accordance with Clark County plans.

3. All land that is sold will be subject to applicable Clark County ordinances.

The land will be offered at an auction utilizing oral bidding procedures. The highest oral bid will establish the purchaser. Adjoining landowners have no preference rights. Specific information regarding the time and site of the auction, and bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale. Both methods of sale will require a non-refundable deposit of at least 20 percent of the purchase price at the time of the sale. The remainder shall be due within 30 days of the sale. Personal or certified checks, money orders, and cash are acceptable forms of payment. Only U.S. citizens and legally chartered U.S. corporations are eligible to purchase these lands.

For period of 45 days from the date this notice is published in the **Federal Register**, interested person may submit comments regarding this sale to the State Director (N–943), P.O. Box 12000, Reno, NV 89520.

William J. Malencik,

Chief, Division of Operations.

[FR Doc. 82–26568 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1192, Block 41, South Marsh Island Area, Offshore Louisiana.

The purpose fo 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 pactices and procedures under which the Minerals Management Service makes information contained in Development and Production Plan 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: September 22, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–26692 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Shenandoah National Park; General Management Plan Availability of Draft Development Concept Plan and Notice of Meeting

AGENCY: Shenandoah National Park, National Park Service, Interior.

ACTION: Notice of availability of Draft General Management Plan Development

Concept Plan and Notice of Public Review Period and Public Meetings.

SUMMARY: The Draft General Management Plan/Development Concept Plan for this national park in Virginia is now available for public review. The draft plan outlines a program for land protection, natural and cultural resource protection, visitor use and interpretation, general development for the next 10 to 15 years and administration of the park.

The Public Review Period is from October 15 to December 20, 1982. Copies of the Draft Plan/Development Concept Plan or its Summary may be obtained at park headquarters, Shenandoah National Park, Route 211, Luray, Virginia 22835; at Virginia State Library, Richmond, Virginia; at the county clerk's office at Warren, Albemarle, Rockingham, Madison, Greene, Page, Augusta, Rappahannock and Nelson counties; at the city clerk's office at Charlottesville, Staunton and Waynesboro, Virginia; at public libraries in Warren, Albemarle, Rockingham, Madison, Greene, Page, Augusta and Rappahannock counties; at the Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pennsylvania 19106; and at the National Park Service Public Affairs Office, Room 3045, Main Interior Building, Washington, D.C. 20240.

Eight public meetings will be held to discuss plan recommendations and to receive public comment. Members of the NPS planning team and park staff will be available at each meeting to answer questions and discuss mutual concerns relating to the plan. The public meeting dates and location are:

Dates	Times	Open house locations
Monday, Nov. 8, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Warren County, Samuels Public Library, Front Royal, Va.
Tuesday, Nov. 9, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Albemarle County, County Office Building (previously Lane High School), Charlottesville, Va.
Wednesday, Nov. 10, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Rockingham County, Elkton Intermediate School, Elkton, Va.
Thursday, Nov. 11, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Madison County, Madison Fire Department, Madison, Va.
Monday, Nov. 15, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Greene County, Interim County Office Building, Stanardsville, Va.
Tuesday, Nov. 16, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Page County, Shenandoah National Park Headquarters, U.S. 211 east of Luray, Va.
Wednesday, Nov. 17, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Augusta County, Waynesboro Fire Department, Waynesboro, Va.
Thursday, Nov. 18, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Rappahannock County, Rappahannock Elementary School, U.S. 211 between Sperryville and Washington, Va.

Written comments are encouraged and should be forwarded to the Shenandoah Planning Team, Denver Service Center (TNE), National Park Service, 755 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Robert R. Jacobsen, Superintendent, Shenandoah National Park, Route 211, Luray, Virginia 22835; telephone (703) 999–2243.

Dated: September 20, 1982.

Homer L. Rouse,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82–26572 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 23, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

MC–F–14750, filed September 2, 1982. INTERSTATE MOTOR FREIGHT

SYSTEM (110 Ionia Avenue, N.W., P.O. Box 2389, Grand Rapids, MI)—CONTINUANCE IN CONTROL—INTERSTATE SYSTEM STEEL DIVISION, INC. (P.O. Box 412, Murrysville, PA 15668). Representative: Michael P. Zell, 110 Ionia Avenue, N.W., Suite 7000, Grand Rapids, MI. Interstate Motor seeks authority to continue in control of Interstate System upon institution by the latter of operations in interstate or foreign commerce as a motor carrier. Interstate System was granted authority under MC–160439 to transport *lumber and wood products, chemicals and related products, plastic products, clay, concrete, glass or stone products, metal products, machinery,* and *snow vehicles,* between points in the United States (except AK and HI).

[FR Doc. 82–26683 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 298]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 22, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 78177 (Sub-5)X, filed September 16, 1982. Applicant: O'BRIEN MOVERS, INC., 155 Highland Ave., Watertown, MA 02172. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Sub 4: (1) Broaden household goods to "household goods, furniture and fixtures"; and (2) change Malden, MA and points within 10 miles of Malden to Essex, Middlesex, Norfolk and Suffolk Counties, MA.

MC 135046 (Sub-27)X, filed July 30, 1982, previously noticed in the **Federal Register** of September 14, 1982, and republished as follows: Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. As is pertinent here, applicant seeks to remove restrictions (1) in its Sub-No. 12 certificate to broaden the territorial description from Mechanicsburg, PA, to Beaver and Cumberland Counties, PA, and (2) in its Permit No. MC–113024 (Sub-Nos. 29, 66, and 150) to broaden the territorial descriptions to between points in the United States (except AK and HI), under continuing contract(s) with a named shipper. The purpose of this republication is to reflect applicant's original requests and to request comments from interested parties.

MC 139405 (Sub-3)X, filed September 2, 1982. Applicant: FRITZ MENSINGER, d.b.a. MENSINGER TRUCKING, 1430 Powers, Lewiston, ID 83501. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. Lead and Sub-2 certificates (acquired in MC–FC–77463): (A) broaden to "food and related products" from bananas and/or exempt agricultural commodities, moving in mixed loads with bananas, both Subs; (B) remove the restriction limiting service to the transportation of shipments destined to named facilities, lead; (C) substitute "all ports of entry on the United States-Canada boundary line in Washington" in lieu of ports of entry near Northport, WA, lead; (D) broaden to (1) county-wide authority: Los Angeles and Orange Counties, CA (Long Beach and Wilmington); Missoula and Flathead Counties, MT (Missoula and Kalispell); Umatilla County, OR (Pendleton); and Nez Perce County, ID (Lewiston), Sub 2; and (2) radial authority, both Subs.

MC 144468 (Sub-1)X, filed September 13, 1982. Applicant: KEVIN A. SMITH, d.b.a., AUTO TRANSPORT, 141 Sperry Rd., Bethany, CT 06525. Representative: Milo J. Altschuler, P.O. Box 903, Seymour, CT 06483. Broaden to "Transportation Equipment" from antique and classic automobiles, in truckaway service.

MC 145179 (Sub-8)X, filed September 20, 1982. Applicant: J & J CONTRACT CARRIER, INC., 60 South State St. Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Sub-5 permit; (1) broaden salt, in packages to "food and related products", and (2) expand territorial authority to between points in the United States, under continuing contract(s) with named shippers.

MC 147514 (Sub-4)X, filed September 13, 1982. Applicant: L. E. MATCHETT TRUCKING, LTD., 503 47th Street East, Saskatoon, Saskatchewan, Canada S7K 5B5. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102. Sub 2F certificate: broaden from (1) dry fertilizer and fertilizer ingredients, in bulk, to "chemicals and related products" and (2) animal feed, poultry feed and animal and poultry feed ingredients, in bulk, to "food and related products and farm products".

[FR Doc. 82–26682 Filed 9–28–82; 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 statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from

applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–160

Decided: September 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 163801, filed September 10, 1982. Applicant: R. E. WOODY, d.b.a. WOODY BROTHERS, P.O. Box G, Ridgeway, MO 64481. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. 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.

Volume No. OP1–163

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 151530 (Sub-1), filed September 2, 1982. Applicant: AMERICAN BACKHAULERS, CORPORATION, 407 South Dearborn St., Room 985, Chicago, IL 60605. Representative: Paul Loeb (same address as applicant), (312) 427–0092. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163351 (Sub-1), filed September 15, 1982. Applicant: MATHEWS MOVING AND STORAGE, INC., 1202 Carr Street, Palatka, FL 32077. Representative: Roger W. Mathews (same address as applicant), (904) 325–7578. Transporting *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).

MC 163821, filed September 13, 1982. Applicant: ALL POINTS TRANSPORTATION SERVICE, P.O. Box 24550, Denver, CO 80224. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163851, filed September 15, 1982. Applicant: B. A. RUSSELL AND THOMAS L. MILES, JR., d.b.a. U.S.A. MOTOR CARRIER BROKERAGE, 1009 South Gloucester, Irving, TX 75062. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, (214) 436–8493. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163871, filed September 16, 1982. Applicant: THOMAS J. VAN SANDT, d.b.a. DEEP SOUTH FREIGHT BROKER, 1201 Bankhead Highway, West, Birmingham, AL 35204. Representative: Fred H. Daly, Suite 475, 2550 M St. NW., Washington, DC 20037, (202) 293–3204. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1–165

Decided: September 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Candler not participating.

MC 109331 (Sub-7,) filed September 9, 1982. Applicant: NILSON VAN & STORAGE, 6913 North Main St., Columbia, SC 29230. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036–5391, (202)–887–5868. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting, (a) for or on behalf of the U.S. 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); (b) *used household goods* for the account of the U.S. 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 (c) *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).

MC 163840, filed September 13, 1982. Applicant: B. C. BURKE, PO Box, 152, Plainfield, IN 46168. Representative: B. C. Burke (same address as applicant), (1) (317) 839–7202. 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).

Please direct Status inquiries about the following to Team 2 (202) 275–7030.

Volume No. OP2–231

By the Commission, Review Board No. 1, Members Parker, Candler and Fortier. Member Parker not participating.

MC 160612 (Sub-2,) filed September 15, 1982. Applicant: SCHEALL DRIVEAWAY SYSTEM, INC., 9485 West Colfax Ave., Suite 100, Lakewood, CO 80215. Representative: C. Jack

Pearce, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, 202–785–0048. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163793, filed September 10, 1982. Applicant: RIGHT-ON FREIGHT FORWARDING CORP., 376 Duncan Ave., Jersey City, NJ 07306. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 163842, filed September 14, 1982. Applicant: LARRY L. LEITER, 2264 Villa St., Rio Rico, AZ 86521. Representative: Larry L. Leiter (same address as applicant), (602) 281–8279. 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. OP2–233

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 163862 (Sub-1), filed September 16, 1982. Applicant: DAVID & ORILLA CROPP d.b.a. U & I TRUCKING, P.O. Box 327—3rd St., Craig, AK 99921. Representative: David Cropp (same address as applicant) 907–755–2992. 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. (including AK, but excluding HI).

Volume No. OP2–235

Decided: September 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 153673 (Sub-5), filed September 17, 1982. Applicant: KENTUCKY SPECIALIZED HAULERS, INC., Rte 3, Box 156–A, Hardingsburg, KY 40143. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. 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).

MC 163752, filed September 8, 1982. Applicant: TOTAL TRANSPORTATION CORPORATION, 429 Moon & Clinton Road, Coraopolis, PA 15108. Representative: Elmer S. Beatty, Jr. (same as applicant), (412) 262–2201. As a broker of *general commodities* (except household goods), between points in the U.S., (including AK and HI).

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–341

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163807, filed September 7, 1982. Applicant: DON BYBEE AND SONS, INC., 145 E. Main St., Hyrum, UT 84319. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. 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 163836, filed September 13, 1982. Applicant: RON CORNELL, d.b.a. RON CORNELL TRUCKING CO., Box 374, Derby Canyon, Peshastin, WA 98847. Representative: Ron Cornell (same address as applicant), (509) 548–5982. 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. (including AK, but excluding HI).

Volume No. OP4–344

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 97257 (Sub-6), filed September 7, 1982. Applicant: MIDLAND TRANSPORT, INC., 56 East 25th St., Chicago, Heights, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Dillsburg, Gifford, Penfield, Potomac, Armstrong, Covel, and Stanford, IL, on the one hand, and, on the other, points in U.S. CONDITIONS: (1) Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing 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, and (2) The certificate to be issued to the extent it authorizes the transportation classes A and B explosives, shall be limited in point of time to a period expiring 5 years from its date of issue.

Please direct status inquiries about the following to Team 5 (202) 275–7289.

Volume No. OP5–193

Decided: September 15, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163589, filed August 27, 1982. Applicant: BLUE STAR TRADING CO., INC., 12290 S.W. Main, Tigard, OR 97223. Representative: Robert Wright (Same address as applicant) (503) 684–3451. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Volume No. OP5–196

Decided: September 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163628, filed August 30, 1982. Applicant: DEAN WILLIAMSON, d.b.a. D & D TRUCKING, Rt. 1, Box 99, El Dorado Springs, MO 64744. Representative: Dean Williamson (same address as applicant) (417) 876 2093. 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 163769, filed September 9, 1982. Applicant: ANDRE J. ROY, 495 Rimmon St., Manchester, NH 03102. Representative: Andre J. Roy (same address as applicant), (603) 668–2545. 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 HI).

MC 163808, filed September 13, 1982. Applicant: BEN WISSEMAN, d.b.a. BEN WISSEMAN TRUCKING, P.O. Box 942, 3307 Independence Hwy NW, Albany, OR 97321. Representative: Ben Wisseman (same address as applicant), (503) 928–7498. 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. OP5–199

Decided: September 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 151228 (Sub-3), filed September 13, 1982. Applicant: P & M TRUCKING, INC., 740 Iowa Street, Norman, OK 73069. Representative: Michael H. Lennox, 5501 N. Triple XXX Road, Choctaw, OK 73020, (405) 399–5128. Transporting, for or on behalf of the United Stated 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).

MC 163749, filed September 8, 1982. Applicant: GUARDIAN STORAGE, INC., Old Washington Road, Waldorf, MD 20601. Representative: James J. Fratino, P.O. Box 82, Edgewater, MD 21037, (301) 261–7227. Transporting *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).

MC 163768, filed September 9, 1982. Applicant: VERNON WILSON, d.b.a. WILSON TRUCKING CO., Rte. 1, Campbell, MO 63933. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. 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 163848, filed September 13, 1982. Applicant: T.J. POWER & CO., d.b.a., TEXAS DISPATCH, 2240 E. Union Bower Rd., Irving, TX 75061. Representative: Patrick H. Power (same address as applicant), 214–438–6722. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163799, filed September 10, 1982. Applicant: CARTERET TRANSPORTATION SERVICE, INC., 1000 Blair Road, Carteret, NJ 07008. Representative: Arnold L. Burke, 180 North LaSalle Street, Room 3520, Chicago, IL 60601, (312) 332–5106. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26684 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as confering 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 about the following to Team 1, (202) 275–7992.

Volume No. OP1–166

Decided: September 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Chandler not participating.

MC 720 (Sub-90), filed September 16, 1982. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Charles L. Redel, 212 Exchange Bldg., La Crosse, WI 54601, (608)–784–5860. 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 2980 (Sub-11), filed September 13, 1982. Applicant: LANDGREBE MOTOR TRANSPORT, INC., Highway 130 West, P.O. Box 32, Valparaiso, IN 46383. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between those points in IN and IL, on, north and east of a line beginning at the IN–OH State line and extending along Interstate Hwy 70 to junction Interstate Hwy 57, then along Interstate Hwy 57 to Chicago, IL.

MC 19201 (Sub-146), filed September 8, 1982. Applicant: PENNSYLVANIA TRUCK LINES, INC., 308 E. Lancaster Ave., Wynnewood, PA 19096. Representative: James V. Fleming, III (same address as applicant), (215) 645–1416. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, VA, WV, and DC, on the one hand,

and, on the other, points in the U.S. (except AK and HI).

MC 123310 (Sub-26), filed September 13, 1982. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 W. Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701, (208)–343–3071. Transporting (1) *coal, chemicals and minerals,* between points in AZ, CA, CO, ID, MT, NE, NJ, NM, OR, UT, WA and WY; (2) *building materials and lumber and wood products,* between points in NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NE, NV, NM, OR, UT, WA and WY; and (3) *petroleum and petroleum products and those commodities* dealt in or used by automotive service stations, between points in ID, on the one hand, and, on the other, points in OR, CA, UT and WA.

MC 143280 (Sub-34), filed September 16, 1982. Applicant: SAFE TRANSPORTATION COMPANY, 9955 West 69th St., Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MD 55121, (612) 452–8770. Transporting *food and related products,* between points in DuPage, Will, Kane, Kendall and Cook Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152990 (Sub-1), filed September 14, 1982. Applicant: R. J. GUERRERA, INC., 100 Kissewqug Rd., Middlebury, CT 06762. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036, (202) 296–2900. Transporting (1) *instruments and photographic goods;* (2) *metal and metal products;* (3) *rubber and plastic products;* (3) *chemicals and related products;* (4) *petroleum and petroleum products;* and (5) *commodities in bulk,* between points in the U.S. in and east of WI, IL, KY, TN, AR and TX.

MC 158651 (Sub-3), filed September 7, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 N. Third Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S., under continuing contract(s) with E. I. duPont deNemours Company, of Wilmington, DE. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 159780, filed September 8, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives and household goods), between Toledo, OH, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 161560, filed September 16, 1982. Applicant: SMART-WAY TRUCKIN', INC., 5129 N.W. 114th St., Grimes, IA 50111. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, (313) 647–3350. 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 Alliance Shippers, Inc., of West New York, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 163841, filed September 13, 1982. Applicant: TRAILWAYS MOVING & STORAGE CO., INC., 900 Atlantic Ave., Brooklyn, NY 11238. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in NY, on the one hand, and, on the other, points in ME, VT, NH, DE, MA, RI, CT, NY, PA, OH, NJ, MD, VA, WV, NC, SC, GA, AL, TN, FL, and DC.

MC 163860, September 16, 1982. Applicant: CHARTER BUS SERVICE, INC., 6539 E. Virginia Beach Blvd., Norfolk, VA 23502. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301)–840–8565. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in VA, and extending to points in the U.S. (including AK but excluding HI).

Please direct status inquiries about the following to team #2, (202) 275–7030.

Volume No. OP2–234

Decided: September 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 146343 (Sub-20), filed September 16, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Warren V. Picillo, Jr., 2 Sawyer Drive, Coventry, RI 02816, 401–822–0878. 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 Cooley, Inc., of Pawtucket, RI.

MC 146773 (Sub-5), filed September 16, 1982. Applicant: CON–EX, INC., Cove St., Manchester, NH 03101. Representative: Peter Vetrone (same address as applicant), 603–669–6977. 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 148863 (Sub-4), filed September 17, 1982. Applicant: LONG SHOT EXPRESS, INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, and points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151753 (Sub-6), filed September 17, 1982. Applicant: M. W. CYCLE HAULER, INC., 11909 Santa Fe Dr., Lenexa, KS 66215. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, 913–233–9629. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between Aurora, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163872, filed September 16, 1982. Applicant: BERT TRUCKING, INC., 82 Roosevelt Ave., Belleville, NJ 07109. Representative: Henryka Smigiel (same address as applicant), 201–751–7813. 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).

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–148

Decided: September 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 10345 (Sub-105), filed September 8, 1982. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph Street, Lansing, MI 48901.

Representative: John R. Sims, Jr., 915 Pennsylvania Bldg. 425–13th Street NW., Washington, DC 20004, (202) 737–1030. Transporting *motor vehicles*, between points in the U.S. (except AK and HI).

MC 67234 (Sub-57), filed September 9, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Memorex Corporation, of Santa Clara, CA.

MC 117685 (Sub-8), filed September 13, 1982. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. 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 119765 (Sub-102), filed September 10, 1982. Applicant: EIGHT WAY XPRESS, INC., 10855 W. Dodge Rd., Omaha, NE 68154. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *plastic products*, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 120934 (Sub-2), filed September 9, 1982. Applicant: CAPE COD EXPRESS, INC., 58 W. Grove St., Middleboro, MA 02346. Representative: George C. O'Brien, 342 Wild Harbor Rd., No. Falmouth, MA 02556, (617) 593–9345. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA and RI.

MC 141914 (Sub-109), filed September 10, 1982. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant), (918) 783–5121. Transporting *animal feed*, between points in CA, IA, MO and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157964 (Sub-1), filed September 10, 1982. Applicant: MALCOLM WEBSTER AND DOROTHY WEBSTER, d.b.a. WEBSTER EXPRESS, P.O. Box 212, Camdenton, MO 65020. Representative: Stephen G. Newman, 312 E. Capitol Ave., Jefferson City, MO 65101, (314) 635–7166. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MO.

MC 160544, filed September 10, 1982. Applicant: STEVEN H. BARNES AND LEA M. BARNES, d.b.a. BARNES DISTRIBUTING AND TRUCKING, 403 N. Castlecrest Ct., Elko, NV 89801. Representative: Steven H. Barnes (same address as applicant), (702) 738–8225. Transporting *Mercer commodities*, between points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, TX, UT, WA, and WY, under continuing contract(s) with NL Baroid/NL Industries, Inc., of Houston, TX.

MC 163575, filed September 7, 1982. Applicant: FLY NEVADA, d.b.a GORUM ASSOCIATES, INC., 1000 Beck Drive, Reno, NV 80509. Representative: Mike Pavlakis, Box 846, Carson City, NV 89702, (702) 882–0202. Transporting *passengers and their baggage*, in special and charter operations, between Reno, NV and Carson City, NV.

MC 163684, filed September 9, 1982. Applicant: ESCHENBACH & RODGERS TRUCKING, INC., d.b.a. E & R TRUCKING, INC., 175–177 South Main Street, Plains, PA 18705. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (771) 233–5731. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in Luzerne, Columbia and Lackawanna Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163705, filed September 8, 1982. Applicant: WEAVER TRANSPORT, INC., Route 2, Box 181, Woodbury, TN 37190. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219, (615) 244–8100. Transporting *food and related products*, between Nashville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Cumberland Creamery, Inc., of Nashville, TN.

MC 163715, filed September 9, 1982. Applicant: JOSEPH P. CARRARA & SONS, INC., North Clarendon, VT 05759. Representative: Neil D. Breslin, 11 N. Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *salt*, between points in Washington County, NY, on the one hand, and, on the other, points in VT, under continuing contract(s) with International Salt Company, a part of Akzona, Inc., of Clark Summit, PA.

MC 163775, filed September 9, 1982. Applicant: COASTAL SERVICE EXPRESS, INC., P.O. Box 12471, Pensacola, FL 32573. Representative: Randall L. Lee, 900 South "E" Street, Apt. 257; Pensacola, FL 32501, (904) 432–9200. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in GA, FL, AL, MS, LA, and TX.

MC 163784, filed September 10, 1982. Applicant: SCURLOCK'S TRAVEL & TOURS, P.O. Box 424, Pittsboro, NC 27312. Representative: Robert L. Scurlock (same address as applicant), (919) 542–2293. As a *broker* at Pittsboro, NC, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in NC, on the one hand, and, on the other, points in the U.S.

MC 163804, filed Septemer 10, 1982. Applicant: LOUISVILLE CARTAGE COMPANY, INC., 4505 Camp Ground Road, P.O. Box 16009, Louisville, KY 40216. Representative: Herbert D. Liebman, 403 West Main Street, P.O. Box 478, Frankfort, KY 40602, (502) 875–3493. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in KY, IN, TN, and OH.

MC 163805, filed September 10, 1982. Applicant: WAYLON DISTRIBUTION CORP., 4754 Route 414, North Rose, NY 14506. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *food and related products*, between points in the U.S. in and east of MN, IA, KS, OK and TX.

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–339

Decided: September 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–617, filed September 7, 1982. Applicant: ARGONAUT INTERNATIONAL CARRIER, INC., 744 Peach Ave., Sunnyvale, CA 94087. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833–8884. As a *freight forwarder*, in connection with the transportation of (a) *used household goods*, and *unaccompanied baggage*, and (b) *used automobiles*, between points in the U.S.

MC 42487 (Sub-1062), filed September 10, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (505) 226–4692. 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 General Mills, Inc. of Minneapolis, MN, and its

wholly owned subsidiaries General Mills Restaurant Group, Inc. of Orlando, FL, General Mills Fashion Group, Inc. of Minneapolis, MN, General Mills Products Corp. of Minneapolis, MN, LeeWards Creative Crafts, Inc. of Elgin, IL, Casa Gallardo, Inc. of St. Louis, MO, Dunbar of Berne, IN, Eddie Bauer, Inc. of Redmond, WA, Foot-Joy, Inc. of Brockton, MA, H. E. Harris & Co., Inc. of Boston, MA, Louise's Home Style Ravioli Co. of Malden, MA, Pioneer Products, Inc. of Ocala, FL, Saluto Foods Corp. of Benton Harbor, MI, Ship' n Shore Products Corp. of Aston, PA, The Talbots, Inc. of Hingham, MA, Trans World Seafood, Inc. of New York, NY, Wallpapers, Inc. of Oakland, CA, Wallpapers To Go, Inc. of Hayward, CA, and York Steak House System, Inc. of Columbus, OH.

MC 61396 (Sub-406), filed September 7, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *commodities in bulk*, between points in Allamakee County, IA, and Marathon and Buffalo Counties, WI, on the one hand, and on the other, Minneapolis, MN.

MC 99017 (Sub-3), filed September 10, 1982. Applicant: HUGHES CARTAGE CO., INC., 6105 W. Howard St., Niles, IL 60648. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting (1) *general commodities*, between points within a 50 mile radius of Chicago, IL, on the one hand, and, on the other, points in IL, and (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI, Boone, Bureau, Cook, De Kalb, Du Page, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, La Salle, Lee, Livingston, McHenry, Marshall, Ogle, Putnam, Stephenson, Will and Winnebago Counties, IL, and Jasper, Lake, La Porte, Newton, Porter, Pulaski, St. Joseph and Starke Counties, IN.

Condition—Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–99017 Sub 2.

MC 108676 (Sub-179), filed September 8, 1982. Applicant: A. J. METLER HAULING & RIGGINS, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: H. E. Miller, Jr., 8006 Madison Pike, Madison, AL 35758, (205) 772–0611. 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 119757 (Sub-1), filed September 10, 1982. Applicant: HOME OIL & GAS CORP. d.b.a. MISSOURI TRANSPORTS, 915 Atchison, St. Joseph, MO 64503. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *petroleum and petroleum products*, between points in MO and KS.

MC 114737 (Sub-9), filed September 8, 1982. Applicant: O & A TEX PACK EXPRESS, INC., 1313 Ave. E, Lubbock, TX 79401. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), (1) Between Clovis and Albuquerque, NM: From Clovis over U.S. Hwy 60 to Encino, then over U.S. Hwy 285 to Clines Corners, then over Interstate Hwy 40 to Albuquerque, and return over the same route; (2) Between Albuquerque and Clovis, NM: From Albuquerque over Interstate Hwy 25 to Santa Fe, then over Interstate Hwy 25 to Santo Domingo, then over U.S. Hwy 285 to Clines Corners, then over Interstate Hwy 40 to Santa Rosa, then over U.S. Hwy 84 to Clovis, and return over the same route; (3) Between El Paso, TX and Albuquerque, NM over Interstate Hwy 25. Service authorized for off-route operation: points in Sierra, Socorro, Bernalillo, Sandoval, Santa Fe, Torrance and Guadalup Counties, NM.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 120717 (Sub-1), filed September 7, 1982. Applicant: HAMMEL'S EXPRESS, INC., 27th & A.V.R.R., Pittsburgh, PA 15222. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE, MD, NJ, NY, PA, and DC.

Condition.—Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 126716 (Sub-18), filed August 17, 1982, previously noticed in the Federal Register issue of September 13, 1982, and republished in this issue. Applicant: WALT'S DRIVE-A-Way SERVICE, INC., 1103 E. Franklin St., Evansville, IN 47711. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting *such commodities* as are dealt in by manufactures of glass and glass products, between points in Vanderburgh county, IN, on the one hand, and, on the other those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 133966 (Sub-63), filed September 7, 1982. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S. (except AK and HI).

MC 139586 (Sub-4), filed September 8, 1982. Applicant: NICKAS TRUCKING, INC., 685 East 9th North, Price, UT 84501. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, (801) 531–0322. Transporting *coal*, between points in UT, ID, NV, AZ, CO, and CA.

MC 142857 (Sub-10), filed September 10, 1982. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L St., NW, Washington, DC 20036, (202) 452–7438. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Adolph Coors Co., of Golden, CO.

MC 143627 (Sub-8), filed September 7, 1982. Applicant: FITZSIMMONS TRUCKING, INC., R.R. 2, P.O. Box 128, County Rd. 4 South, Waseca, MN 56093. Representative: Robert D. Gisvold, 1600 TCT Tower, 121 South 8th St., Minneapolis, MN 55402. Transporting *printed matter*, and *paper and paper products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Time, Inc., of Chicago, IL.

MC 143776 (Sub-61), filed September 9, 1982. Applicant C.D.B. INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Rand McNally and Company, of Skokie, IL.

MC 144237 (Sub-1), filed September 9, 1982. Applicant: EUGENE T. FALBO, d.b.a. MOUNTAIN VIEW TOURWAYS, R. D. #6, Box 401, Latrobe, PA 15650. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, between points in Westmoreland County, PA, on the one hand, and, on the other, points in the U.S.

MC 145797 (Sub-17), filed September 9, 1982. Applicant: NANCY TRANSPORTATION, INC., 111 Hilltown Village Center, Chesterfield, MO 63017. Representative: R. Thomas Grasso (same address as applicant), (314) 532–7035. Transporting *food and related products*, between St. Louis, MO, and points in Denver County, CO; Harris County, TX; Los Angeles County, CA; Madison County, IN; Orleans Parish, LA; and Union County, NJ, on the one hand, and, on the other, points in AR, CA, CO, FL, IL, IN, IA, KS, KY, MO, NJ, OK, TX, WA, and WI.

MC 149267 (Sub-4), filed September 7, 1982. Applicant: SUPER TRUCK LINES, INC., P.O. Box 1585, Hot Springs, AR 71909. Representative: Fredrick S. Wetzel III, P.O. Box 5606, N. Little Rock, AR 72119, (501) 376–3700. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162066, filed September 3, 1982. Applicant: HUMPHREY SERVICES, INC., 206 Western Hills Dr., Madison, AL 35758. Representative: Doris R. Humphrey (same address as applicant), (205) 837–8818. Transporting *chemicals, farm products, machinery and transportation equipment*, between points in the U.S. (except AK and HI).

MC 163656, filed September 9, 1982. Applicant: NEWAY-LOVE DISTRIBUTION, INC., 533 E. Beltline SE., Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *floor covering materials*, between points in GA, SC, NC, PA, TN, AL, MI, IL, IN, WI, and OH.

MC 163737, filed September 10, 1982. Applicant: FAIRFIELD TRUCKING, INC., 421 Tuttle Pky., Westfield, NJ 07090. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106, (212) 757–8025. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Fanny Farmer Candy Shops, Inc. of Bedford, MA.

MC 163746, filed September 7, 1982. Applicant: McELMURRY SERVICE TRANSPORT CORP., P.O. Box 410, 233 Divine Hwy., Portland, MI 48875. Representative: Scott L. McElmurry, P.O. Box 202, 4748 W. Barnes Rd., Mason, MI 48854, (517) 628–3522. 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 Dart Container Corp., of Mason, MI, Leola, PA, Lithonia, GA, N. Aurora, IL, Corona, CA, Waxahachie, TX, Horse Cave, KY and Plant City, FL, and Formed Products, Inc., of Leola, PA and N. Aurora, IL.

MC 163747, filed September 7, 1982. Applicant: BUTLER LEONARD TRUCKING, INC., Box 100, Bison, SD 57620. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, (605) 339–3629. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Adams, Bowman, and Hettinger Counties, ND, and Harding and Perkins Counties, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163756, filed September 8, 1982. Applicant: ENERGY TRANSPORT, INC., P.O. Box 602, Storm Lake, IA 50588. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *alcohol*, between points in Buena Vista and Muscatine Counties, IA, on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IN, KS, MI, MN, MS, MO, NE, OH, OK, SD, VA, and WI, (2) *fertilizer*, between points in IA, MN, NE, and SD, and (3) *petroleum products*, between points in Dickinson, Lyon and Woodbury Counties, IA, on the one hand, and, on the other, points in MN.

Volume No. OP4–340

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

W–536 (Sub-3), filed September 9, 1982. Applicant: RIVERWAY BARGE CO., 7703 Normandale Rd., Suite 110, Minneapolis, MN 55435. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, Va 22312, (703) 750–1112. To operate as a *common carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of *general towage*, between points and ports along (1) the Coosa, Cumberland, Green, Missouri, Red, Black, Ouachita, Tennessee, Alabama, Black Warrior, Tombigbee, White and Yazoo Rivers, and (2) the tributaries of the rivers specified in (1) above.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 107107 (Sub-498), filed September 13, 1982. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant), (305) 688–3571. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between those points in the U.S. in and west of ND, SD, NE, KS, OK and TX, on the one hand, and, on the other, those points in the U.S. and east of ND, SD, NE, KS, OK, and TX, and (2) Between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 42487 (Sub-1063), filed September 13, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. 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 Ingersoll-Rand Company, of Piscataway, NJ and its wholly-owned subsidiaries.

MC 124027 (Sub-20), filed September 9, 1982. Applicant: MIDWEST BULK, INC., 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main St., Madison, WI, 53703, (608) 255–1388. Transporting *coke*, between Toledo, OH and points in WI.

MC 136807 (Sub-8), filed September 1, 1982. Applicant: INTERNATIONAL CARRIERS, INC., 7701 W. Jefferson, Detroit, MI 48209. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MI and NY, on the one hand, and on the other, points in NY, PA, NJ, MA, DE, MD, OH, MI, IN, IL, WI, MN, CT, and MO.

MC 140257 (Sub-4), filed August 26, 1982. Applicant: BENNETT & SONS TRANSPORT, LTD., 47 Bothwell Crescent, Regina, Saskatchewan, Canada S4R 5Y7. Representative: Richard P. Anderson, 2525 S. University Dr., P.O. Box 2581, Fargo, ND 58108, (701) 235–3300. Transporting (1) *metal and metal products*, and (2) *chemicals and related products*, between ports of entry on the International Boundary line between the U.S. and Canada at points in ND and MT, on the one hand, and, on the other, points in CO, ID, KS, MT, NE, ND, OK, SD, TX, UT, and WY.

MC 142626 (Sub-2), filed September 13, 1982. Applicant: BINGHAM LEASING CORPORATION, Hwy 45 North, Box 466, Booneville, MS 38829. Representative: John Davidson, 111 Hwy 72 West, Box 1456, Cornith, MS 38834, (601) 287–5452. Transporting *elevators, conveyors and iron and steel articles*, between points in Lee County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144956 (Sub-10), filed August 30, 1982. Applicant: TRANS-MUTUAL TRUCK LINES LTD., 4427A—72nd Ave. SE, Calgary, Alberta, Canada T2C 2C1. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402, (612) 339–4546. Transporting *lumber and wood products*, between points in WA and OR, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, at points in WA, ID and MT.

MC 146886 (Sub-8), filed September 13, 1982. Applicant: CONLAN TRUCK LINES, INC., P.O. Box 710, Milwaukee, WI 53201–0710. Representative: Richard A. Westley, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, SD, WI and WY.

MC 148647 (Sub-33), filed September 10, 1982. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N LaSalle St., Rm 3520, Chicago, IL 60601, (312) 332–5106. 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 Nabisco Brands, Inc. of New York, NY.

MC 148647 (Sub-34), filed September 10, 1982. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N LaSalle St., Rm 3520, Chicago, IL 60601, (312) 332–5106. 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 PVO International, Inc. of St. Louis, MO.

MC 148857 (Sub-5), filed September 10, 1982. Applicant: CHILD TRUCK LINE, INC., P.O. Box 995, Chowchilla, CA 93610. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting *general commodities*, (except classes A and B explosives, and household goods), between points in the U.S., (except AK and HI).

MC 149147 (Sub-2), filed September 13, 1982. Applicant: DECKERT TRANSPORT, INC., 12223 E. 4th Place, Tulsa, OK 74128. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 E. 4th St., Tulsa, OK 74103, (918) 583–9000. Transporting *foodstuffs*, (1) between points in AZ, CA, CO, FL, ID, LA, MT, NM, OR, TX, UT, WA, and WY, on the one hand, and, on the other, points in OK, and (2) between points in Seward County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159646 (Sub-1), filed September 13, 1982. Applicant: ENERGY TRUCKING, INC., 4100 S. 500 W., Salt Lake City, UT 84105. Representative: Franklin L. Slaugh, 8522 S. 1300 E.-Ste. D–203, Sandy, UT 84070, (801) 566–4675. Transporting (1) *transportation equipment*, between points in UT, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, ID, IL, KS, MO, MT, NE, ND, NM, NV, OK, OR, SD, TX, WA, and WY, (2) *rubber and plastic products*, between points in CA, CO, OR, and UT, on the one hand, and, on the other, points in AZ, NM, NV, ID, WA, and WY, (3) *ores, minerals and mill products*, between points in AZ, CO, NM, NV, and UT, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, TX, and LA, and (4) *metal and metal products, machinery, and building materials*, between CA, CO, ID, MT, OK, TX, WA, and WY.

MC 161976, filed September 13, 1982. Applicant: LORA L. DALLUM, d.b.a. DALLUM TRUCKING, 1020 W 100th Place, Northglenn, CO 80221. Representative: Lora L. Dallum (same address as applicant), (303) 452–2055. Transporting *building materials and metal products*, between points in CO, on the one hand, and, on the other, points in AZ, CA, NM, NV, UT, and WY, under continuing contract(s) with Dry Wall Supply, Inc., of Denver, CO, and Pioneer Steel & Tube Dist., Inc. of Henderson, CO.

MC 163817, filed September 13, 1982. Applicant: JERRY D. GRISSOM, d.b.a. D&D FREIGHT COMPANY, 914 Waverly Ave., Muscle Shoals, AL 35660. Representative: Jerry D. Grissom (same address as applicant), (205) 381–5850. Transporting *magnesium oxide and related products*, between points in AL, AR, CT, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, SC, and TN.

MC 163826, filed September 13, 1982. Applicant: MAHONING ENERGY CO., 10900 South Ave., North Lima, OH 44452. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221, (614) 486–0448. Transporting *bulk commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with East Fairfield Coal Co., of North Lima, OH.

MC 163827, filed September 13, 1982. Applicant: BEST-WAY CARRIERS, INC., 476 Hartford Pike, Shrewsbury, MA 01545. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, OH, IN, IL, MI, VA, WV, and DC, and (2) between points named in (1) above, on the one hand, and, on the other, points in GA, NC, SC, FL, WI, MO, MN, TX, CA, and OR.

MC 163837, filed September 13, 1982. Applicant: AMERICAN TRAILS STAGE LINE & TOUR CO., INC., 1006 East Orangefair Lane, Anaheim, CA 92801. Representative: William N. McCormick, P.O. Box 1844, Orange, CA 92668–0844, (714) 738–5485. Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Los Angeles, Orange, and San Diego Counties, CA, and extending to points in the U.S. (AK and HI).

MC 163846, filed September 13, 1982. Applicant: MALO, INC., d.b.a. CHARTER BUS SERVICE, 1630 Westwood Ave., Cincinnati, OH 45214. Representative: Norman A. Murdock, 4037 Glenway Ave., Cincinnati, OH 45205, (513) 251–1247. Transporting *passengers and their baggage*, in charter operations, between points in OH, KY, IN, WV, PA, TN, and MI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26686 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–204

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 163620 (Sub-II–1TA), filed September 13, 1982. Applicant: HARRY T. BROOKS, SR., Rt. 1, Box 166–J, Cascade, VA 24069. Representative: David W. Erdman, P.O.B. 37378, Charlotte, NC 28237. Contract, irregular: *furniture, furniture parts and items related to the manufacturing of furniture* between points in NC, VA, MD, WV, OH, PA, IN, IL, NH, MA, CT, ME, VT, RI, NJ, NY, DE, MI, SC, GA, FL, KY and TN under continuing contract(s) with La-Z-Boy Chair Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): La-Z-Boy Chair Co., 901 N. Douglas St., Florence, SC 29501.

MC 163815 (Sub-II–1TA), filed September 13, 1982. Applicant: HERCULES TRUCKING, INC., 1300 Morrical Blvd., Findlay, OH 45840. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: Rubber and related products, and materials, equipment and supplies used in the production thereof,* between Findlay, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX under contract with Hercules Tire & Rubber Company for 270 days. Supporting shipper: Hercules Tire & Rubber Company, 1300 Morrical Blvd., Findlay, OH 45840.

MC 161246 (Sub-II–2TA), filed September 15, 1982. Applicant: KENTON CRATE & PALLET COMPANY, INC., 18 Betty St., Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Building materials, and materials and supplies used in the manufacture and distribution of building materials,* between points in DE, MD, VA, PA and NJ, under continuing contract(s) with Master Lumber & Supply, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Master Lumber & Supply, Inc., P.O. B. 205, Milford, DE 19963.

MC 107012 (Sub-II–237–TA), filed September 13, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler, (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S., under continuing contract(s) with Diasonics, Inc., of Milpitas, CA for 270 days. Supporting shipper: Diasonics, Inc., 1545 Barber Lane, Milpitas, CA 95035.

MC 109448 (Sub-II–23–TA), filed September 13, 1982. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Plastic products,* except in bulk, from points in Licking County, OH to points in MI, IL, IN, KY, WV, PA, and NY for 270 days. Supporting shipper: Sewell Plastics, Inc., Route #79, Hebron, OH 43055.

MC 163814 (Sub-II–1TA), filed September 13, 1982. Applicant: PITT EXPRESS SYSTEM, INC., 115 McLaughlin Run Rd. P.O.B. 12372, Pittsburgh, PA 15231. Representative: John D. Gamble, III, (same address as applicant). *General commodities (except classes A & B explosives, household goods as defined by the Commission and commodities in bulk)* between points in DE, DC, MD, NJ, OH, PA, NY and WV, for 270 days. Supporting shipper(s): Gullick Dobson Inc., 603 Parkway View Dr, Pittsburgh, PA Chem Central, P.O.B. 15597, Pittsburgh, PA American Hospital Supply, 171 Thornhill Dr, Warrendale, PA Bearings & Transmission Inc., 930 Glenwood Ave., Ambridge, PA.

MC 163645 (Sub-II–TA), filed September 13, 1982. Applicant: PLASTIPAK PACKAGING, INC., 18015 St. Rt. 65, Jackson Center, OH 45334. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *General commodities,* except classes A & B explosives, household goods and bulk commodities, between points in the U.S., except AK and HI for 270 days. Restricted to movements originating at or destined to facilities used by Beatrice Foods Co. and its divisions and subsidiaries. An underlying eta seeks 120 days authority. Supporting shipper: Beatrice Foods Co., Two N. LaSalle St., Chicago, IL 60602.

MC 153918 (Sub-II–TA), filed September 13, 1982. Applicant: TRANSPORTATION & CONSOLIDATION CENTERS, INC., P.O. Box 1524, Harrisburg, PA 17105. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular; *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in CA, CT, DE, DC, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, OH, PA, RI, VA, VT, WV and WI, under continuing contract with TCC Inc., Middletown, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): TCC INC., Harrisburg International Airport, Bldg. 33, Middletown, PA 17057.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26685 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. F387 (Sub-279)]

Union Pacific Railroad Co., Exemption for Contract Tariff ICC-UP-C-0104 (Sugar Beets)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the

notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 23, 1982.

By the Commission, Review Board number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26687 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-278)]

Consolidated Rail Corp., Exemption for Contract Tariff ICC–CR–C–0170 (Sheet Steel and Pipe)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 23, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26688 Filed 9–28–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–117]

Certain Automotive Visors; Termination of Two Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondents Toyota Motor Sales Co., Ltd. of Japan and Toyota Motor Sales, U.S.A., Inc., 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. A **Federal Register** notice was published on July 21, 1982, seeking comments from interested members of the public and other government agencies on the proposed termination of these respondents (47 FR 31631). No comments were received. On September 21, 1982, the Commission granted the joint motion and terminated the investigation as to respondents TMS and TMS–USA on the basis of the settlement agreement.

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.

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: September 22, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26832 Filed 9–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–130]

Certain Braiding Machines; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and its amendments were filed with the U.S. International Trade Commission on August 18, 1982, and September 10 and September 13, 1982, respectively, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of New England Butt Co., Division of Wanskuck Co., 304 Pearl St., Providence, Rhode Island 02907. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain braiding machines into the United States, or in their sale, by reason of alleged common-

law trademark infringement, false designation of origin, and passing off. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct expedited temporary relief proceedings, issue temporary exclusion and cease and desist orders, and, after a full investigation, issue permanent exclusion and cease and desist orders.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 24, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain braiding machines into the United States, or in their sale, by reason of alleged common-law-trademark infringement, false designation of origin, and passing off, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

New England Butt Co., Division of Wanskuck Co., 304 Pearl St., Providence, Rhode Island 02907

(b) The respondents are the following company and individual, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Kokubun Inc., Nakajimacho, Hamamatsu, Japan

Mr. George Sabula, Box 163–A, McEntire Road, Route 1, Tryon, North Carolina 28782

(c) Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. The Commission notes that complainant has requested that the administrative law judge schedule a hearing to be completed within a short period after institution of the investigation and issue an initial determination as to whether there is a reason to believe there is a violation of section 337 within thirty (30) days after the close of the hearing on temporary relief. In light of this request and the allegagtions contained in the complaint, the Commission requests that the presiding officer give expeditious consideration to the request for temporary relief. Pursuant to § 210.30(c) of the Commission's rules, discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses conforming to the requirements of § 210.21(b) of the Commission's rules (19 CFR 210.21(b)) must be submitted by each named respondent. Such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein or appended thereto, is 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., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

FOR FURTHER INFORMATION CONTACT: Patricia Ray, Esq., Unfair Import Investigations Division, Room 126, U.S. International Trade Commission, telephone 202–523–1088.

Issued: September 24, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26833 Filed 9–28–82: 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–113]

Certain Log Splitting Pivoted Lever Axes; Proposed Termination of Investigation Based on Settlement Agreement and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the proposed termination of the above-captioned investigation based on a settlement agreement.

SUMMARY: Notice is hereby given that joint motions have been filed to terminate the above-captioned investigation with respect to all respondents on the basis of a settlement agreement executed by the complainant, Chopper Industries, Inc. (Chopper), and respondent Alltrade, Inc. (Alltrade). Before taking final action on the motions, the Commission requests that interested members of the public submit written comments on the proposed termination of the investigation based on the settlement agreement.

DATES: In order to be considered, comments must be received within 30 days of publication of this notice in the **Federal Register**. Comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Sheila Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

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 log splitting pivoted lever axes. Notice of the institution of the investigation was published in the **Federal Register** of January 6, 1982 (47 FR 3688).

On July 28, 1982, the complainant, respondent Alltrade, and the Commission investigative attorney filed a joint motion (Motion 113–31) to terminate the investigation with respect to respondent Alltrade pursuant to § 210.51(c) of the Commission's Rules of Practice and Procedure on the basis of a settlement agreement executed by the complainant and respondent Alltrade. The complainant, respondent Alltrade, and the Commission investigative attorney also filed a joint motion

(Motion 113–32) pursuant to § 210.51(a) to terminate the investigation with respect to the two other respondents in the investigation, Taiwan Tool Corp., a/k/a Taiwan Tool Co. (Taiwan Tool) and Formosa Forges Corp. (Formosa).

On August 6, 1982, the presiding officer recommended that both Motion 113–31 and Motion 113–32 be granted.

The settlement agreement

The settlement agreement between complainant Chopper and respondent Alltrade concerns both this proceeding and concurrent Federal district court litigation in California. The settlement agreement provides as a basis for termination that Chopper and Alltrade release each other and their respective suppliers, customers or transferees from any and all claims relating to the "manufacture, use or sale" of their existing axes, including all claims arising out of this investigation and the district court litigation. Specifically, Chopper agrees not to sue Alltrade, its suppliers, or customers for patent infringement by reason of the manufacture, use or sale of log splitting devices having "lever members with pivot points disposed on the centerline of the device" (Par. 6.1). Alltrade similarly agrees not to sue Cjopper, its suppliers, or customers for patent infringement by reason of the manufacture, use, or sale of log-splitting devices having "lever members with pivot points which are laterally offset from the centerline of the device." (Par. 6.2).

Each party further agrees not to "manufacture, ship into, or sell in the United States or Canada" axes "identical to or substantially similar" to those of each other that are currently marketed. Chopper and Alltrade also agree to cease and desist from "comparative advertising" with respect to the alleged safety and/or quality of each other's products and to destroy all such existing comparative advertising materials. In the case of any claim or controversy arising from this agreement, the parties provide that such differences shall be settled in accordance with the commercial arbitration rules of the American Arbitration Association.

The complete text of the settlement agreement is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Issued: September 22, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26829 Filed 9–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–99]

Certain Molded-In Sandwich Panel Inserts and Methods for Their Installation; Issuance of Exclusion Order and Cease and Desist Order

AGENCY: International Trade Commission.

ACTION: Issuance of exclusion order and cease and desist order.

SUPPLEMENTARY INFORMATION: On September 8, 1982, the Commission modified its original remedy determination in the above-captioned investigation. The Commission modified its original action to provide for (1) a general exclusion order prohibiting the importation of infringing inserts for the remaining life of U.S. Letters Patent 3,282,015; and (2) a cease and desist order directed to The Young Engineers, Inc., prohibiting it from selling imported inserts acquired subsequent to institution of the investigation where such sales would contribute to or induce the infringement of U.S. Letters Patent Nos. 3,271,498 and/or 3,392,225. On September 16, 1982, the Commission ordered the above relief.

Notice of consideration of this modification was published in the **Federal Register** on August 9, 1982 (47 FR 34473).

The Commission Action and Order, the Commission Opinion in support thereof, and all other nonconfidential documents on the record of the investigation are available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: September 17, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26834 Filed 9–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–87 (Final)]

Certain Seamless Steel Pipes and Tubes From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping duty investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–87 (Final) to determine, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), 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 from Japan of seamless heat-resisting steel pipes and tubes,[1] provided for in items 610.5209, 610.5229, and 610.5234 of the Tariff Schedules of the United States Annotated (TSUSA), and seamless stainless steel pipes and tubes,[1] provided for in TSUSA items 610.5205, 610.5229, and 610.5230, which are allegedly sold, or are likely to be sold, at less than fair value.

EFFECTIVE DATE: August 25, 1982.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, Office of Investigations U.S. International Trade Commission; telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

Background.—On January 20, 1982, a petition was filed with the Commission and the U.S. Department of Commerce by counsel for Babcock & Wilcox Co. alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from Japan of seamless heat-resisting steel pipes and tubes and seamless stainless steel pipes and tubes, which are allegedly sold at less than fair value. On March 2, 1982, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of such merchandise. On August 25, 1982, Commerce issued a preliminary determination that such merchandise is being sold, or is likely to be sold at less than fair value. Accordingly, the Commission is instituting a final antidumping investigation. The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and

[1] Excluding oil and gas well casing and tubing, oil and gas field drill pipes, and oil and gas line pipes which are manufactured according to API standards.

Procedure (19 CFR Part 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

Written submissions. —Any person may submit to the Commission on or before November 10, 1982, a written statement of information pertinent to the subject matter of the investigation. A signed original and fourteen copies of such statements must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data". All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

A staff report containing preliminary findings of facts will be made available to all interested parties on October 19, 1982.

Service of documents.—The Secretary will compile a service list from the record of the preliminary investigation and the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 13791 (April 1, 1982)), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirement set forth in § 201.16(b) of the rules (19 CFR 201.16(b)) as amended by 47 FR 6190 (Feb. 10, 1982).

In addition to the foregoing, each document filed with the Commission in the course of the 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.

Public hearing. The Commission will hold a public hearing in connection with this Investigation on November 3, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m. 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 October 18, 1982. Persons desiring to appear at the hearing and make oral presentations may file a prehearing brief and should attend a prehearing conference to be held at 10 a.m., on October 20, in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before October 29, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23), as amended by 47 FR 6191 (Feb. 10, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with rule 207.22 (19 CFR 207.22) as amended by 47 FR 6191 (Feb. 10, 1982). Posthearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207 (1981)), as amended by 47 FR 6190 (Feb. 10, 1982, and part 201, subparts A through E (19 CFR Part 201 (1981)), as amended by 47 FR 6188 (Feb. 10, 1982) and 47 FR 13791 (April 1, (1982).

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12 (1981)).

Issued: September 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26828 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-131]

Certain Variable Character Display Devices; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice if hereby given that a complaint was filed with the U.S. International Trade Commission on August 26, 1982, and amended on September 10, 1982, under section 337 of the Tariff Act of 1980 (19 U.S.C. 1337), on behalf of the Staver Company, Inc., 41–51 N. Saxon Avenue, Bay Shore, New York 11706. The complaint alleges unfair methods of competition and unfair acts in the importation of certain variable character display devices ("display devices") into the United States, or in their sale, by reason of alleged infringement by said display devices of the claims of U.S. Letters Patent 4,117,478 and the claim of U.S. Patent Des. 249,985. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue an exclusion order, prohibiting importation of the above-mentioned articles into the United States for the life of each patent in issue, or a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 21, 1982, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain variable character display devices into the United States, or in their sale, by reason of the alleged infringement by said display devices of the claims of U.S. Letters Patent 4,117,478 and the claim of U.S. Patent Des. 249,985, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

The Staver Company, Inc., 41–51 N. Saxon Avenue, Bay Shore, New York 11706

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to reserved:

Ferranti-Packard Ltd., c/o Ferranti Transformer Division, Martin & Middle Road, P.O. Box 372, Dunkirk, New York 14048
Ferranti-Packard, Ltd., 600 Ambler Drive, Mississauga, Ontario L4W 2P1 Canada
Identicon, 1 Kenwood Circle, Franklin, Massachusetts 02038

(c) Jeffrey Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 132, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is 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., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Unfair Import Investigations Division, Room 132, U.S. International Trade Commission, telephone 202–523–0115.

Issued: September 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26836 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-131]

Certain Variable Character Display Devices; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: September 22, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-26831 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-101 (Preliminary)]

Greige Polyester/Cotton Printcloth From The People's Republic of China

Determination

On the basis of the record [1] developed in investigation No. 731-TA-101 (Preliminary), the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of greige polyester/cotton printcloth as provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States, with statistical suffixes 32 and 92 from the People's Republic of China (China) which are allegedly being sold at less than fair value (LTFV).

Background

On August 5, 1982, the American Textile Manufacturers Institute and eight member companies filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured and is threatened with material injury be reason of imports of greige polyester/cotton printcloth as provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States, with statistical suffixes 32 and 92 from China which are allegedly being sold at LTFV. Accordingly, effective August 5, 1982, the Commission instituted a preliminary investigation under section 733(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's investigation and of a 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 August 13, 1982 (47 FR 35365). The conference was held in Washington, D.C. on August 27, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Introduction

After considering the record in this investigation, we determine, pursuant to section 731 of the Tariff Act of 1930, that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of greige polyester/cotton printcloth of chief value cotton from the People's Republic of China which are allegedly being sold at less than fair value.[2]

Standards for Determination

In making a determination as to whether there is material injury, the Commission is required to consider, in addition to other factors it considers relevant: (1) The volume of imports; (2) the effect of imports on domestic prices for like products; and (3) the impact of imports on the domestic industry.[3]

The "threat of material injury" standard "is intended to permit import relief under the countervailing duty and antidumping laws before actual injury occurs." [4] In determining whether an industry in the United States is threatened with material injury, the Commission is required to consider "any economic factors it considers relevant" [5]

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumpting and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination which reasonably indicates that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st Sess. 52 (1979).

[3] 19 U.S.C. 1677(7)(B).

[4] S. Rep. No. 249, 96th Cong., 1 st Sess. 89 (1979); H. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[5] S. Rep. No. 249, *supra* n. 2, at 88.

in light of the conditions of trade and competition and the nature of the particular industry in each case.[6] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[7]

In previous investigations the Commission has considered, among other factors: (1) The rate of increases of subsidized or dumped imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[8]

The Domestic Industry

The industry in an antidumping investigation is defined as the domestic producers of the product which is like that being imported. Specifically, the statute provides:

> The term "industry" means the domestic producers as a whole of a like proudct or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[9]

"Like product," in turn, is defined 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 under this title.[10]

The imported article which is subject to this investigation is greige [11] (unbleached and uncolored) printcloth fabric other than 80 x 80 type in chief value of cotton, containing polyester (hereinafter "printcloth"), and provided for in items 326.26 through 326.40 of the TSUS, with statistical suffixes 32 and 92.[12]

Printcloth is a staple "bread and butter" textile fabric that has a wide variety of applications in the manufacture of apparel, including pocketing and lining materials, and household uses such as curtains, bedspreads, and quilts.[13] Both the imports under investigation and domestic printcloth are sold in the same constructions and widths.

Printcloth is to a large extent a fungible item. However, the quality of printcloth fabric can vary depending upon the quality of the raw materials used, the blending of the raw materials, the alignment of the fibers in the yarn, and the number of flaws in the fabric created during the weaving process. The petitioners maintain that the imported product from China is of good, if not excellent, quality and that it is used interchangeably with the domestic product.[14] The respondents maintain that printcloth from China is of lesser quality than domestically-made goods for some applications.[15] However, all but one of the purchaser responses on this issue confirmed that the quality of polyester/cotton printcloth from China was as good, if not better, than much domestically-produced cloth.[16] We conclude that the domestic product "like" the imports of printcloth under investigation is printcloth made of a blend of polyester and cotton containing 50 percent or more of cotton.[17] Therefore, the "industry" consists of the domestic producers of this product.[18]

Condition of the Domestic Industry

Although the overall condition of the domestic industry appears to be relatively favorable at this time, there are indications that it is weakening, and that it will continue to do so.

Apparent domestic consumption of the printcloth under investigation increased steadily by 7 percent between 1979 and 1980, and by 20 percent between 1980 and 1981.[19] Despite this trend, U.S. production increased by only 4 percent between 1979 and 1980,[20] and then declined by 5 percent between 1980 and 1981.[21] Thus the domestic industry's share of the domestic market decreased from 95 percent in 1979 to 93 percent in 1980 and to 74 percent in 1981.[22] Apparent domestic consumption decreased by 7 percent in January–July 1982 compared with the corresponding period of 1981.[23] Domestic production continued its decline by 4 percent during this period compared with the corresponding period of 1981.[24]

U.S. producers' domestic shipments followed the same general trend as production, increasing from 1979 to 1980 by 4 percent, then declining by 1 percent in 1981, with a continued decline of 1.8 percent in January–July of 1982 compared with January–July of 1981.[25] The capacity utilization rate increased from 62.2 percent in 1979 to 67.5 percent in 1980, dropped back to 64.4 percent in 1981, and increased to 68.0 percent in January–July 1982 compared with 65.5 percent in the corresponding period of 1981.[26]

U.S. producers' end-of-period inventories have increased from 17 million square yards in 1979 to 21 million square yards in 1981,[27] and to 32 million square yards as of the end of July 1982, almost double the levels at the end of July 1981.[28] The number of production and related workers has declined steadily by 22 percent from 1979 to 1981, then increased slightly by 4 percent in January–June 1982 compared with the corresponding period of 1981.[29] More significantly, the number of hours worked declined steadily throughouth the period by 13 percent from 1979 to 1981, and by 17 percent in January–June 1982 compared with the corresponding period in 1981.[30]

Profit-and-loss information submitted to the Commission shows a relatively profitable industry through 1981. The ratio of net sales to operating income declined from 9.7 percent in 1979 to 6.6 percent in 1980 then increased to 10.9 percent in 1981.[31] However, in January–June 1982, the ratio of net sales to

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[6] *Id.* at 89.

[7] S. Rep. No. 96–249, 96th Cong., 1st Sess. 88–89 (1979); S. Rep. No. 1298, 93rd Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[8] 19 CFR 207.26(d).

[9] Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1771(4)).

[10] Section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1771(10).

[11] "Greige" is pronounced "gray". It is derived from the French word "beige," which means natural. Therefore, it refers to cloth that has not been subject to further processing, such as printing, dyeing, or bleaching.

[12] For the full definition of printcloth as provided in the TSUS, see Report at A–2. For purposes of this investigation, domestic polyester/cotton printcloth that contains 50 percent or more of cotton is considered to be the equivalent to polyester/cotton printcloth "of chief value cotton." Report at A–6.

[13] Transcript of Conference (Tr.) at 112 (Mr. Goodwin, Huafang Trading Co.) and 38 (Mr. Greenwald).

[14] Tr. at 66 (Mr. Eisen).

[15] Mr. Goodwin, President of Huafang, testified at the conference that imports of polyester/cotton printcloth from China are not broadly regarded as acceptable for dyeing or bleaching. Tr. at 115. However, these applications constitute a relatively small portion of the market for this product.

[16] Report at A–30,A–31 (Purchasers 1, 3, 4 and 5) *Cf.* Purchaser 8.

[17] *See* n. 11 *supra.*

[18] The names of the individual producers of this product are found in the Report at A–7.

[19] Report at A–22 (Table 11).

[20] *Id.*

[21] *Id.*

[22] Overall domestic capacity utilization in 1980 was 67.5 percent and in 1981 was 64.4 percent. Report at A–10 (Table 2). Thus, it appears that imports gained market share in 1980 and 1981 at the expense of the domestic industry, and not because the domestic industry lacked the capacity to meet demand.

[23] Report at A–22.

[24] *Id.* at A–9 (Table 1).

[25] *Id.* at A–12 (Table 3).

[26] Report at A–10 (Table 2). The capacity utilization rate for January–July 1982 increased because capacity dropped at a faster rate than production. *Id.* and *Id.* at A–9 (Table 1). These rates as developed in this preliminary investigation are well below the 80–85 percent rate which the domestic industry asserts is its breakeven rate. Tr. at 70.

[27] *Id.* at A–14 (Table 5).

[28] *Id.*

[29] *Id.* at A–14 (Table 6).

[30] *Id.*

[31] *Id.* at A–16 (Table 8).

operating income dropped to its 1980 level of 6.6 percent.[32]

The current financial experience of domestic producers in large part reflects shipments under long-term contracts entered into during 1981 at prices significantly higher than current market prices. Since 1981, it appears that orders have decreased substantially, and that the impact of this decrease has not yet manifested itself.[33] Information provided by the domestic producers indicates that unfilled orders for January–March 1982 and for April–June 1982 are lower than for any other two succeeding quarters since 1979. In addition, the weighted average price of domestically produced printcloth has fallen steadily from a high of 58.5 cents per linear yard in January–March 1981 to 46.5 cents per linear yard in April–June 1982, the lowest price for the entire period under investigation.[34] On the basis of indications of decreasing orders, coupled with increasing inventory and falling prices, it appears that the domestic industry will soon manifest more substantial indications of material injury than are presently apparent.

Threat of Material Injury by Reason of Alleged LTFV Imports

Volume of Imports

Imports of printcloth from China have increased substantially during the period under investigation, both in absolute and relative terms. Imports of printcloth from China increased from 228,000 square yards in 1979 to 11 million square yards in 1980, an increase of 48 times the 1979 level.[35] In 1981, imports from China again increased to 57 million square yards.[36] In January–July 1982, imports from China continued to increase to 38 million square yards compared with 33 million square yards in the corresponding period of 1981.[37] The ratio of imports from China to apparent domestic consumption increased from less than 0.5 percent in 1979 to almost 11 percent in 1981, and continued to make inroads into the U.S. market in January–July 1982, rising to 13.6 percent, compared with 10.8 percent in January–July 1981.[38]

Effect of Imports on Domestic Prices

Domestic printcloth is sold both by long-term contract and by spot sales, although long-term contracts are preferred by most producers. Importers sell both by long-term contract and by spot sales as well. Prices for both long-term contracts and spot sales are negotiated on a transaction-by-transaction basis. Pricing in the printcloth market is very competitive, and a difference of less than one cent per linear yard can result in a lost sale.[39]

Booking price information[40] on 48" 78 x 54 50/50 printcloth indicates that from July of 1980[41] through June of 1981 printcloth from China was underselling the domestic product by margins ranging from 1.6 percent to 11.5 percent.[42] In the last two quarters of 1981, the price of the printcloth from China was priced slightly higher than the domestic product.[43] In January–June 1982, underselling of the domestic printcloth by the imported product is again in evidence with margins of 5.4 and 1.7 in the first and second quarters respectively.[44]

Booking price information on 51" 73 x 52 50/50 printcloth indicates a similar pattern of underselling, although the margins of underselling are higher, particularly in the fourth quarter of 1980, which is the first quarter for which importers reported prices.[45] This underselling continued at a rate of 16.4 percent in the fourth quarter of 1980 to 4.3 percent in the third quarter of 1981.[46] In October–December 1981 and January–March 1982, the imported product was overselling the imported product.[47] In April–June of 1982, the most recent quarter for which we have pricing information a margin of underselling of 6.4 percent is again in evidence.[48]

Given the ratio of imports from China to apparent domestic consumption, we have determined that this underselling was clearly a factor in the steady decline in the domestic producers' weighted average prices from the second quarter of 1981 to the present. The information available at the present time indicates that the volume of imports from China entering the market at prices substantially lower than the domestic product contributed to the decline in domestic producers' prices. The impact of such underselling appears particularly pronounced in January–June of 1982, when consumption was declining.

In addition, we have confirmed that the lower price of the imported printcloth resulted in lost sales accounting for 1.8 million square yards.[49] In addition, purchasers have indicated that they have been offered or have purchased greige, polyester/cotton printcloth from China at prices below those of the domestic producers.[50] Thus, there is a reasonable indication that the printcloth from China has been underselling the domestic product, resulting in price suppression, price depression and lost sales.

Furthermore, importers responding to questionnaires have reported a substantial build-up of inventories. Inventories at the end of June 1982 increased eight times over those at the end of June 1981, totaling between 5 and 10 million square yards, and equaling a significant percent of the imports for January–July 1982.[51] Moreover, substantial shipments which have already been contracted for and which are scheduled for delivery later in this year have not yet entered into the United States.[52]

Information on the Chinese printcloth industry and its ability to increase exports to the United States or other markets is limited. However, China, as part of its current overall economic development plan, is emphasizing the development of export-oriented light industry as a means of earning foreign ecchange, and has taken a number of actions to promote the expansion of exports.[53] Textile products are expected to be one of the key product areas in China's efforts to achieve growth in exports.[54] In addition, the United States is a major market for textile exports from China.[55] Furthermore, recent import

[32] *Id.* Although producers generally have reported favorable profit and loss experiencies, at least one producer has reported operating losses and net losses for January–June 1982. Tr. at 58; Report at A–22 and A–25.

[33] Report at A–25; Petition appendix 11; Tr. at 51, 58 and 59.

[34] This price information refers to the prices for 48" 73 x 52 printcloth. The prices for 51" 73 x 52 printcloth followed a similar trend. See Report at A–28 (Table 14) and A–29 (Table 15).

[35] *Id.* at A–21 (Table 10).

[36] *Id.* Commissioner Frank notes that, while imports from all sources other than China declined by 40 percent during this period compared to the corresponding period of 1981, imports from China increased by 3 percent. *Id.* at A–21 (Table 10).

[37] *Id.*

[38] *Id.* at A–22 (Table 11).

[39] Report at A–23.

[40] Booking prices more accurately reflect price competition in this industry than shipping prices. For a full discussion, see Report at A–24—A–25.

[41] The earliest price information on imports reported to the Commission began as of this date.

[42] *Id.* at A–26 (Table 12).

[43] *Id.*

[44] *Id.*

[45] *Id.* at A–28 (Table 14).

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.* at A–31. As previously noted, there are indications that unfilled orders for the first two quarters of 1982 are lower than in any other two succeeding quarters since 1979. *See* n. 32 *supra.*

[50] *Id.*

[51] Report at A–19. The actual figures are confidential information.

[52] Based on confidential information submitted by respondents.

[53] *Id.*

[54] *See Emerging Textile-Exporting Countries,* Report on Inv. 332–126 (USITC Pub. 1273) (August 1982) A–70.

[55] *Id.* A–67. Commissioners Frank and Haggart note that the EC, another of China's major export

volumes demonstrate the ability of China to direct large volumes of its printcloth to the U.S. market in a short period of time.[56]

Therefore, we conclude that there is a reasonable indication that imports of greige polyester/cotton printcloth from China threaten the domestic industry with material injury and that the likelihood of harm to the industry is real and imminent.

Issued: September 2, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26835 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

markets, has a bilateral agreement with China restricting the imports of broadwoven fabrics, including the print cloth under investigation, to a growth rate of less than 1 percent annually for the period 1980-83. *See 22. O.J. Eur. Comm. (No. L 345) 28 (1979).*

[56] In 1980, the United States and People's Republic of China signed a bilateral textile agreement that did not establish specific limits on the imports under investigation, but provided for consultations in the case of market disruption. *See* Agreements Relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products Between the Government of the United States of America and the government of the People's Republic of China, Sept. 17, 1980, T.I.A.S. No. 9820.

On October 19, 1981, the United States called for consultations regarding imports of printcloth. On July 26, 1982, the United States and the PRC agreed to amend the bilateral agreement to impose alimit of 167 million square yards on imports of both all cotton and polyester/cotton printcloth which are exported from China to the United States between January 19, 1982, and December 31, 1982. *See* The United States and the People's Republic of China Amend Bilateral Textile Ageeement (U.S. Department of State Press Release, July 26, 1982). The quota ceiling for 1982 is close to the amount of printcloth imported during 1981. At the same time, consumption has decreased in 1982 compared to 1981 levels. In addition, the quota ceiling includes imports other than those under investigation. Therefore, it does not appear at this time that the quota will necessarily limit increases in the total numbers of future imports of the product under investigation.

Chairman Eckes and Commissioners Frank and Haggart refer generally to their views regarding the relationship between quotas and dterminations in title VII cases. See Views of Commissioners Eckes, Frank and Haggart in Sugar from the European Community, Inv. No. 104-TAA-7 (USITC Pub. 1247) (May 1982).

Commissioner Stern distinguishes the present case from that of *sugar from the European Community*. In the latter an International Sugar Agreement (ISA) quota was in effect for the product before the Commission, and at issue was how to treat that quota when analyzing threat. In the present case, the arrangement between the PRC and the United States provides for a combined quantitative limit on all printcloth, rather than on the specific imports subject to this investigation. It leaves China free to alter the distribution of the overall quota between all-cotton and polyester/cotton printcloth. Only polyester/cotton printcloth of chief value cotton is the subject of this investigation. Therefore, the quota does not in this case eliminate imports of polyester/cotton of chief value cotton as a potential source of injury to the U.S. industry. Other factors discussed above indicate that China is likely to increase its presence in the U.S. market for polyester/cotton printcloth of chief value cotton.

Report to the President on Investigation No. TA-201-46; Tubeless-Tire Valves

September 20, 1982.

Determination

On the basis of the information developed in the course of investigation No. TA-201-46, the Commission [1] determined that tubeless-tire valves provided for in items 692.32 and 692.33 of the Tariff Schedules of the United States (TSUS), are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Background

The Commission instituted the present investigation, No. TA-201-46, on April 29, 1982, following the receipt, on April 16, 1982, of a petition for import relief filed by three U.S. manufacturers of tubeless-tire valves. The investigation was instituted pursuant to section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)) in order to determine whether tubeless-tire valves provided for in items 692.32 and 692.33 of the TSUS are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Notice of the institution of the Commission's investigation and of a public hearing 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** of May 5, 1982 (47 FR 19492).

A public hearing in this investigation was held in the hearing room of the U.S. International Trade Commission Building in Washington, D.C., on Wednesday, July 14, 1982. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard.[2]

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, and from other Federal agencies, responses to Commission questionnaires, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

Views of Chairman Alfred Eckes, Commissioners Paula Stern and Veronica Haggart

On the basis of the information obtained in this investigation, we have determined that tubeless tire valves provided for in items 692.32 and 692.33 of the Tariff Schedules of the United States are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

In order to make an affirmative determination in an investigation under section 201 of the Trade Act of 1974, the Commission must find that three criteria are satisfied:

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Domestic Industry

Before discussing the statutory criteria, it is first necessary to determine what is "the domestic industry" which may be suffering the requisite injury. The Trade Act of 1974 states that the domestic industry consists of the domestic producers of "an article like or directly competitive with the imported article." The Senate Finance Committee Report defines "like" articles as those which are "substantially identical in inherent or intrinsic characteristics (i.e.,

[1] Commissioners Calhoun and Frank not participating.

[2] A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation were attached to the original report sent to the President. Copies are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

materials from which made, appearance, quality, texture, etc.)." [3]

The imported articles which are the subject of this investigation are tubeless tire valves (TTVs) for use with tubeless tires on passenger-automobile and light-truck wheels. Two types of TTVs, snap-in and clamp-on, suitable for passenger-automobiles and light-truck tires have been imported into the United States.[4] Both types of valves are inserted into a hole on the rim of the wheel and are designed to control the flow of air into and out of the tire. Both types incorporate two basic components—a spring-activated plunger (core) and a metal tube (stem) in which the plunger is encased. When depressed, the plunger allows the transmission of air in either direction through the valve.[5]

The domestically produced clamp-on and snap-in valves [6] are made from the same material and have the same components and appearnce as imported valves. That is, they are substantially identical to imported valves in inherent or intrinsic characteristics.

We have concluded that, for the purposes of this investigation, the domestic industry consists of producers of snap-in and clamp-on tubeless tire valves.[7] [8]

Imports in Increased Quantities

The first of the three criteria for an affirmative determination is that the imported articles are being imported in "increased quantities." [9] The statute provides that imports are in increased quantities when the increase is in actual or absolute terms, or when the increase is "relative to domestic production."[10]

U.S. imports of TTVs increased minimally, 1.4 percent, from 1977 to 1981, reaching a peak in 1979 and declining thereafter.[11] [12] This downward trend continued through the first 4 months of 1982. There have been no imports of clamp-on valves in 1980 or January–April 1982 and imports of that type valve were negligible in 1981.[13]

The ratio of imported TTVs to total U.S. production of TTVs increased irregularly from 1977 to 1981, peaking in 1980. In 1981 the ratio was the same as in 1979 but was up by 1.6 percent from the ratio in 1977.[14]

Because imports increased over the past 5 years, although minimally, we will consider whether the remaining statutory criteria have been met.

Serious Injury

The second criterion for an affirmative determination is that the domestic industry be seriously injured or threatened with serious injury.[15] While the statute does not define the term "serious injury," it directs the Commission to consider certain economic factors in its analysis of the injury issue and to take into account all economic factors which it considers relevant. These include, but are not limited to, significant unemployment or underemployment within the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and the significant idling of productive facilities in the industry.[16]

As with increased imports, the data on injury only marginally satisfies the statutory crieteria.[17] Serious injury is evident in the declines in the economic indicators between 1977 and 1980 and, since that time, particularly in the continued decline in industry profitability. But the tentative nature of the showing of serious injury is apparent. In 1981 nearly all economic indicators recovered substantially from the 1980 low point. Throughout the entire period of this invetigation capacity has been growing.

From 1977 through 1980 domestic production fell from 170 million units to 127 million units;[18] shipments dropped from 162 million units to 124 million units[19] and employment of production and related workers fell from 467 workers to 337 workers.[20] [21] In 1981, however, each of these indicators showed a substantial increase over the 1980 level. Production rose to 143 million units, shipments to 141 million units and employment to 414 workers.[22] Domestic shipments to the replacement market recovered to roughly the same level as in 1977, 1978 and 1979.[23]

The financial data for U.S. producers of TTVs shows a steady decline for the entire period of this investigation. Operating income dropped from a profit of $1.4 million in 1977 to a loss of $.7 million in 1981.[24] Operating income as a percent of net sales dropped from 7.1 percent in 1977 to a loss of 3.3 percent in 1981. The 1982 data show a further deterioration. In 1980 and 1981, four of the five reporting firms showed losses on their TTV operations and during January–April 1982, all five firms reported losses.[25]

Despite the industry's deteriorating profitability, producers have been increasing capacity. Capacity rose from 219 million units in 1977 to 269 million units in 1981. In 1979 Schrader opened a new plant, substantially increasing that company's capacity. In 1980 Eaton substantially increased its capacity, and in 1981 Nylo-Flex increased its capacity. * * * [26] [27]

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[3] S. Rep. No. 1298, 93d Cong., 2d Sess. 121–122 (1974).

[4] Petitioner has argued that investigation should be based on a two-industry approach based on market destination: The original equipment manufacturer market (OEM) and the replacement market. The OEM market (U.S. auto companies) is served exclusively by U.S. producers. The replacement market (establishment such as retail tire and service centers, gasoline stations, and auto repair shops) is served by both foreign and domestic producers.

The TTVs produced for both these markets are virtually identical and are produced in the same establishments and on the same production lines. The only distinction is in the final packaging of the valves. Therefore, the Commission considers the OEM and replacement markets as one industry for the purpose of this investigation.

Commissioners Stern and Haggart note that this definition of industry does not preclude an analysis of developments in each market in considering the causation issue.

[5] Confidential Report, p. A–3.

[6] Snap-in valves constitute nearly all of domestic production and consumption.

[7] Imports of clamp-on valves have been negligible or nil since 1980.

[8] There are characteristics that distinguish clamp-on valves from snap-in valves, see Report at A–3, which might arguably support a finding that there are two domestic industries. Such a finding, however, would have no significant impact on our analysis since there have been virtually no imports of the clamp-on variety since 1979, and it constituted a miniscule portion of domestic production (less than 1.61 percent) and consumption (*** percent) in 1981.

[9] Sec. 201(b)(1), 19 U.S.C. 2251(b)(1).

[10] Sec. 201(b)(2)(C), 19 U.S.C. 2251(b)(2)(C).

[11] Nearly all the imports were supplied by just one manufacturer in West Germany so the import data are confidential and therefore may be discussed in general terms.

[12] Commissioner Haggart notes that imports reached a higher level in 1981 than any other year except the peak year of 1979. Confidential Report, p. A–14.

[13] Confidential Report, pp. A–13—A–15.

[14] Confidential Report, p. A–13.

[15] Sec. 201(b)(1). 19 U.S.C. 2251(b)(1)

[16] Sec. 201(b)(2)(A). 19 U.S.C. 2251(b)(2)(A)

[17] Commissioner Stern, having found no substantial causal link between the imports and the condition of the U.S. industry, has assumed for the sake of argument that the statutory criteria of increased imports and serious injury have been met.

[18] Confidential Report, p. A–13—A–19.

[19] Confidential Report, p. A–21—A–25.

[20] Capacity utilization also dropped dramatically during the period, from 75.7 percent to 46.1 percent. This drop, however, must be evaluated in light of the substantial increase in capacity during the same period.

[21] Confidential Report, p. A–33.

[22] For the first four months of 1982 each of these indicators declined somewhat. We note, however, that shipments to the replacement market continued to increase during this period.

[23] Imports compete only in the replacement market.

[24] The 1979 data is for four firms which account for 93 percent of U.S. production; the 1980 data is for five firms which account for 94 percent of U.S. production.

[25] Confidential Report, p. A–40.

[26] Confidential Report, p. A–19.

[27] Commissioner Haggart has assumed for the sake of argument that the statutory criterion of serious injury has been met in this particular case but does not make an affirmative determination since she finds that increased imports are not a substantial cause of any injury that is being suffered.

Substantial Cause of Serious Injury

The statute requires that for an affirmative finding imports must be a "substantial cause of serious injury, or threat thereof."[28] The term "substantial cause" is defined in the statute as "a cause which is important and not less than any other cause."[29] Thus, for increased imports to be a substantial cause of injury, they must pass a dual test. They must be an "important" cause of injury and a cause "not less than any other cause" of injury.[30]

The statute directs the Commission, in determining substantial cause, to take into account all economic factors which it considers relevant, including but not limited to, an increase in imports, either actual or relative to domestic production, and a decline in the proportion of the domestic market supplied by domestic producers.

We find that the imports under consideration here do not meet either of the two statutory causation requirements. They are neither an "important" cause of serious injury to the domestic TTV industry nor a cause "not less than any other cause."

As previously noted, imports of TTVs have barely increased over the last five years and as a percent of production they have remained essentially steady since 1979.[31] From 1977 to 1981 the import to production ratio rose only 1.6 percentage points, while the market share of U.S. producers declined but less than 2 percent.

The injury sustained by the tubeless tire valve industry can best be explained by two developments:[32] The 1980 decline in consumption of TTVs in the replacement market; and increased domestic competition from OEM producers[33] in the replacement market due to the decline in OEM consumption. These two causes are more important causes of injury to the TTV industry than increasing imports.

In 1980, apparent consumption in the replacement market dropped by 17 percent from the 1979 level.[34] Testimony at the hearing attributed the 1980 decline primarily to the increasing popularity of radial tires, which have a longer lifespan than other tires; the substantial drop in automobile usage (miles driven) in that year; and the trend toward smaller cars which, because of their lighter weight, tend to reduce tire wear.[35] The precipitous drop in demand in the replacement market in 1980 is an important explanation of the particularly sharp drop in the economic indicators for this industry in 1980.[36]

The serious decline in sales of new automobiles in the past few years has resulted in a concomitant decline in demand by original equipment manufacturers for TTVs. The OEM share of U.S. TTV consumption fell steadily from about 45 percent by quantity in 1977 to about 35 percent in 1981. Shipments to the OEM market declined nearly 31 percent between 1977 and 1981. Unlike the situation in the replacement market, shipments to the OEM market increased only slightly in 1981, and in January–April 1982, they again declined from the corresponding period in 1981.[37]

At the same time that demand was declining in the replacement market, the largest U.S. producers of TTVs (Bridgeport, Eaton and Schrader) intensified their efforts to sell in that market to offset their declining OEM sales. The increased competition in the replacement market resulted in a decline in the market share of small firms and also of imports.[38] Data available to the Commission show that increased shipments to the replacement market by two of the large domestic producers had a greater effect on the smaller producers than did imports.[39]

Analysis of data from questionnaires show that from 1979, the peak year for sales of both domestic and imported valves, to 1981, shipments to the replacement market by the larger domestic producers rose two percent while inports declined 18 percent and shipments by the smaller producers declined 16 percent. From 1980–1981, total shipments to the replacement market by the three largest firms increased by an average of 22 percent, while imports increased by three percent, and shipments by the smaller firms in that market increased by two percent.[40]

In sum, the decline in consumption since 1979 and the increased competition in the replacement market between U.S. producers far outweighed the imports as causes of injury to the domestic TTVs industry.

Substantial Cause of Threat of Serious Injury

The Senate Finance Committee Report states that: "[T]he threat of serious injury exists when serious injury, although not yet existing, is clearly imminent if import trends continue unabated."[41]

Imports have been decreasing since 1979, and evidence received by the Commission indicates that exports to the United States from West Germany, traditionally the principal supplier of imported TTV, are not likely to increase significantly in the near future.

The State Department has reported that Turkish production and exports may increase greatly and all of Turkish production is likely to be exported to the United States.[42] Actual imports from Turkey to date have been well below State Department predictions, and no firm commitments to increase production for export to the United States have been disclosed. It would be conjectural to assume that serious injury is clearly imminent as a result of increased imports from Turkey.

Issued: September 20, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26830 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bonus Awards Schedule for Senior Executive Service (SES)

AGENCY: Justice Department.

ACTION: Notice of SES Bonus Awards Schedule.

Pursuant to the Civil Service Reform Act, 5 U.S.C. 5384, permitting the award of bonuses to Senior Executive Service personnel, the Department of Justice hereby announces its intention to make such bonus awards on or about October 8, 1982.

For further information contact:

Mr. Warren Oser, Director, Personnel Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633–3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

[FR Doc. 82-26697 Filed 9-28-82; 8:45 am]

BILLING CODE 4410-01-M

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[28] Sec. 201(b)(1), 19 U.S.C. 2251(b)(1).

[29] Sec. 201(b)(4), 19 U.S.C. 2251(b)(4).

[30] S. Rep. No. 1298, 93d Cong., 2d Sess. 120 (1974).

[31] Confidential Report, p. A–17.

[32] Injury caused by the OEM market decline cannot be attributed to imports since imports do not compete in that market.

[33] Only the largest U.S. TTV manufacturers serve the OEM market.

[34] The import/production ratio in the market increased only 0.2 percent from 1979–1980.

[35] Confidential Report, p. A–64. Hearing Transcript p. 112.

[36] Replacement market consumption recovered in 1981 but remained about 5 percent below the 1979 peak.

[37] Confidential Report, pp. A–24–A–26.

[38] Confidential Report, p. A–65.

[39] Confidential Report, p. A–65.

[40] Confidential Report, p. A–25.

[41] S. Rep. No. 1298, 93d Cong., 2d Sess. 121 (1974).

[42] Confidential Report, p. A–10.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-56)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATE AND TIME: October 18, 1982, 2 p.m. to 5 p.m.; October 19, 1982, 8:30 a.m. to 5:30 p.m.

ADDRESS: Lyndon B. Johnson Space Center, Room 152, Building 16, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Holcomb, National Aeronautics and Space Administration, Code RTC-6, Washington, D.C. 20546 (202/775-2364).

SUPPLEMENTARY INFORMATION: This Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronics devices, sensors, information systems, automation, and guidance and control technology. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 11 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

Agenda

October 18, 1982

2 p.m.—Subcommittee Business.
3 p.m.—Computer Science Memorandum of Understanding and Program Overview.
5 p.m.—Adjourn.

October 19, 1982

8:30 a.m.—Computer Operations and Data Systems.
4 p.m.—Custom Large Scale Integration.
5:30 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 22, 1982.

[FR Doc. 82-26660 Filed 9-28-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice (82-57]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Computer Sciences.

DATE AND TIME: October 20, 1982, 1 p.m. to 5 p.m.; October 21, 1982, 8:30 a.m. to 5 p.m.

ADDRESS: Lyndon B. Johnson Space Center, Room 169, Building 1, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Mr. Lee B. Holcomb, National Aeronautics and Space Administration, Code RTC-6, Washington, DC 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: This Ad Hoc Informal Advisory Subcommittee was formed to make a technical review of the Office of Aeronautics and Space Technology (OAST) 1983 Computer Science Research Program. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

Agenda

October 20, 1982

1 p.m.—Subcommittee Charter.
1:30 p.m.—Review 1983 OAST Computer Science Research Program.
5 p.m.—Adjourn.

October 21, 1982

8:30 a.m.—Continue Review of 1983 Computer Science Research Program.
5 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 22, 1982.

[FR Doc. 82-26661 Filed 9-28-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 7-9, 1982, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 25, 1982.

The agenda for the subject meeting will be as follows:

Thursday, October 7, 1982

8:30 A.M.-8:45 A.M.: Opening Session (Open)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.-12:45 P.M.: WPPSS Nuclear Plant Unit 2 (Open)

The ACRS Members will hear the report of its subcommittee and consultants who are present regarding the request for an Operating License for this unit. Representatives of the NRC Staff and the applicant will also make presentations and respond to questions regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information and safeguards information applicable to this project.

1:45 P.M.-3:45 P.M.: Human Factors Integrated Program Plan (Open)

The Committee will hear the report of its subcommittee regarding the proposed NRC plan for an integrated human factors program.

Members of the NRC Staff will make presentations and respond to questions regarding this matter.

3:45 P.M.-4:45 P.M.: Future ACRS Activities (Open)

The Members will discuss anticipated subcommittee activities and proposed activities of the full Committee.

4:45 P.M.-5:30 P.M.: ACRS Subcommittee Activities (Open)

The Committee will hear and discuss the reports of designated subcommittees regarding safety related matters including proposed NRC requirements for staffing at Nuclear Power Plants (10 CFR Part 50) and other matters related to nuclear power plant operations.

Friday, October 8, 1982

8:30 A.M.-11:30 A.M.: Reactor Pressure Vessel Thermal Shock (Open)

The Members will hear the report of the ACRS subcommittee and consultants who are present regarding the NRC proposed plan of action to resolve the concerns associated with repressurization of reactor

pressure vessels following an overcooling transient.
Members of the NRC Staff will make presentations and respond to questions regarding this matter.
Representatives of the nuclear industry will participate as appropriate.
Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

11:30 A.M.–12:15 P.M.: ACRS Subcommittee Activities (Open)

The Members will hear and discuss the reports of designated ACRS subcommittees regarding safety related matters including the reliability of D.C. power supplies, ongoing work regarding complete loss of electrical power, and the controlinstrumentation systems for the CRBR.

1:15 P.M.–3:15 P.M.: Emergency Core Cooling Systems (Open)

The ACRS Members will hear the report of its subcommittee regarding the impact of small break LOCAs on natural circulation in systems using once-through steam generators and proposed changes in 10 CFR 50, Appendix K, ECCS Evaluation Models.
Members of the NRC Staff and the nuclear industry will participate as appropriate.
Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

3:15 P.M.–5:30 P.M.: ACRS Reports to NRC (Open)

The Committee Members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting.
Portions of this session will be closed as necessary to consider Proprietary Information applicable to the matters being discussed.

Saturday, October 9, 1982

8:30 A.M.–12:00 Noon: ACRS Reports to NRC (Open)

The Members will discuss proposed reports to the NRC regarding matters considered during this meeting.
Portions of this session will be closed as necessary to consider Proprietary Information applicable to the matters being discussed.

12:00 Noon–12:30 P.M.: Activities of ACRS Members (Open)

Proposed activities of ACRS Members will be discussed.
Portions of this session will be closed as necessary to discuss information, the release of which would represent a clearly unwarranted invasion of personal privacy and to discuss matters which relate solely to internal personnel rules and practices.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1981 (46 FR 47903). In accordance with these procedures, 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 Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), and matters which relate solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)), and safeguards information (5 U.S.C. 552b(c)(3)), and information, the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

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 can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: September 24, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82–26847 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without SCRAM; Rescheduled Meeting

The ACRS Subcommittee Meeting on Anticipated Transients Without SCRAM (ATWS) scheduled for October 1, 1982, Room 1046, at 1717 H Street, NW, Washington, DC has been *rescheduled for October 22, 1982.*

All other items regarding this meeting remain the same as announced in the **Federal Register** published Wednesday, September 15, 1982 (47 FR 40738).

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. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–26846 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–364]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment extends for one-time only the visual surveillance interval for inaccessible hydraulic snubbers until the refueling outage scheduled to begin on October 22, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for

amendment dated August 2, 1982, (2) Amendment No. 17 to License No. NPF–8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of September, 1982.

For the Nuclear Regulatory Commission,

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–26817 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR–51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit No. 1 (ANO–1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment revised the TSs to require chlorine detection and protection capability for the control room.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application for amendment dated July 14, 1982, as supplemented August 24, 1982, (2) Amendment No. 69 to License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of September 1982.

For the Nuclear Regulatory Commission,

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82–26818 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 75 and 56 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments correct typographical errors involving inservice inspection and valve testing; allow start up of the reactors with one or more inoperable but isolated power operated relief valves; incorporate numerical values of containment leakage rates and incorporate by reference the latest applicable version of Regulatory Guide 1.33.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated August 2, 1982, (2) Amendment Nos. 75 and 56 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Docment Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission. Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of September 1982.

For the Nuclear Regulatory Commission,

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–26819 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas & Electric Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 76 and 57 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow continued operation of Unit 1 for up to 21 days with one control room air conditioning unit inoperable during the October 1982 Unit 2 refueling outage. In addition, the comparable wording in the Unit 2 TS has been deleted since its applicability terminated on July 21, 1982.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1982, (2) Amendments Nos. 76 and 57 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of September, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82–26820 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

Amended Subagreement 2 Between the Washington State Energy Facility Site Evaluation Council and the United States Nuclear Regulatory Commission for a Protocol for the Conduct of Joint Hearings on the Skagit Nuclear Power Project, Units 1 and 2

A memorandum of Understanding between the NRC and the State of Washington, signed on September 6, 1978 was published September 27, 1978 (43 FR 43774 ff). Subagreement 2 to that MOU was originally published August 17, 1981 (46 FR 41646 ff).

The Amendment to Subagreement 2 published below describes the cooperative regulatory policy being implemented by the NRC and the State of Washington with respect to protocol for the conduct of joint hearings for Skagit Nuclear Power Project, Units 1 and 2.

This amendment is requested by the State because of a recent change in State law. Previously, regulatory and administrative agencie of State government were able to use hearing examiners (administrative law judges) in the conduct of contested case hearings. Effective the first of July 1982, this is no longer the case. The legislature has created a new Office of Administrative Hearings which is to independently conduct such hearings for an agency and return a recommended decision to the agency. The other option available under this recent change is for the agency to conduct the hearing itself, dispensing with the services of a hearing examiner.

The Washington State Energy Facility Site Evaluation Council has advised NRC that they feel they cannot turn their responsibilities over to an independent agency. Therefore, they have elected to handle their own hearings with the Chairman or a Council member designated by the Chairman actually presiding. This action necessitates the amendments to Subagreement 2.

FOR FURTHER INFORMATION CONTACT: Frank Young, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492–9879.

Dated at Bethesda, Maryland this 21st day of September 1982.

For the Nuclear Regulatory Commission,

G. Wayne Kerr,

Director, Office of State Programs

[FR Doc. 82–26822 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

Documents containing reporting or recordkeeping requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New

2. The title of the information collection: Mark I Containment Program and NUREG–0661, "Mark I Containment Long Term Program"

3. The form number if applicable: Not Applicable

4. How often the collection is required: Nonrecurring

5. Who will be required or asked to report: BWR Operating Power Reactor Licensees and Applicants with Mark I Containments.

6. An estimate of the number of responses: 16

7. An estimate of the total number of hours needed to complete the requirement or request: 16,000

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not Applicable.

9. Abstract: NRC has issued Orders requiring BWR licensees with Mark I containments to make modifications to restore intended safety margins. The NRC is evaluating the licensees plant unique analyses to determine their acceptability against NUREG–0661. To complete the review additional information related to deviations from NUREG–0661 and issues part of the Mark I program but not specifically addressed in NUREG–0661 will have to be provided.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, NW. Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Gwendolyn W. Pla, (202) 395–6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 23rd day of September 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–26821 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-fifth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of The Medical Society of the District of Columbia, 2007 Eye Street NW., Washington, D.C. from 9:00 a.m. to 5:00 p.m. on Friday, October 8, 1982 and from 8:30 a.m. to 5:00 p.m. on Saturday, October 9, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda will include, among other things, Commission review of a draft report on the ethical and legal implications of genetic screening and counseling, and a draft report on decisions to forego life-sustaining treatment.

During Friday afternoon at approximately 1:30 p.m., and Saturday afternoon, at approximately 1:00 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street NW., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82–26667 Filed 9–28–82; 8:45 am]

BILLING CODE 6820–AV–M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0241]

Aspen Financial Corp.; License Surrender of Aspen Financial Corporation

Notice is hereby given that Aspen Financial Corporation (AFC), 333 North Belt, Suite 660, Houston, Texas 77060, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). AFC was licensed by the Small Business Adminstration on March 10, 1981.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on September 3, 1982, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–26750 Filed 9–28–82; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 05/05–0171]

First Indiana Equity Group, Inc.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of First Indiana Equity Group, Inc., 20 North Meridian Street, Indianapolis, Indiana 46204, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The officers, directors and 10 percent of more shareholders of the Applicant are as follows:

Name and Address, Title and Relationship and Percent of Ownership

Thomas R. Creasser, II, 3228 East Tenth Street, Indianapolis, Indiana 46201; Chairman, Board of Directors, 0

L. Gene Tanner, 20 N. Meridian Street, Indianapolis, Indiana 46204; President and Director, 0

Russell Breeden, III, 20 N. Meridian Street, Indianapolis, Indiana 46204; Vice President, 0

Larry R. Smith, 3228 East Tenth Street, Indianapolis, Indiana 46201; Secretary-Treasurer and Director, 0

Raffensperger, Hughes & Co., Inc., 20 North Meridian Street, Indianapolis, Indiana 46204; General Manager, 10.0

Eastside Community Investments, Inc., 3228 East Tenth Street, Indianapolis, Indiana 46201; Shareholder, 90.0

Raffensperger, Hughes & Co., Inc. (Raffensperger), 20 N Meridian Street, Indianapolis, Indiana 46204, is an investment banking firm that has conducted business from this location for approximately thirty years. Raffensperger will conduct the day to day operations of the Applicant.

Eastside Community Investments, Inc. (ECI), is a not-for-profit, non-partisan community development corporation founded in 1976 to promote the economic revitalization of the near eastside of Indianapolis, an area also known as Highland-Brookside. ECI represents 33 citizen groups and has grown from a staff of one in 1976 to twenty-two in 1981. It administered a budget of $25,000 in 1976 and has a budget of more than $4 million in 1981.

The Applicant proposes to begin operations with private capital of $1,000,000 derived from the sale of 900 shares of common stock to ECI, and 100 shares of common stock to Raffensperger.

The Applicant will conduct its operations in the State of Indiana.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accord with the Act and Regulations

Notice is hereby given that any person may (not later than 15 days from the publications of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Indianapolis, Indiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–26748 Filed 9–28–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0452]

N.P.D. Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of N.P.D. Capital, Inc. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with proposed capitalization of $1,010,000.

The Applicant will have its place of business at 375 Park Avenue, New York, New York 10152, and it intends to conduct operations primarily in the State of New York, and the Northeastern Region of the United States. Applicant intends to furnish small business concerns with equity capital and long-term loans including equity features to enable them to grow and expand their operations.

The officers, directors and proposed one hundred percent (100%) stockholder of the Applicant will be:

National Patent Development Corporation—Parent 100%, 375 Park Avenue, New York, New York 10152

Jerome I. Feldman—Chairman, Director, Brooks Bend Farm, Hunterbrook Road, Yorkstown Heights, New York 10598

Irwin S. Friedman—President, General Manager, 400 East 56th Street, New York, New York 10022

Martin M. Pollak—Vice President, Director, 16 Springwood Patch, Laurel Hollow, New York 11791

Allen D. Frisch—Vice President, Finance, 30 Wagonwheel Lane, Dix Hills, New York 11746

David A. Rapaport—Vice President, Legal Secretary, Director, 26 Navajo Road, E. Brunswick, New Jersey 08816

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice in the **Federal Register**, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26753 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0184]

TSM Corp.; Filing of Application for Approval of a Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)), by the Small Business Adminstration (SBA) of a conflict of Interest transaction between TSM Corp. (TSM), 444 Executive Center Blvd., Suite 237, El Paso, Texas 79902, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and an Associate.

TSM was licensed by SBA on November 16, 1976. Mr. Martin Silva is a shareholder, officer and director of Silva Enterprises, Inc. In addition, Mr. Silva is a Director of the Licensee. As a result of this equity interest, Silva Enterprises, Inc. is deemed to be an Associate of TSM as defined by § 107.3(b) of the SBA Rules and Regulations.

TSM proposes to make a $100,000 loan to Silva Enterprises, Inc., an Associate of TSM as defined by § 107.3(c) of the Regulations.

Notice is hereby given that any person may, not later than ten (10) days from the date of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in El Paso, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26749 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5156]

Verde Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the SBA Regulations (13 CFR 107.701(1982)), for the transfer of control of Verde Capital Corporation (Licensee), 6701 Sunset Drive, Suite 104, South Miami, Florida 33143, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

The Licensee is currently owned, 50 percent each, by Messrs. Steven J. Green and Max Homberger. It is proposed that Mr. Green sell his shares to Mr. Homberger making the latter the sole shareholder of the Licensee. There will be no change in the officers and directors; Mr. Green will remain a director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed transferee, and the probability of successful operations under his control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit to SBA, in writing, comments on the transfer of control. Any such communications should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26751 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 04/04-5219]

Venture Group, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application for a license to operate as a small business investment company (SBIC) under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. *661 et seq.)*, and the Rules and Regulations promulgated thereunder, has been filed by Venture Group, Inc., 5433 Buffalo Avenue, Jacksonville, Florida 32208, pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1982)).

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Ellis W. Hitzing, 5637 Buffalo Avenue, Jacksonville, FL 32208; President, Director, sole shareholder.

Albert G. Hitzing, 7778 Los Palmas Way, Jacksonville, FL 32216; Vice President, Director.

Kenneth C. Caplan, 8922 Heavenside Drive, Jacksonville, FL 32217; Secretary/Treasurer, Director.

There will be three classes of stock authorized: 1,000 shares of Common Stock with a par value of $1.00 per share; 500 shares of Preferred Stock—Series A, par value $500.00 per share; and 7,500 shares of a special class or classes with a par value of $1.00 per share. Initially only 1,000 shares of Common Stock will be issued with a resultant paid in capital and paid-in surplus of $500,000.

The applicant will conduct its operations principally in the State of Florida.

As an SBIC under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and

conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Jacksonville, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26752 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region II—Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:30 a.m., Wednesday, October 6, 1982, at room 601, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred Benitez Robles, District Director, U.S. Small Business Administration, Federico Degetau Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918 (809) 753-4003.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26745 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region IV—Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, will hold a public meeting at 9:00 a.m., Wednesday, October 6, 1982, at the Holiday Inn, Admiral's Room, Highway 90 and Pratt Avenue, Gulfport, Mississippi, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mike Shelton, Acting District Director, U.S. Small Business Administration, 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269 (601) 960-4363.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26744 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region VII—Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Cedar Rapids, will hold a public meeting at 10:00 a.m., Thursday, October 7, 1982, at the Small Business Administration, District Office Conference Room, 373 Collins Road, N.E., Cedar Rapids, Iowa 52402 to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Harold Sears, District Director, U.S. Small Business Administration, 373 Collins Road, N.E., Cedar Rapids, Iowa 52402, (319) 399-2571.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26746 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region VIII—Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake, will hold a public meeting at 9:00 a.m., Friday, October 15, 1982, at the Utah First Bank, 2 S. Main Street, Salt Lake, Utah, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138 (801) 524-5800.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26747 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 424]

Commerce in Explosives; List of Explosives Materials; Correction

In FR Doc. 82-25480 appearing on page 40974, in the issue of Thursday, September 16, 1982, make the following correction. On page 40974, second column, in the line beginning "Accordingly, the following is the 1981" should read: "Accordingly, the following is the 1982".

Signed: September 23, 1982.

Stephen E. Higgins,

Acting Director.

[FR Doc. 82-26707 Filed 9-28-82; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 8]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $315,000 has been established for the company.

Name of Company: National Excess Insurance Company.

Business Address: 4400 MacArthur Blvd., Newport Beach, California 92660.

State of Incorporation: California.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28879 to reflect this addition. Copies of the circular, when issued, may be

obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 17, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-26808 Filed 9-28-82; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Construction Projects at Medical Centers and National Cemeteries; Finding of No Significant Impact

The Veterans Administration (VA) has determined that potential environmental impacts will be minimal from development of the following projects:

Bath, New York
*Construction of Fire Lane
Huntington, West Virginia
*Warehouse Addition Building 2
Indianapolis, Indiana
Expand Outpatient Clinic
Jackson, Mississippi
*Construct Warehouse
Kansas City, Kansas
Animal Research Facility
Lake City, Florida
Outpatient Clinical Addition
Loma Linda, California
60-Bed Nursing Home Care Unit
Lyons, New Jersey
*Replace Sewage Treatment Plant
Oklahoma City, Oklahoma
Pedestrian Bridge
Providence, Rhode Island
60-Bed Nursing Home Care Unit
Sepulveda, California
Underground Water Reservoir
White City National Cemetery, Oregon
*Administration Service Building
White City National Cemetery, Oregon
*New Entrance and Roadway

An * designates projects for which compliance with Section 106, Historic Preservation Act of 1966 will be necessary.

Development of the projects will have minor temporary impacts on the human and natural environments affecting open space, air quality, noise levels, solid waste, water quality or visual impacts during the construction period of the project. During the construction and operation, the VA will adhere to all applicable Federal, State, and local environmental regulations.

Mitigation of the projects impacts on the environment include appropriate erosion, noise, dust, and fume control during constrtuction as delineated in the Veterans Administration Standard Specifications, Environmental Protection Section.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

The Environmental Assessments have been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in each document. The assessments have been placed for public examination at the Veterans Administration, Washington, D.C. Person wishing to examine a copy of an assessment may do so at the following office: Veterans Administration Central Office, Room 423, 811 Vermont Avenue, NW., Washington, D.C. 20420, Telephone No. 202-389-3316. Questions or requests for single copies should be directed to Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff (005B), at the above address.

Dated: September 22, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-26823 Filed 9-28-82; 8:45 am]

BILLING CODE 8320-01-M

Performance Review Boards; List of Members

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4), notice is hereby given of the names of the members of the Performance Review Boards in the Veterans Administration. This notice revises the entire list of members published in the **Federal Register**, 47 FR 124 and 125, dated January 4, 1982.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: K. Joyce Edwards, Office of Personnel and Labor Relations (05A3), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202-389-3423).

The Members of the VA's Performance Review Boards Are:

VA Performance Review Board

Chairperson

Dennis M. Kenneally, Associate Deputy Administrator for Administration

Members

James F. Hoobler, Associate Deputy Administrator for Planning and Finance
O. Fielding Cochran, Associate Deputy Administrator for Congressional and Public Affairs
Dominick Onorato, Associate Deputy Administrator for Information Resources Management
William F. Sullivan, Associate Deputy Administrator for Logistics
Donald L. Custis, M.D., Chief Medical Director
Dorothy L. Starbuck, Chief Benefits Director
Paul T. Bannai, Chief Memorial Affairs Director
John P. Murphy, General Counsel
Kenneth E. Eaton, Chairman, Board of Veterans Appeals
Jack J. Sharkey, Assistant Deputy Administrator for Data Management and Telecommunications
Conrad Hoffman, Assistant Deputy Administrator for Budget and Finance
Joseph Mancias, Jr., Assistant Deputy Administrator for Public and Consumer Affairs
Raymond S. Blunt, Assistant Deputy Administrator for Program Planning and Evaluation
William A. Salmond, Assistant Deputy Administrator for Construction
Michael Rudd, Assistant Deputy Administrator for Personnel and Labor Relations
Clyde C. Cook, Assistant Deputy Administrator for Procurement and Supply
Robert W. Schultz, Assistant Deputy Administrator for Reports and Statistics
Renald P. Morani, Assistant Inspector General for Policy Planning and Resources

Department of Medicine and Surgery Performance Review Board

Chairperson

D. Earl Brown, Jr., M.D., Associated Deputy Chief Medical Director

Members

James A. Christian, Executive Assistant to Chief Medical Director
Carl L. Stephenson, Executive Assistant to Deputy Chief Medical Director
Francis E. Conrad, M.D., Deputy Associate Deputy Chief Medical Director for Operations
Stanley B. Kahane, M.D., Deputy Associate Deputy Chief Medical Director for Program Management
Charles V. Yarbrough, Director, Management Support Staff
James T. Krajeck, Director, Northeastern Region
Charles R. Paulk, Director, Mid-Atlantic Region
Donald B. Thompson, Director, Southeastern Region

Albert Zamberlan, Director, Great Lakes Region
Thomas P. Mullon, Director, Midwestern Region
John J. Peters, Director, Western Region

Department of Veterans Benefits Performance Review Board

Chairperson

John W. Hagan, Jr., Deputy Chief Benefits Director

Members

David M. Walls, Field Director, Eastern Region
John W. Rue, Field Director, Central Region
John P. Travers, Field Director, Western Region
Max R. Woodall, Director, Compensation and Pension Service
Edward D. Green, Director, Veterans Assistance Service
Robert M. O'Toole, Director, Loan Guaranty Service
Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service
Charles L. Dollarhide, Director, Education Service
Donald M. Twitty, Director, Budget Staff
Fredrick A. Schatz, Director, Administrative Service

Dated: September 23, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-26517 Filed 9-28-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, October 8, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1386-82 Filed 9-27-82; 11:44 am]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

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 2:00 p.m. on Monday, October 4, 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 three branches:

Mechanics and Farmers Savings Bank of Bridgeport, Bridgeport, Connecticut, for consent to merge, under its charter and title, with New Canaan Savings Bank, New Canaan, Connecticut, and for consent to establish the three offices of new Canaan Savings Bank as branches of the resultant bank.

Sun Bank of Tampa Bay, Tampa, Florida, for consent to merge with Brandon State Bank, Brandon, Florida, under the charter of Sun Bank of Tampa Bay and with the title "Sun Bank/Hillsborough," and for consent to establish the three offices of Brandon State Bank as branches of the resultant bank.

Request for exemption pursuant to section 348.6(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

McAllen State Bank, McAllen, Texas.

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. 45,407—The Greenwich Savings Bank, New York, New York

Memorandum and Resolution re: Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico and Banco Economias, San German, Puerto Rico

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.

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: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1388-82 Filed 9-27-82; 3:35 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

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, October 4, 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), and (c)(9)(A)(ii) 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.

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)).

Notes.—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.

Discussion Agenda:

Request for consent to capitalize the value of the core deposit intangible acquired in a merger transaction:

The Hibernia Bank, San Francisco, California, in connection with its merger with Security National Bank, Walnut Creek, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to 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: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1389–82 Filed 9–27–82; 3:35 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:37 a.m. on Friday, September 24, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept the bid of American Savings Bank, New York City (Manhattan), New York, for an assisted merger with United Mutual Savings Bank, New York City (Manhattan), New York; (2) approve the application of American Savings Bank for consent to merge, under its charter and title, with United Mutual Savings Bank and to establish the main office and 12 branches of United Mutual Savings Bank as branches of American Savings Bank; and (3) provide financial assistance to American Savings Bank, pursuant to section 13(e) of the Federal Deposit Insurance Act, in order to facilitate the merger and prevent the probable failure of United Mutual Savings Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1390–82 Filed 9–27–82; 3:36 pm]

BILLING CODE 6714–01–M

5

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 41228, September 17, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, September 29, 1982.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Eckes, Stern, Frank, and Haggart voted by action jacket SE–82–11 to hold a portion of the discussion with respect to item No. 5 (Investigation 731–TA–102 (Preliminary) (Certain Radio Paging and Alerting Devices from Japan)—briefing and vote) in closed session.

Commissioners Eckes, Stern, Frank, and Haggart determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1391–82 Filed 9–27–82; 3:50 pm]

BILLING CODE 7020–02–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–23]

TIME AND DATE: 9 a.m., Tuesday, October 5, 1982.

PLACE: Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first six items will be open to the public. The seventh item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Collision of a Southeastern Pennsylvania Transportation Authority Commuter Train with a Gasoline Truck, Southhampton, Pennsylvania, January 2, 1982, and proposed recommendation letters.

2. *Highway Accident Report:* Collision of Long Island Commuter Train No. 4602A and a Ford Van, Herricks Road Crossing, Mineola, N.Y., March 14, 1982, and proposed recommendation letters.

3. *Marine Summary Reports.*

4. *Marine Summary Reports.*

5. *Proposed revision* to system for Board review of aviation briefs of accidents.

6. *Recommendation* to the Conrail Corporation and the New Jersey Department of Transportation resulting from railroad accident at Fair Lawn, New Jersey, July 7, 1982.

7. *Order Denying Reconsideration:* Administrator v. Daiker, Dkt. SE–5247; disposition of the Administrator's petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

September 24, 1982.

[S–1384–82 Filed 9–24–82; 4:04 pm]

BILLING CODE 4910–58–M

7

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 3:30 p.m. on Monday, October 4, in Riverside, Connecticut, and at 8:30 a.m. on Tuesday, October 5, 1982, in Room 1513, 15th floor, Church Street Station, 90 Church Street, New York, New York. As indicated in the following paragraphs, the October 4 meeting is closed to public observation. The October 5 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

At its meeting on September 10, 1982, the Board voted to close to public observation its meeting scheduled for October 4, 1982.

One portion of the meeting to be closed will consist of further consideration of the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al.* v. *United States Postal Service* concerning the most recent general ratermaking proceeding. Another portion of the Board meeting to be closed will consist of a discussion of Postal Service strategic planning.

Agenda

Monday Afternoon Session (Closed)

1. Further consideration of Court Decision on Rates.
2. Strategic Planning.

Tuesday Morning Session (Open)

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. Report by the Chairman of the Committee on Electronic Communications.
(Mr. Sullivan will report on the current status of E–COM.)

4. Report by the Chairman of the Committee on Corporate Responsibility.
(Mr. Jenkins will report on the current status of the EEO/Affirmative Action contractual study initiated by the Board at its January 1982 meeting.)

5. Review of Capital Investment Program.
(Annually, the Board considers approval of Postal Service capital investment plans, in accordance with section 3.4(f) of the Bylaws. Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present the Postal Service's capital investment program.)

6. Report on Disposal of Surplus Property.
(The Board will be briefed on the Postal Service's property disposal program. Mr. Biglin will present a report on the results of the program.)

7. Proposed Filing with Postal Rate Commission on Size and Weight Limits.
(Pursuant to Pub. L. 97–242 (August 24, 1982), which amended the Postal Reorganization Act (39 U.S.C. 3682) so as to provide that size and weight limitations for mail matter (whether or not it is letter mail) may be established in the same manner as prescribed for changes in mail classification, the Board will consider authorizing the Postal Service to request the Postal Rate Commission to recommend a decision on changes in the size and weight limitations prescribed by subsections (a) and (b) of 39 U.S.C. 3682 as in effect prior to the August 24 Amendment. Mr. Finch will present management's proposal for the Board's approval.)

8. Regional Postmaster General Report.
(Mr. Mulligan, Regional Postmaster General, and Mr. Shuman, District Manager/Postmaster, New York, will report to the Board on postal conditions in the Northeast Region and in New York City.)

9. Status of Revenue Forgone Appropriations.
(The Board will review the current status of FY 1983 appropriations legislation so that the Governors may consider possible action under 39 U.S.C. 3627 to adjust the rates charged for preferred categories of mail if there were to be a failure of appropriations. Mr. Finch will report on this matter.)

Louis A. Cox,

Secretary.

[S–1385–82 Filed 9–24–82; 5:12 pm]

BILLING CODE 7710–12–M

8

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Note.—This is a change for an announcement that was already published on September 3, 1982 on page 39057 of the **Federal Register.** Please note that the only change is of the Room No. from Rm. 304 to Rm. 311.

DATE: Thursday, September 23, 1982.

TIME: 10 a.m.–1 p.m.

PLACE: Cannon House Office Building, Room 311.

PURPOSE: General meeting to discuss FY 82 and FY 83 Budget.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer (202) 472–9023.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted for addendum on 16th day of September.

Richard T. Jerue,

Chief Executive Director.

[S–1387–82 Filed 9–27–82; 1:17 pm]

BILLING CODE 6820–BC–M

federal register

Wednesday
September 29, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. We are revising the limits to take into account more recent data and the effects of inflation, and to implement sections 102 and 103 of Pub. L. 92–248, the Tax Equity and Fiscal Responsibility Act of 1982. This schedule replaces the current schedule that was published in the **Federal Register** on September 30, 1981 (46 FR 48026).

EFFECTIVE DATE: October 1, 1982. Although this notice is being published in final, we will accept any comments on the provisions of the notice. Comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235. In commenting, please refer to file code BPP–213–FNC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. Implementing regulations appear at 42 CFR 405.460.

Under this authority we have published limits on SNF per diem inpatient routine service costs annually since 1979. On September 30, 1981, we published in the **Federal Register** (46 FR 48026) a schedule of limits applicable to cost reporting periods beginning on or after October 1, 1981. These limits are applied to adjusted SNF per diem inpatient routine service costs, and are set at 112 percent of the average per diem labor-related and nonlabor costs of each comparison group. The schedule set forth below replaces the September 30 schedule.

In developing the limits contained in this schedule, we have made certain changes from the methodology used for the September 30, 1981 schedule. These changes are discussed below.

II. Major Provisions

The new schedule of limits provides for:

1. Limits on SNF per diem inpatient routine service cost, adjusted by the exclusion of capital-related costs. Capital-related costs include interest, depreciation, insurance, rent, and fixed asset related costs that are normally included in the depreciation accounts on the cost reporting from (HCFA–2552) used for Medicare reimbursement purposes. Inpatient routine service costs in the data base have also been adjusted to reflect the elimination of the inpatient routine nursing salary costs differential for cost reporting periods subject to the limits.

2. A classification system based on whether a SNF is located within a Standard Metropolitan Statistical Area (SMSA). In New England, New England County Metropolitan Areas (NECMAs) are used to determine urban location.

3. Use of actual SNF routine service per diem cost data from Medicare cost reports to device the limits.

4. A market basket index (see Appendix I) that we developed to reflect changes in the prices of goods and services purchased by SNFs. This market basket is used to adjust the SNF cost data to reflect cost increases occurring between the cost reporting periods represented in the data collection to the midpoints of the cost reporting periods to which the limits would apply.

5. A wage index (see Tables II and III) that we developed from hospital wage and employment data obtained from the Bureau of Labor Statistics (BLS). We use this index to adjust for the differing levels of labor-related costs among the areas in which SNFs are located. The change in our methodology for calculating the wage index is described later in this notice.

6. A cost-of-living adjustment to the nonlabor component of the limits for SNFs located in Alaska, Hawaii and Puerto Rico.

7. Use of a single schedule of limits for hospital-based and freestanding SNFs. This change in methodology is described later in this notice.

8. Limits set at 112 percent of the mean labor-related costs and of the mean nonlabor costs of each group.

9. A revised schedule of per diem dollar limits that reflects the methodology described above.

III. Summary of Changes in Methodology

The revised schedule of limits incorporates the following changes in the methodology used to determine the current limits:

A. Statutory Changes

1. *Use of a single schedule of limits for hospital-based and freestanding SNFs.* All previous SNF cost limit schedules have included separate limits for hospital-based and freestanding SNFs. We established separate limits for the two types of SNFs because of concerns raised by hospital-based SNFs that they incurred higher costs due to circumstances beyond their control. These circumstances include the required Medicare methodology for the allocation of overhead costs, and differences in the intensity of care between the two types of SNFs.

On September 3, 1982, Congress enacted Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 102 of the law eliminates separate limits for hospital-based and freestanding SNFs for cost reporting periods beginning on or after October 1, 1982. The statute does, however, provide for adjustments, as appropriate, to be made in the limit applied to hospital-based facilities. The conference agreement expressed the intention that HCFA would, where warranted, recognize legitimate cost differences resulting from such factors as a more complex case-mix or the effects of Medicare cost allocation requirements. (See H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982).)

We have allowed in this notice an "add-on" adjustment to account for certain higher costs of hospital-based SNFs that are attributable to the Medicare allocation procedures. We developed this "add-on" adjustment based on a study of the cost attributable

to general service (overhead) cost centers in 2330 freestanding and 392 hospital-based SNFs which compared the cost of general services in each type of facility. The study covered all SNFs for which our data base contained complete cost allocation data from the Medicare cost report, form HCFA–2552 (approximately 80 percent of all cost reports in our data base). We determined that, in some cases, the required Medicare cost allocation process can result in hospital administrative and general (A&G) overhead costs (for example, non patient telephone, data processing, purchasing, receiving, stores, admitting, cashiering, accounts receivable, and collections) being stepped down to the SNF cost center in greater proportion than the cost center's use of those services. This results from the use of accumulated cost as a statistical allocation basis. Because certain overhead expenses (including A&G) are frequently assigned to the SNF cost center on the hospital cost report before costs from the A&G cost center are allocated, use of this basis of allocation in this instance overstates the SNF cost center's consumption of A&G services from the hospital.

The "add-on" adjustment we are providing is specifically related to the allocation of costs in the administrative and general cost center. This has been accomplished by determining the dollar difference between hospital-based and freestanding SNFs in SMSA and non-SMSA locations in average A&G per diem cost allocated directly to the inpatient routine SNF cost center. The resulting dollar amount will be added to the freestanding limit to determine the limit for a hospital-based SNF. After examining the expenses that constitute the great bulk of the cost differences between hospital-based and freestanding facilities, we have concluded that, apart from the A&G cost center, the allocation procedures are not the chief contributor to the cost difference between the two types of facilities. We note that hospitals and SNFs, regardless of type, use the same cost reports and rules of allocation.

We recognize that hospital-based SNFs have also consistently claimed that they treat sicker patients than those in freestanding SNFs and are delivering more intense care. They contend that this factor contributes to their having higher costs than do freestanding SNFs. Comments from a small number of these SNFs received during development of earlier schedules of limits suggest that this may be true in specific cases. However, there has been a relative lack of information from which to draw generalizations on this issue, particularly with respect to how much of the cost difference may relate to intensity of care.

In the effort to gather more information in this area, we are conducting a limited study through the University of Colorado Health Sciences Center of variations in intensity of care and their effect on cost. The research, which is expected to provide a method for objectivity measuring interfacility variations in intensity of care and patient care needs, should answer the following questions:

1. To what extent do the higher costs of hospital-based SNFs in the sample population appear to result from the provision of more intense care required by the special needs of patients; and

2. Is the development of a research design to study this issue on a national scale feasible?

We do not anticipate that the Colorado study will fully explain how patient mix differences affect Medicare costs. Because the sample of facilities and patients used in the research includes all Colorado nursing homes, both skilled and intermediate care, the findings from the Colorado study will not be directly applicable to Medicare SNF services. Moreover, any final conclusions that are expected to be reached will have to await resolution of such questions as the effect on cost of variations in percentage occupancy and variations in the mix of skill levels in nursing staffs, questions which are beyond the scope of the current study. Nevertheless, the measures of case-mix and intensity of care under development should provide the basis for broader analysis in this area. The researchers conducting the study are in the process of testing and refining a number of the criteria used in the study design. However, the information, which we currently have, is too limited in scope to justify our creating an additional adjustment to the cost limits to reflect variations in patient mix. We point out that exceptions to the cost limits can be granted under 42 CFR 405.460(f) where a SNF's costs are shown to be the result of atypical services needed to meet the special needs of patients treated. Hospital-based SNFs can request an exception under these provisions for higher costs associated with the furnishing of atypical service.

2. *Elimination of inpatient routine nursing salary cost differential.* Under the Medicare regulations (42 CFR 405.430) published in July 1969 and amended in 1981, we have recognized a per diem rate above the facility's average costs for all patients for inpatient routine nursing care furnished to aged Medicare patients. (The differential is also applied to pediatric and maternity patients, who also are assumed to require a greater amount of routine nursing services than other patients.) This is called the "nursing salary cost differential." The differential is not an add-on to the total routine nursing salary costs incurred by a provider, but rather a reallocation of the actual routine nursing salary costs between aged, pediatric and maternity patients, on the one hand, and all other classes of patients on the other. It presumes that, on the average, aged, pediatric and maternity patients receive more routine nursing services than do other patients.

The effect of the nursing differential is that the Medicare program recognizes a higher than average routine per diem cost for aged, pediatric and maternity patients and a lower than average per diem cost for all other classes of patients. (Disabled Medicare beneficiaries are counted in the "all other" category unless they are also pediatric or maternity patients, and the lower than average per diem is applicable to that class of patient.)

The total impact of the differential on a particular facility's Medicare reimbursment will vary depending on the provider's patient mix. If all of the provider's patients were aged, pediatric and maternity, no differential would be applicable.

We presently recognize a nursing salary differential equal to 8.5 percent of the provider's average per diem nursing salary costs for SNFs. However, section 103 of Pub. L. 97–248, amended section 1861(v)(1)(J) of the Social Security Act to state that "regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities." According to its terms, section 103 is effective for all cost reporting periods subject to the cost limits contained in this notice. Therefore, the limits properly would not recognize any nursing salary cost differential.

We will be publishing a separate regulation reflecting the provisions of section 103. However, section 103 has also necessitated an adjustment of the cost limits because all of our current cost report data incorporates the

inpatient routine nursing salary differential in Medicare costs. We have adjusted the SNF data to exclude the differential and the cost limits set forth below reflect this adjustment. Because the majority of days of care in a SNF are aged days, the effect of the adjustment on the limit is not significant

B. Technical Change

Use of a combined wage index. As discussed earlier, we have changed the methodology used to compute the limits to include a combined wage index. This change is purely technical and, as discussed further below, has no effect on the amount of the limit for any SNF.

In developing and applying the 1979, 1980 and 1981 cost limit schedules, we used a hospital wage index to account for differences in the level of labor-related costs among the areas in which SNFs are located. To develop this wage index, we first calculated the national average wage for hospital workers in urban (SMSA or NECMA) areas, and a separate national average wage for hospital workers in non-urban (i.e., non-SMSA and non-NECMA) areas. We then divided the average wage for each urban and non-urban area by the appropriate national average (urban or non-urban). This calculation resulted in a separate index value for each urban area that reflected the wage level for that area relative to the national average of all urban areas. The calculation also resulted in an index value for each non-urban area that reflected the wage level for that area relative to the national average for all non-urban areas. We call this type of index, which relates the average wage for each individual area to separate urban or non-urban national averages, a "split" index.

Because the wage index we used to calculate the current limits is a split index, there are some cases in which the index value for an urban area is lower than the value for an adjacent non-urban area. The use of the split index has caused concern and confusion among SNFs in urban areas. To avoid further confusion on this point, we have, in developing the revised limits, used a "combined" wage index that relates the average area wages for both urban and non-urban areas to a single national average wage for all areas. Although the change from a split to a combined wage index has no effect on either the accuracy or the dollar amount of any SNF's limit, we believe use of a combined index will permit direct comparison of the index values for urban and rural areas, and thus make it easier for SNFs to understand how the wage index values for their areas were computed. The following example demonstrates that the final result using a split wage index, as compared to a combined wage index, is identical.

Example

(1) *Split wage index* = .8824: labor share = $44.33; labor deflated costs: $44.33 ÷ .8824 = $50.24; mean labor deflated costs = $45.85; area labor share limit: $45.85 × .8824 = *$40.46.*

(2) *Combined wage index* = .9894: labor share = $44.33; labor deflated costs: $44.33 ÷ .9894 = $44.80; mean labor deflated costs = $40.89; area labor share limit: $40.89 × .9894 = *$40.46.*

The following hypothetical sample array is the source of the data used in this example. The split and combined wage index used in the hypothetical sample array were derived as shown below.

HYPOTHETICAL SAMPLE

Area	Average monthly hospital wage	Split wage index	Combined wage index
1	$900	0.7059	0.7916
2	1,050	.8235	.9235
3	1,125	.8824	.9894
4	1,500	1.1765	1.3193
5	1,800	1.4118	1.5831
Total	$6,375		

Urban or rural nat'l avg. monthly hospital wage =

$$\frac{\text{Total urban or rural avg. monthly hospital wage}}{\text{Number urban or rural areas}} = \frac{6375}{5} = \$1,275$$

Combined nat'l ave. monthly hospital wage =

$$\frac{\text{Total urban avg. monthly hosp. wages plus Total rural Avg. Monthly hospital Wages}^{1}}{\text{Number urban areas plus number rural areas}} = \frac{6,375 + 4,990^{1}}{10} = \$1,137$$

[1] Total Rural Average Monthly Hospital Weges are computed from average monthly hospital wages for five rural areas.

Example:

(1) Computation of split wage index

Area 1 average monthly hospital wage = $900; urban or rural nat'l. avg. monthly hospital wage = $1,275; area 1 split wage index: $900 ÷ $1,275 = .7059.

(2) Computation of combined wage index

Area 1 average monthly hospital wage = $900; combined national average monthly hosp. wage = $1,137; area 1 combined wage index: $900 ÷ $1,137 = .7916.

HYPOTHETICAL SAMPLE ARRAY

1	2	3		4	
Area	Labor share 80.22	Wage index: Split	Wage index: Combined	Labor deflated cost[1] using split wage index	Using combined wage index
1	40.10	0.7059	0.7916	56.81	50.66
2	37.50	.8235	.9235	45.54	40.61
3	44.33	.8824	.9894	50.24	44.80
4	51.32	1.1765	1.3193	43.62	38.90
5	46.65	1.4118	1.5831	33.04	29.47
Mean labor deflated arrayed costs =				$45.85	$40.89

[1] Col. 2 divided by corresponding value in col. 3.

5	6		7		8	
Area	Wage index: Split	Wage index: Combined	Mean labor deflated cost: Split wage index	Mean labor deflated cost: Combined wage index	Area limit (labor share)[1]: Split wage index	Area limit (labor share)[1]: Combined wage index
1	0.7059	0.7916	45.85	40.89	32.37	32.37
2	.8235	.9235	45.85	40.89	37.76	37.76
3	.8824	.9894	45.85	40.89	40.46	40.46
4	1.1765	1.3193	45.85	40.89	53.94	53.94
5	1.4118	1.5831	45.85	40.89	64.73	64.73

[1] Col. 7 multiplied by appropriate value in col. 6.

In developing the wage index for the limits, we have also used approximate, rather than actual, index values for 40 areas. (These approximate values are identified by asterisks in Tables II and III). We have done this because BLS, which supplies the data on wages and numbers of employees that we use to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than three reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.) To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limits significantly, and will assure that no SNF's limit is reduced because actual data for its area are unavailable.

We have also, in developing the wage index used for the limits, excluded data

for Federal government hospitals. Because these hospitals typically use national pay scales, the amounts they pay their employees do not necessarily reflect area wage levels. They also do not normally participate in the Medicare program and, therefore, excluding these data is appropriate, We have included wage indexes in Table II for those newly designated SMSAs and NECMAs that were classified as such as a result of the 1980 census. (See appendix II for listing of newly designated SMSAs and NECMAs.) In addition, we now have wage indexes for Puerto Rico.This means that cost limits can now be applied to SNFs in Puerto Rico for the first time. (See Tables II and III.)

IV. Summary of Retained Methodology

1. *Separate group limits for labor-related and nonlabor components of per diem routine service costs.* As in the current schedule, we have retained separate group limits for the labor-related and nonlabor components of per diem routine service cost. We calculate these separate limits by first obtaining actual SNF per diem inpatient routine service cost data for each freestanding SNF. Next, to make the data reflect current conditions more accurately, we adjust the data from the midpoints of the cost reporting periods represented in the data collection to the midpoint of the initial cost reporting period to which the limits would apply. We than separate each freestanding SNF's per diem cost into labor-related and nonlabor portions, and divide the labor-related portion by the wage index for the SNF's location (see item 2 below). We then compute separate group means for the labor-related and nonlabor components, and multiply each group mean by 112 percent. For each group, the resulting amounts are shown in Table I.

2. *Adjustment of SNF cost data by wage index.* We are again using a hospital industry wage index to account for area wage differences. Use of the hospital industry index is necessary since there are not industry-specific data available on SNF wages. Because hospitals and SNFs generally compete in essentially the same labor market for employees, we believe an index based on geographic variations in hospital wages provides an accurate measure of geographic variations in wages paid by SNFs.

We developed the wage index from hospital wage data obtained from BLS. The data used are those for the "hospital industry", a standard BLS reporting category. The wage index we used for the revised limits is based on data for calendar year 1980, which are the latest available data. Data for 1981 will not be available until late in 1982.

We have been advised by the BLS that the wage index values for some areas are based on estimated 1980 data and may beed to be revised based on actual data that were not available when we computed the wage index values shown in Tables II and III.

If we receive additional 1980 data that require further changes in any wage index after the indexes for this final schedule have been calculated, we will notify the Medicare intermediaries of the corrected index and will direct them to recalculate the limits for the affected SNFs.

3. *Use of SNF market basket.* We have continued to base the cost limits on reported costs, adjusted for actual and projected cost increases by applying the SNF market basket index. The values used in deriving the index are contained in Appendix I below.

The market basket comprises the most commonly used categories of SNF routine service expenses. The categories we are using are based primarily on those used by the National Center for Health Statistics in its National Nursing Home Surveys.

The categories of expenses are weighted according to the estimated proportion of SNF routine service costs attributable to each category. The weights for all major categories of SNF costs are based on the National Nursing Home Surveys for 1972 and 1976. These are the most current and comprehensive sources of national data on the distribution of costs in SNFs. (The second column of the index table specifies the weights used for each category.)

In developing the market basket index, we obtained historical and projected rates of increase in the prices of goods and services in each category. The market basket index table, in the third and fourth columns, identifies the price variables used and the source of the forecast for calendar years 1980 through 1984.

The market basket index also provides for adjustments to be made in the limits if our forecasts of economic trends prove erroneous. If the final rate of increase in the market basket index for a year exceeds the estimated rate of increase by at least .3 of 1 percentage point, we will advise the Medicare intermediaries to use the actual rate to adjust each SNF's limit retroactively at final settlement of the SNF's cost report.

4. *Application of the hospital wage index to employee benefits, health service costs, costs of business services, and other miscellaneous expenses.* In developing the current schedule, we applied the wage index discussed above to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and other miscellaneous costs. We have retained this method in developing this revised schedule of limits. The proportion of adjusted routine service costs we adjust by the wage index is 80.22 percent.

For purposes of applying the wage index, employee benefits include such items as FICA tax, health insurance, life insurance, facility contributions to employee retirement funds, and all other compensation that the SNF records in the "employee health and welfare" cost center on its Medicare cost report. (The Medicare Provider Reimbursement Manual, HCFA-Pub. 15–I, Chapter 4, and the instructions to the HCFA cost reporting forms, HCFA-Pub. 15–II) describe the types of costs that are to be recorded in that cost center.)

Health service costs are a category used by the National Nursing Home Survey conducted in 1977 by the Office of Health Research, Statistics and Technology, National Center for Health Statistics of the Public Health Service. They include the costs of routine services that are purchased under arrangement from outside sources.

Business services costs include costs of banking, contract laundry, telephone, and other services SNFs purchase at retail from outside suppliers.

Other miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket.

Thus, we will apply the wage index to the total portion of cost (80.22 percent) attributable to wages, fringe benefits, health service costs, business service costs, and other miscellaneous expenses rather than to the wage portion (61.26 percent) only. We are continuing this method because our analysis of the data we used to develop the hospital limits shows that area variations in routine per diem costs in these additional categories are closely related to area variations in prevailing wage levels. We believe that applying the wage index to the other categories of labor-related costs specified above, rather than to wages only, results in individual limits that are more equitable and more appropriate to each SNFs actual market environment.

5. *Limits set at 112 percent of mean.* We are maintaining the revised limits of 112 percent of the average labor-related and average non-labor costs of each group.

6. *Cost-of-living adjustment for Alaska, Hawaii, and Puerto Rico.* To avoid disadvantaging SNFs located in

Alaska and Hawaii, we are continuing to provide a cost-of-living adjustment for these States. In addition, since the cost limits can now be applied to SNFs in Puerto Rico, we are providing a cost-of-living adjustment for that area. This is an adjustment of the nonlabor component of the limit that applies to these areas, based on the amount of the most recently determined cost-of-living differentials developed by the Office of Personnel Management. Since we adjust the labor-related component by the applicable wage index, this cost-of-living adjustment applies only to the nonlabor component.

V. Impact Analyses

We have determined that this final notice is not likely to result in an annual economic impact of more than $100 million or more, or meet other threshold criteria of section 1(b) of Executive Order 12291. It is estimated that setting the limits at 112 percent of the mean and using a single schedule of limits for hospital-based and freestanding facilities will result in Medicare program savings over and above savings under the present rule of $20 million in FY 83, $53 million in FY 84, $62 million in FY 85, $69 million in FY 86, and $77 million in FY 87. The notice is therefore not a "major rule" as defined in Executive Order 12291, and a Regulatory Impact Analysis is not required.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires a Regulatory Flexibility Analysis for all rules determined to have a significant economic impact on a substantial number of small entities. The analysis must contain the following information:

- A description of the reasons why the agency is considering taking action;
- A statement of the objectives and legal basis for the proposed rule;
- A description and an estimate of the number of small entities that would be affected by the proposed rule;
- A description of the projected reporting, recordkeeping or other compliance requirements of the proposed rule;
- An identification of any other rules that may duplicate, overlap or conflict with the proposed rule; and
- A description of any significant alternatives considered.

This notice requires such an analysis because it would, as discussed below, significantly impact a substantial number of nursing care facilities.

The following analysis, together with the remainder of this notice is presented to meet the requirements of the Regulatory Flexibility Act.

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. This provision of the Act is implemented under regulations set forth at 42 CFR 405.460. Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 amended the provision to require SNF cost limits based on the cost of freestanding facilities.

We have published schedules of limits on SNF per diem inpatient routine service costs annually since 1979. On September 30, 1981, we published in the Federal Register an annual update of the SNF limits applicable to cost reporting periods beginning on or after October 1, 1981.

This revised notice replaces the current schedule and applies to SNF inpatient routine service costs for cost reporting periods beginning on or after October 1, 1982.

In computing the revised limits, we adjusted errors in classifying capital-related costs found on the cost reports, we excluded all capital-related costs, we eliminated separate limits for hospital-based and freestanding SNFs as required by section 102 of Pub. L. 97–248, and we eliminated the effect of the inpatient routine nursing salary differential as required by section 103 of the same law. We will use the limits set forth below which reflect these changes in methodology, because we believe they will be more effective than the current limits in preventing payment for costs due to operating inefficiency.

We have 3,492 SNFs in our data base, 30.0 percent of which will exceed the limits. While most SNFs are considered to be small entities, cost reports indicate 1179 of the SNFs in the data base have less than 100 beds. Of these smallest providers, 308 (26.1 pecent) would exceed the limit. By comparison, we expect 740 (or 32.0 percent) of the 2312 SNFs with more than 100 beds will exceed these limits. Therefore, we do not expect the limits will impact a greater number of small entities.

We believe much of the impact of these revised cost limits can be reduced by more efficient operation. That is, affected SNFs can greatly reduce impact by initiating management improvements to reduce costs to levels which the majority of SNFs are now able to meet.

VI. Waiver of Proposed Notice and 30-day Delay in Effective Date

We have developed the revised limits set forth below by using the same basic methododology that we used to develop the current SNF cost limits which were published on September 30, 1981. The methodology used to develop the September 30, 1981 limits had previously been published in a proposed notice for public comment (see 45 FR 41292). These comments, and our responses to them, are described in the final notice of SNF cost limits published September 45, 1980 (45 FR 58699).

We have described above in detail the changes to the methodology used to develop the limits. The changes eliminating separate limits for hospital-based and freestanding SNFs and eliminating the inpatient routine nursing salary cost differential were made to implement the provisions of Pub. L. 92–248, and are not discretionary. This change to a combined wage index is purely techncial and was made to eliminate confusion over the manner in which the limits are derived and the wage index adjustment applied. This change, as explained earlier, does not affect the amount of any SNF's limit.

Because the remaining methodology used for the revised schedule has previously been published for public comment, we do not believe it would be either necessary, useful or in the public interest to request comment on that methodology again. Therefore, we find good cause to waive publication of a proposed notice and publish this notice of revised limits in final form.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effective date of the schedule. Since prompt publication of the limits would be in the public interest, in order to meet the effective date established by law, there is good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them beginning on or after October 1, 1982.

VII. Methodology for Determining Per Diem Routine Service Cost Limit

Development of Published Limits

1. *Data.* We have developed the limits by using actual freestanding SNF inpatient routine service cost data, less capital-related costs allocated to general inpatient routine services, obtained from Worksheet D–1 of the latest Medicare cost reports available as of November 15, 1981. We have adjusted the data from Worksheet D–1 to exclude the inpatient routine nursing salary cost differential.

We adjusted these data using the market basket index discussed above, to project costs from the cost reporting periods in the data base to the midpoint of the first cost reporting period to

which the limits will apply. The annual percentage increases in the market basket over the previous year that we used for this projection are: 1979, 9.4; 1980, 10.1; 1981, 9.8; 1982, 6.9[1]; 1983, 6.9[1]; 1984, 7.0.[1]

The projected rate of increase in the market basket will be adjusted to the actual inflation rate if the actual rate of increase is at least .3 of 1 percentage point above the estimated rate. Should this occur, we will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each SNF cost limit at the time of final settlement.

2. *Use of Wage Index to Adjust Cost Data.* We divided each freestanding SNF's adjusted per diem routine service costs into labor-related and nonlabor portions. We determined the labor-related portion by multiplying each freestanding SNF's adjusted per diem routine service cost by 80.22 percent, which is the labor-related portion of cost from the market basket. We then divided the labor-related portion of each freestanding SNF's per diem cost by the wage index applicable to the SNF's location (see Tables II and III) to arrive at an adjusted labor-related portion of routine cost.

3. *Group Means.* We calculated separate means of labor-related and nonlabor adjusted routine service costs for each freestanding SNF group established in accordance with the SNF's SMSA/NECMA or non-SMSA/non-NECMA location.

4. *Components of Limit.* For each freestanding SNF group, we multiplied the mean labor-related and mean nonlabor costs by 112 percent (see Table I).

Adjustment of Published Limits

1. *Adjustment of Labor-Related Component by Wage Index.* To arrive at a labor-adjusted limit for each SNF, we multiply the labor-related component of the limit for the SNF's group by the wage index developed from wage levels for hospital workers in the area in which the SNF is located. (See Tables II and III) The adjusted limit that applies to an SNF will be the sum of the nonlabor component, plus the adjusted labor-related component, unless the SNF qualifies for the cost reporting year adjustment discussed in item 2 below.

Example—Calculation of Adjusted Limit for a Freestanding SNF Located in Dallas, Texas

Labor-Related Component, $39.13 (published in Table I); Non-Labor Component, $10,77 (published in Table I); SMSA Wage Index, 1.0222 (published in Table II).

COMPUTATION OF ADJUSTED LIMIT

Labor-related component	$39.13
Wage index	×1.0222
Labor component	$40.00
Nonlabor component	+10.77
Adjusted limit	$50.77

Example—Calculation of Adjusted Limit for a Hospital-based SNF Located in Williamsport, Pennsylvania

Labor-Related Component, $39.13 (published in table I); Non-Labor Component, $10.77 (published in table I); Hospital-based SNF "add-on", $4.37 (published in table I); SMSA Wage Index, .9890 (published in table II).

COMPUTATION OF ADJUSTED LIMIT

Labor-related component	$39.13
Wage index	×.9890
Adjusted labor component	$38.70
Non-Labor component	10.77
Hospital-based SNF "add-on"	+4.37
Adjusted limit	$53.84

2. *Adjustment for Cost Reporting Year.* If an SNF has cost reporting period beginning after October 1, 1982, the intermediary will increase the limit that would otherwise apply to the SNF by the factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket by twelve. This adjustment is needed to account for price increases that occur after the date on which the limits are effective.

Example—SNF A has a cost reporting period that begins July 1, 1983

The otherwise applicable limit for the SNF is $53.84.

COMPUTATION OF REVISED SNF LIMIT

Individual SNF adjusted limit	$53.84
Adjustment factor from table IV	×1.05225
Revised Limit	$56.65

If an SNF uses a cost reporting period that is not 12 months in duration, a special adjustment factor must be calculated. This results from the fact that projections are computed to the midpoint of a cost reporting period and the adjustment factors in Table IV are based on an assumed 12-month reporting period. For cost reporting periods of other than 12 months, the calculation must be done for the midpoint of the specific cost reporting period. The SNF's intermediary will obtain this adjustment factor from HCFA.

VII. Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits apply to the adjusted SNF inpatient routine service costs reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. Medicare fiscal intermediaries will compute the adjusted limits for SNFs using the methodology set forth in this notice, and will notify each SNF of its applicable limit. These limits, as adjusted by the wage indexes in Tables II & III, and the cost reporting year adjustment factors in Table IV, will remain in effect until replaced by a revised schedule of limits published in final in a notice in the **Federal Register.**

TABLE I.—SNF GROUP LIMITS

Location	Labor related component	Nonlabor component [1]
SMSA	$39.13	$10.77
Non-SMSA	$41.53	9.34
Hospital-based SNF "add-on":		
SMSA		4.37
Non-SMSA		1.82

[1] The non-labor portion of the limits for SNFs located in States of Alaska and Hawaii and the commonwealth of Puerto Rico will be increased by the following cost-of-living adjustments:

	Factor
Alaska:	
Anchorage	1.225
All others	1.25
Hawaii (islands):	
Oahu	1.175
Kauai	1.175
Molokai	1.175
Maui and Lanai	1.175
Hawaii	1.10
Puerto Rico	1.075

TABLE II.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	0.8360
Akron, OH	1.0997
Albany, GA	1.8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA–NJ	1.0506
Altoona, PA	1.0463
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2853
Anchorage, AK	1.5992
Anderson, IN	.9850
Anderson, SC	.8712
Ann Arbor, MI	1.2883
Anniston, AL	.8882
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.6481
Asheville, NC	1.0033
Athens, GA	.8811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA–SC	.9462
Austin, TX	1.0158
Bakersfield, CA	1.1813

[1] Forecasted increase.

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0366
Bay City, MI	[1]1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	[1].9181
Benton Harbor, MI	.8639
Billings, MT	[1].9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY–PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.9430
Bloomington-Normal, IL	.9168
Bloomington, IN	[1].9100
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	[1]1.1387
Bradenton, FL	[1].9296
Bremerton, WA	.8993
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen–San Benito, TX	.9764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	[1].9554
Caguas, PR	.6007
Canton, OH	.9637
Casper, WY	[1]1.0638
Cedar Rapids, IA	[1].9418
Champaign-Urbana-Rantoul, IL	1.0359
Charleston, SC	1.0333
Charleston, WV	1.0669
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0694
Chattanooga, TN–GA	.9985
Chicago, IL	1.2013
Chico, CA	1.0813
Cincinnati, OH–KY–IN	1.0959
Clarksville-Hopkinsville, TN–KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0890
Columbia, MO	1.1961
Columbia, SC	.9874
Columbus, GA–AL	.9195
Columbus, OH	1.0803
Corpus Christi, TX	.9762
Cumberland, MD–WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	[1].8960
Davenport-Rock Island-Moline, IA–IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	[1]1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.9685
Duluth-Superior, MN–WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8765
Elkhart, IN	[1].9100
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN–KY	1.0438
Fargo-Moorhead, ND–MN	1.0057
Fayetteville, NC	[1].8618
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Myers, FL	.9389
Fort Smith, AR–OK	.9318
Fort Walton Beach, FL	[1].7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.9316
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1438
Glens Falls, NY	.9078
Grand Forks, ND–MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	[1].9406
Greeley, CO	[1]1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greenville-Spartenburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middleton, OH	1.0706
Harrisburg, PA	1.0608
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8509
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV–KY–OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	[1]1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	[1].9059
Janesville-Beloit, WI	.8912
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN–VA	.8975
Johnstown, PA	1.0642
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO–KS	.9846
Kenosha, WI	[1]1.1136
Killeen-Temple, TX	.9185
Knoxville, TN	.9087
Kokomo, IN	1.0083
LaCrosse, WI	[1].9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718
Laredo, TX	.8631
Las Cruses, NM	[1].7733
Las Vegas, NV	1.2134
Lawrence, KS	[1].9678
Lawton, OK	[1].9619
Lewiston-Auburn, ME	[1].8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0278
Longview, TX	.8757
Lorain-Elyria, OH	1.0438
Los Angeles-Long Beach, CA	1.3174
Louisville, KY–IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1].9762
Mansfield, OH	.9359
Mayaquez, PR	.5902
McAllen-Pharr-Edinburg, TX	.8269
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9652
Memphis, TN–AR–MS	1.0594
Miami, FL	1.1623
Midland, TX	[1]1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN–WI	1.0099
Mobile, AL	.9490
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	[1].9595
Muskegon-Muskegon Heights, MI	.9808
Nashville-Davidson, TN	1.0498
Nassau-Suffolk, NY	1.2886
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0618
New Haven-Westhaven-Waterbury-Meriden, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9842
New York, NY–NJ	1.3979
Newark, NJ	1.2061
Newark, OH	[1].9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA–NC	1.0327
Northeast, PA	1.0447
Ocala, FL	[1].9418
Odessa, TX	[1].9296
Oklahoma City, OK	1.0161
Olympia, WA	[1]1.0540
Omaha, NE–IA	.9859
Orlando, FL	.9890
Owensboro, KY	[1].8803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	[1].8856
Parkersburg-Marietta, WV–OH	1.0064
Pascagoula-Moss Point, MS	[1]1.1283
Paterson-Clifton-Passaic, NJ	1.0829
Pensacola, FL	.9236
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA–NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	[1].7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR–WA	1.1208
Portsmouth-Dover-Rochester, NH–ME	.8549
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9408
Pueblo, CO	1.0859
Racine, WI	.8987
Raleigh-Durham, NC	1.0364
Reading, PA	1.0092
Redding, CA	1.0671
Reno, NV	[1]1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernadino-Ontario, CA	1.2201
Roanoke, VA	.9948
Rochester, NM	1.0438
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	.9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8838
St. Joseph, MO	1.0264
St. Louis, MO–IL	1.0367
Salem, OR	1.0834
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	.8521
San Antonio, TX	.9595
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.6806
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4336
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.8879
Shreveport, LA	1.0540
Sioux City, IA–NE	.9975

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Sioux Falls, SD	.9242
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0298
State College, PA	[1]1.1383
Steubenville-Weirton, OH-WV	.9905
Stockton, CA	1.3466
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahasse, FL	[1].9462
Tampa, FL-St. Petersburg, FL	1.0066
Terre Haute, IN	.8856
Texarkana,TX-Texarkana, AR	1.1761
Toledo, OH-MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.8893
Utica-Rome, NY	.9977
Vallejo-Fairfield-Napa, CA	1.6758
Victoria, TX	.8608
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC-MD-VA	1.1908
Waterloo-Cedar Falls, IA	.8884
Wausau, WI	[1].9566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV-OH	.9953
Wichita, KS	1.0412
Wichita Falls, TX	.8576
Williamsport, PA	.9890
Wilmington, DE-NJ-MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9943
Yakima, WA	.9682
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1283

[1]Approximate value for area.

TABLE III—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	.8167
Alaska	1.4136
Arizona	.9100
Arkansas	.7921
California	1.0662
Colorado	.8515
Connecticut	1.0658
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8965
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9928
Massachusetts	1.0870
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	.8810
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9566
Pennsylvania	1.0428
Puerto Rico	.6438
Rhode Island	[1].9628
South Carolina	.8184
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8808

TABLE III—WAGE INDEX FOR RURAL AREAS—Continued

Non-SMSA area	Wage index
Virginia	.8484
Washington	.9453
West Virginia	.9296
Wisconsin	.8291
Wyoming	.9782

[1] Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS[1]

	The adjustment factor is—
If a SNF cost reporting period begins:	
Nov. 1, 1982	1.00575
Dec. 1, 1982	1.01150
Jan. 1, 1983	1.01725
Feb. 1, 1983	1.02308
Mar. 1, 1983	1.02892
Apr. 1, 1983	1.03475
May 1, 1983	1.04058
June 1, 1983	1.04642
July 1, 1983	1.05225
Aug. 1, 1983	1.05808
Sept. 1, 1983	1.06392

[1] Based on projected market basket inflation rates of 6.9 percent and 7.0 percent for 1983 and 1984 respectively. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on October 1, 1983, or do not announce other changes in the current schedule by that date, the current limits will continue in effect, with the adjustment factor increased by .00583 (.583 percent) per month, until a new schedule of limits or other provision is issued.

Appendix I.—Derivation of "Market Basket" Index for SNF Routine Service Costs

Category of costs	Relative [1] importance 1980	Forecaster [2] percent changes (1980–84)	[3] Price variable used
Payroll expenses	61.26	DRI–CFS	Percentage changes in average hourly earnings of employees in nursing and personal care facility. (SIC 805) Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly) Table C–2.
Food	9.71	DRI–MM	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
		DRI–MM	Food and beverage component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 22.
Employee benefits	7.92	DRI–MM	Supplements to wages and salaries per worker in nonagricultural establishments. For supplement to wages. Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Table 1.11 For total employment. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly), Table B–4.
Fuel and other utilities	5.26	DRI–MM	A. Implicit price deflator-consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business, (monthly) Table 7.11.*
		DRI–MM	B. Implicit price deflator-consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis.
		DRI–MM	C. Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity above.
		DRI–CFS	D. Water and sewage maintenance component of the Consumer Price Index.
Miscellaneous	4.97	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. All Item Consumer Price Index, all urban.
Other business services	4.87	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. Services component of Consumer Price Index, all urban.
Supplies	3.40	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

Category of costs	Relative [1] importance 1980	Forecaster [2] percent changes (1980–84)	Price variable used
Drugs	1.40	DRI–CFS	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Prodcuer Prices and Price Indexes*, (monthly), Table 6.
Health services	1.21	DRI–CFS	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

[1] The basic weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for homes certified for participation in the Medicare program. See *Nursing Home Costs 1972, United States: National Home Survey, August 1973–April 1974, DHEW, NCHS: National Nursing Home Survey: 1977 Summary for the United States, Vital and Health Statistics, Series 13, Number 43.*

A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. In calendar year 1977 each "price" variable has an index value of 100.0. The relative routine service cost weights change each period in accordance with price changes for each price variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–CFS refers to Data Resources, Inc., Cost Forecasting Service (CFS 823), 1750 K Street, N.W., Washington, D.C. 20006.

[3] DRI–MM refers to Data Resources, Inc., Trendlong 782, 29 Hartwell Avenue, Lexington, Massachusetts 02173.

Appendix II—SMSA/NECMA Constituent Counties

Areas No Longer Qualifying as SMSAs:

SMSA area	Constituent counties
Rapid City, SD	Meade Pennsylvania

Areas Qualifying for Recognition as New SMSAs

SMSA area	Constituent counties
Anderson, SC	Anderson.
Arecibo, PR	Arecibo Municipio, Camuy Municipio, Hatillo Municipio.
Athens, GA	Clarke, Jackson, Madison, Oconee.
Bellingham, WA	Whatcom.
Benton Harbor, MI	Berrien.
Bremerton, WA	Kitsap.
Casper, WY	Natrona.
Charlottesville, VA	Albemarle, Fluvanna, Greene, Charlottesville City.
Chico, CA	Butte.
Cumberland, MD–WV	Allegany (MD), Mineral (WV).
Danville, VA	Pittsylvania, Danville City.
Florence, SC	Florence.
Fort Walton Beach, FL	Okaloosa.
Glens Falls, NY	Warren, Washington.
Hagerstown, MD	Washington
Hickory, NC	Alexander, Catawba.
Jacksonville, NC	Onslow.
Joplin, MO	Jasper, Newton.
Medford, OR	Jackson.
Newark, OH	Licking.
Newburgh-Middletown, NY	Orange.
Ocala, FL	Marion.
Olympia, WA	Thurston.
Redding, CA	Shasta.
Rock Hill, SC	York.
Salisbury-Concord, NC	Cabarrus, Rowan.
Sharon, PA	Mercer.
Sheboygan, WI	Sheboygan.
State College, PA	Centre.
Victoria, TX	Victoria.

Areas Qualifying for Recognition as New SMSAs—Continued

SMSA area	Constituent counties
Visalia, Tulare-Porterville, CA	Tulare.
Wausau, WI	Marathon.
Yuba City, CA	Sutter, Yuba.

New NECMAs

NECMA	Constituent counties
Bangor, ME	Penobscot.
Burlington, VT	Chittenden.
Portsmouth-Dover-Rochester, NH–ME.	Rockingham (NH), Strafford (NH), York (ME).

Revised NECMA Definitions

NECMA	Constituent counties
Boston-Lowell-Brockton-Lawrence-Haverhill, MA.	Essex (MA), Middlesex (MA), Norfolk (MA), Suffolk (MA), Plymouth (MA).
Hartford-New Britain-Bristol, CT	Hartford, Middlesex, Tolland.
Manchester-Nashua, NH	Hillsborough.
Portland, ME	Cumberland, Sagadahoc.
Providence-Warwick-Pawtucket, RI	Bristol, Kent, Providence, Washington.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–28579 Filed 9–28–82; 8:45 am]

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federal register

Wednesday
September 29, 1982

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. We are revising the limits to take into account more recent data and the effects of inflation, and to implement section 105 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982. Limits are established by type of service and are expressed as costs per visit. Although we have established separate limits by type of service, we are applying them to each home health agency as a single "aggregate" limit, based on the agency's number of visits for each type of service. This schedule applies to HHA costs for the entire cost reporting period which begins on or after September 3, 1982. It replaces the current schedule that was published in the **Federal Register** on September 30, 1981 (46 FR 48020).

EFFECTIVE DATE: September 3, 1982. Although this notice is being published in final, we will accept comments, particularly on the discussions on the areas we specify in the preamble, as described below. Comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-189-FNC.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301-594-9344.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority we have published limits on home health agency per visit costs annually since 1979. On June 30, 1981, we published in the **Federal Register** (46 FR 33645) a schedule of limits applicable to cost reporting periods beginning on or after July 1, 1981. These limits contained provisions related to (1) A classification system based on whether a HHA is provider-based or freestanding, and whether the HHA is located within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area NECMA), or a non-SMSA; (2) a "market basket" index developed from the price of goods and services purchased by HHAs; (3) adjustments to the limits by an area wage index developed from hospital wages; (4) a cost of living adjustment for HHAs in Alaska and Hawaii; (5) limits set at the 80th percentile; (6) calculation of per visit limits by type of service; and (7) application of the limits to each HHA in the aggregate.

On September 30, 1981, we published a special revision of the limits that replaced the June 30 schedule (see 46 FR 48020). This special revision implemented section 2144 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), which required that the level of the limits be set at the 75th percentile of unweighted per visit costs, rather than the 80th percentile. We used the same methodology in developing the September 30 revision as that used in the June 30 schedule.

On September 3, 1982 the Congress enacted Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 105 of this law eliminates separate limits for hospital-based and freestanding HHAs for cost reporting periods beginning on or after the date of enactment of the law. We are eliminating separate limits with cost reporting periods beginning on or after September 3, 1982. The Conference Committee report accompanying the statute (see H.R. No. 97-760, 97th Cong., 2nd Sess., 423 (1982)) does, however, provide for adjustments, as appropriate, that recognize legitimate cost differences in hospital-based facilities resulting from such factors as the effects of Medicare cost allocation requirements.

II. Provisions Of The Notice

This revised schedule uses essentially the same methodology as that used in the current schedule. Changes in the methodology, indicated in items 1 and 3, are explained in the next section. The new schedule of limits is based on the following provisions.

1. A classification system based on whether an HHA is located within a SMSA, a NECMA, or a non-SMSA/non-NECMA area. We have eliminated separate limits for provider-based and freestanding agencies, which have been classified separately in previous notices, and, instead, have set a single limit for all HHAs as required by section 105 of Pub. L. 97-248 (see discussion under section III. A.1 below). This single limit will be based on the par visit costs of freestanding agencies. We provide for an adjustment of the freestanding HHA limit to take into account the effect of required Medicare administrative and general (A&G) cost allocation on the hospital-based agency.

2. A market basket index, developed from the price of goods and services purchased by HHAs, that we use to account for the impact of changing wage and price levels on HHA costs. The market basket was first introduced effective July 1, 1980, and is used to adjust HHA cost data from July 1, 1980 to the midpoint of the cost reporting periods to which the limits will apply. The effect on inflation before use of the market basket is accounted for by actuarial estimates of the rate of increase in home health reimbursement.

3. Wage index, developed from hospital wages, used to adjust the labor-related portion of the limits and the A&G add-on to reflect differing wage levels among the areas in which HHAs are located. The employee wage portion of the market basket index (63.99 percent), plus a factor representing a proportionate share of contract services (4.72 percent) are used to determine the wage component (68.71 percent) of all home health agency per visit costs used to set the limits. This updates the present wage component of 69.28 percent.

4. A cost of living adjustment applied to the non-wage portion of the limit for HHAs in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

5. Limits set at the 75th percentile.

6. Calculation of per visit limits by type of service.

7. Application of the limits in the aggregate after the provider's actual costs are reduced by (i) the amount of individual items of cost that are found to be excessive under Medicare principles of provider reimbursement and (ii) reimbursable costs that are not included in the limitation amount.

III. Summary Of Changes To Methodology

A. Statutory Changes

1. *A single schedule of limits for provider-based and freestanding HHAs.*

Beginning with the schedule of limits published on June 5, 1980 (45 FR 38014), we adopted separate limits for provider-based and freestanding agencies to recognize the higher costs incurred by provider-based HHAs due to Medicare cost reporting requirements (see 42 CFR 405.453) beyond their control. Section 105 of Pub. L. 97–248 requires the Secretary to establish a single schedule of HHA limits based on the cost experience of freestanding agencies. The revised schedule of limits set forth below reflects this change in methodology.

2. *Use of an add-on adjustment for hospital-based HHAs.*

The Conference Committee Report accompanying Pub. L. 97–248 (see H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982)) directs the Secretary to make necessary adjustments to the limits for hospital-based HHAs to recognize "legitimitate cost differences in hospital-based facilities resulting from such factors * * * as the effects of Medicare cost allocation requirements." Therefore, we have developed an "add-on adjustment" to the freestanding limit for hospital-based HHAs to account for the higher reported costs associated with Medicare hospital cost-finding requirements.

Program instructions require hospital-based agencies to use the step-down method of cost finding which allocates a share of overhead expenses from the parent facility to the home care department. In order to determine the appropriate add-on amount, we examined the relationship between these indirect costs and the direct visit costs incurred by the hospital-based HHA. The data used in this study were extracted from worksheet B of the hospital cost report (HCFA–2552) from a sample of 285 hospitals with home care departments. This study confirmed an earlier finding that approximately 26 percent of the total cost reported by hospital-based agencies is attributable to overhead costs which are allocated from the hospital to the HHA under Medicare cost reporting requirements.

To determine the extent to which these overhead costs should be recognized, we isolated individual cost components that contribute to the higher per visit costs reported by hospital-based HHAs, and analyzed the statistical bases used to allocate these costs. As part of this process, we computed the average amount of administrative and general costs represented in the hospital overhead and compared it to the average amount of other indirect costs that are stepped down into the home care department from other costs centers (for example, depreciation, employee health and welfare). We determined that half of the 26 percent overhead cost differential results from the step-down of administrative and general (A&G) costs (approximately 13 percent), whereas the remaining 13 percent is spread across all other cost centers.

The functions of the A&G cost center are directed toward overall management and control of the hospital and contain a variety of activities which do not convert easily to quantitative measurement. Therefore, costs are allocated from the parent institution on the basis of accumulated costs and, as a result, the hospital-based HHA receives a substantial amount of hospital administrative and general costs that are not directly commensurate with the volume or value of service received from the hospital. Although these costs are reimbursable as allowable hospital costs, they are essentially added costs that must be reported by, but are not actually incurred by, the home health agency.

We also made this type of comparison for the other costs that are distributed to the home health cost center, such as housekeeping, operation of plant and medical records considering both the type of expense and basis for allocation. We have concluded, that with few exceptions (e.g., medical education), the other types of expenses are analogous to those of freestanding agencies and, the statistical bases for allocating these other costs are appropriate to the type of expense (e.g., square feet, time spent). Therefore, no adjustment has been made for those hospital overhead costs which are similar to those of freestanding agencies. In unusual circumstances, a hospital-based agency may request an exception to the limits under 42 CFR 405.460(f)(2) for legitimate expenses that are not similar to those of freestanding agencies. However, the fact that the costs are higher than those incurred by freestanding agencies is not a basis for an exception.

In accordance with congressional intent, we have developed an add-on adjustment to account for the higher administrative and general costs incurred by the hospital-based agency due to Medicare cost allocation requirements. The add-on amount has been calculated by determining the median cost of each discipline for hospital-based agencies and computing 13 percent of that amount. The resulting dollar amount, with the wage portion of that amount adjusted by the appropriate wage index, will be added to each freestanding limit to determine the discipline limit for hospital-based agencies. Table II shows the appropriate add-on amounts. The example following Table II shows how a hospital-based agency's limit will be determined.

For cost limit purposes, an agency will be considered to be hospital-based if it is a part of a hospital that is required to file a HCFA-2552 cost report (see PRM, HFCA Pub. 15, section 2326.2) and meets the requirements specified in the notice published June 5, 1980 in the **Federal Register** (45 FR 38014).

The Conference Committee report (see H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982)) accompanying Pub. L. 97–248 does not direct the Secretary to make adjustments to the limits for rehabilitation agency-based or skilled nursing facility-based HHAs. Further, the data are insufficient to determine accurately whether, and to what extent, differences in cost exist between these agencies and freestanding facilities. Thus, the new limits for rehabilitation agency-based and/or skilled nursing facility-based HHAs will remain at the same level as for freestanding agencies. These agencies may also request an exception to the limits under 42 CFR 405.460 for legitimate costs that are not similar to those of freestanding agencies and result from the application of cost finding rules.

B. Non-Statutory Changes

1. *Separate treatment of labor-related and non-labor components of per visit costs.*

In the notice published on September 30, 1981, we established, for each HHA comparison group, a single basic limit for each type of service set at the 75th percentile of the array.

Under that schedule, we divided a constant percentage (69.28 percent) of each HHA's cost by the wage index to arrive at the adjusted wage portion used in deriving the cost limits. We then applied the cost reporting year adjustment, if applicable, to the HHA's wage adjusted limits to determine the limits by type of service for each HHA.

The adjusted wage portion and the non-wage portion were recombined for each HHA before the limit amount was established. The adjustment of the wage portion by the wage index, in effect, increases or decreases the ratio of wage costs to non-wage costs in the cost limit groupings, depending on whether the average wage index value is greater or less than 1. As a result, combining the costs prior to setting the limits and then using a constant percentage as the wage share of the limit can overstate or understate the actual wage and non-wage costs in each group. This produces limited amounts which can give too much weight to either the wage or non-wage component. This effect is avoided if we compute separate percentiles for wage and non-wage costs and recombine these portions after the level of limits is set.

Under the revised method, we obtained actual HHA per visit cost data for each agency and increased those data by the actual and projected increases in the HHA market basket. We then separated each HHA's per visit costs into wage and non-wage portions, and divided the wage portion by the wage index for the agency's location in order to standardize for the effect of wage differences. The non-wage and wage adjusted portions of per visit costs are not recombined prior to determining cost per visit limits for each group as was done in deriving the current limits. Separate percentiles are computed for the wage and non-wage components of per visit costs. For each comparison group, the resulting amounts are shown in Table I. Since this represents a change from the current system, we invite public comment on this revision.

2. *Computation of wage index used to adjust HHA cost data.* The wage indexes used in this schedule are based on updated wage data for the year 1980. They were developed from data supplied by the Bureau of Labor Statistics (BLS) for the hospital group, a standard BLS reporting category.

The wage indexes used in previous schedules were developed by computing separate national average hospital wages for urban and rural areas. To develop the urban index, we computed the national SMSA (or NECMA) average hospital wage and divide this average into the average hospital wage for each SMSA (NECMA). For non-SMSA areas, we computed the national non-SMSA average hospital wage and divided this average into the average hospital wage for all non-SMSA counties in a State. The results of these calculations were expressed as index numbers which were used to adjust the wage portion of the group limits.

Use of the separate wage index computation for urban and rural areas has caused some misunderstanding among HHAs in the past because some rural areas had higher wage indexes than adjacent urban areas. The anomaly in the wage indexes resulted from the use of two different national averages—one for urban areas and one for rural areas as bases for calculating the index. For purposes of this revised schedule of limits, we are using a combined wage index that is based on a single national average wage. This revised index measures every area against the same standard, and overcomes the confusion created by the split wage index. We believe a wage index based on a single national average that compares all areas to a common norm will be easier to understand and to administer. This change results in corresponding urban and rural indexes having the same relative dollar value and allows for direct comparison of index numbers across urban and rural areas. To develop the combined wage index, we computed the national average hospital wage for all areas (SMSAs, NECMAs and non-SMSAs) and divided this average into the average hospital wage for each area. The result of this calculation is expressed as an index number for each area which is used to adjust the wage portion of the group limits.

This change has no effect on the limits which will be applied to any area. Under the methodology used to compute the limits, wage costs are deflated (divided) by the applicable wage index prior to determining the 75th percentile. When the limit is applied to an individual agency, the 75th percentile is then multiplied by the area wage index to determine the actual wage portion of the limit. The following example demonstrates that the final result of the computation is identical.

Example:

(1) *Split wage index*=.7059; wage share=$42.77; wage deflated cost: $42.77÷.7059=$60.5893; 75th percentile of all wage deflated costs=$57.64; Area wage share limit: $57.64×.7059=*$40.69.*

(2) *Combined wage index*=.7916; wage share=$42.77; wage deflated cost: $42.77÷.7916=$54.0298; 75th percentile of all wage deflated costs=$51.40; area wage share limit: $51.40×.7916=*$40.69.*

The following hypothetical sample array is the source of the data used in this example. The split and combined wage indexes used in the hypothetical sample array were derived as shown below.

SAMPLE DATA

[Can be urban or rural]

Area	Average monthly hospital wage	Split wage index	Combined wage index
1	$600	0.7059	0.7916
2	700	.8235	.9235
3	750	.8824	.9894
4	1,000	1.1765	1.3193
5	1,200	1.4118	1.5831
Total	4,250		

Urban or rural national average monthly hospital wage=

$$\frac{\text{Total urban or rural average monthly hospital wages}}{\text{Number urban or rural areas}} = \frac{4{,}250}{5} = \$850$$

Combined national average monthly hospital wage=

$$\frac{\text{Total urban average monthly hospital wages + total rural average monthly hospital wages}}{\text{Number urban areas + number rural areas}} = \frac{4{,}250+3{,}325}{10} = \$758$$

Example:

(1) Computation of Split Wage Index

Area 1 average monthly hospital wage=$600.00; urban or rural national average monthly hospital wage=$850.00; area 1 split wage index: $600.00÷$850.00=.7059

(2) Computation of Combined Wage Index

Area 1 average monthly hospital wage=$600.00; combined national average monthly hospital wage=$758.00; area 1 combined wage index: $600.00÷$758.00=.7916.

SAMPLE ARRAY

1	2	3		4	
		Wage index		Wage deflated cost [1]	
Area	Wage share 68.71	Split	Combined	Using split wage index	Using combined wage index
1	42.77	0.7059	0.7916	60.5893	54.0298
2	46.66	.8235	.9235	56.6606	50.5252
3	29.55	.8824	.9894	33.4882	29.8666
4	34.21	1.1765	1.3193	29.0778	25.9304
5	31.10	1.4118	1.5831	22.0286	19.6450
75th percentile of the Wage deflated arrayed costs=				$57.64	$51.40

[1] Col. 2 divided by corresponding value in col. 3.

5	6		7		8	
Area	Wage index		75th percentile wage deflated cost		Area limit (wage share [1]	
	Split	Combined	Split wage index	Combined wage index	Split wage index	Combined wage index
1	0.7059	0.7916	$57.64	$51.40	$40.69	40.69
2	.8235	.9235	57.64	51.40	47.47	47.47
3	.8824	.9894	57.64	51.40	50.86	50.86
4	1.1765	1.3193	57.64	51.40	67.81	67.81
5	1.4118	1.5831	57.64	51.40	81.37	81.37

[1] Col. 7 multiplied by appropriate value in col. 6.

Constraints inherent in the use of the BLS data prevented derivation of a wage index applicable to Guam and the Virgin Islands, and none are included in the list of indices. However, a wage-index value of 1 will be assumed for applying the limits in these areas until an actual value can be computed, effectively making no adjustment relative to the national average.

The data we used to develop the hospital wage index were supplied by BLS, and are the most reliable data available. All hospitals were required under the State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any error that results in incorrect wage indexes for any area, and will notify the Medicare intermediaries of the corrected index and will direct them to recalculate the limits for those affected providers. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage data.

3. *Inclusion of wage indexes for newly designated SMSAs.*

Under the current cost limits system, providers are classified as either urban or rural. With few exceptions, urban locales consist of those counties which comprise either an SMSA or NECMA as defined by the Office of Management and Budget (OMB), Executive Office of the President. Rural areas consist of those counties within a State that lie outside an SMSA or NECMA. The wage index for each urban area (SMSA/NECMA) is based on the combined BLS records for all counties within the SMSA/NECMA. Similarly, the wage index for each rural area is derived from the aggregated BLS data for all non-SMSA/NECMA counties in each State.

On June 19, 1981, OMB announced the designation of new SMSAs and NECMAs based on the results of the 1980 Census. Certain revisions in metropolitan classification were also announced. In developing the revised limits, we have incorporated wage indexes for OMB's newly designed metropolitan locales as well as indexes for existing SMSAs and NECMAs that have been redefined. We have included in Appendix I a listing of the newly designated metropolitan locales and the revised NECMAs.

4. *Inclusion of wage indexes for Puerto Rico.*

In the past, BLS has not collected wage data from hospitals located in Puerto Rico. Therefore, derivation of a wage index specific to that area was not possible. Recent refinements in the BLS system now permit computation of actual wage values for Puerto Rico. These wage indexes were used in development of the limits and are included in Tables III A and III B.

IV. Summary of Retained Methodology

In addition to the changes discussed earlier, we have retained the following provisions:

1. *Classification system.*

We have eliminated separate limits for provider-based and freestanding HHAs, as required by section 105 of Pub. L. 97–248 and discussed above. However, we have retained an urban/rural distinction of agencies as an element of the classification system.

2. *Limits set at the 75th percentile.*

We have maintained the basic service limit at the 75th percentile. Each HHA's individual limits will be increased or decreased by application of the wage index as described in item 2 of the methodology section of this notice.

3. *Use of HHA market basket index.*

In the initial schedule of home health agency limits published June 1, 1979 (44 FR 31814), we obtained the inflation adjustment factors from actuarial projections of change in HHA interim reimbursement rates. Because we believe the cost of goods and services purchased to provide home health care is a more accurate measure of inflation, we developed a market basket price index specifically related to the home health industry. For a more detailed explanation of the HHA market basket, including weights and categories, see the notice published June 30, 1981 (46 FR 33645).

We have developed the revised limits in the same manner as the current limits. They are based on reported costs, adjusted for actual and projected cost increases, using factors developed from actual historical increases in home health reimbursement. The costs are adjusted to reflect historical increases occurring between each provider's cost reporting period reflected in our data base and June 30, 1980. We then apply the HHA market basket index beginning July 1, 1980.

In developing the market basket index, we obtained historical and projected rates of increase in the resource prices for each category. The price variables and the source of the forecast for calendar years 1980 through 1984 are identified in the third and fourth columns of the updated market basket included in this notice.

In applying the market basket index, we also provide for adjustments to be made in the limits if our forecast of economic trends proves to be erroneous. We will adjust the projected rate of increase in the market basket index to actual, if the actual rate of increase is more than 3/10 of 1 percentage point above the estimated rate. We will advise the Medicare intermediaries to use the actual rate of increase to adjust each HHA's limits at the time of final settlement.

HOME HEALTH AGENCY INPUT "PRICE" INDEX: COST CATEGORIES, WEIGHTS, FORECASTERS AND PRICE VARIABLE USED

Cost categories	Relative importance 1980 [1]	Forecaster percent changes (1981–84) [2]	Price variable used
Wages and salaries	63.99	DRI–CFS	Percentage chagne in average hourly earnings of hospital industry workers (SIC806). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly) Table C–2.
Employee benefits	8.43	DRI–MM	Percentage change in supplements to wages and salaries per worker in non-agricultural establishments. Source: U.S. Dept. of Commerce, Bureau of Economic Analysis Survey of Current Business (monthly) Table 7.
Transporation	5.18	DRI–CFS	Transportation component of the Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Office costs	2.95	DRI–MM	Services component of Consumer PRICE Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Rent	1.26	HCFA–HHS	*Projection*
Nontental space occupancy costs.	1.50	DRI–MM	Weighted average of fuel and other utilities using relative weights derived from market basket for hospital routine operating costs. Source: HHS–HCFA, National Hospital Input Price Index.[3]
Medical nursing supplies and rental equipment.	2.59	HCFA–HHS	After 1977: non-prescription medical equipment and supplies component of the Consumer Price Index. Prior to 1978: medical care commodities component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	7.25	DRI–MM	Consumer Price Index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Contract services	6.87	DRI–MM	Weighted mean of price variables for items 1 through 8 above.
Total [4]	100.0	HCFA–HHS	

[1] Relative cost weights vor 1976 were derived from special studies by the Health Care Financing Administration using primarily data from HCFA medicare cost reports and data from the Council of Home Health Agencies and Community Health Services. A laspeyres price index was constructed using 1976 weights and "price" variables indicated in this table. In calendar year 1976 each "price" variable has an index value of 100.00. The relative cost weights change overtime in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–MM refers to Data Resources, Inc., Marcro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, Forecast Trendlong 0182. DRI–CFS refers to Data Resources, Inc., Cost Forecaster Service, 1750 K Street, N.W., Washington, D.C. 20006, (Forecast: CFS821)

[3] See Freeland, Mark S., Gerard Anderson and Carol Ellen Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61.

[4] May not sum to 100.00 due to rounding.

4. *Application of the wage index to employee wages and a proportionate share of contract services.*

In this revised schedule,we are retaining an adjustment to the wage component of the limit which includes wages and salaries, plus an estimated percentage of contract service costs. These percentages are calculated by adding an estimated wage percentage of contract service costs (4.72 percent) to the wage and salary weight shown in the market basket (63.99 percent). The proportion of cost to be adjusted by the wage index is now 68.71 percent. This is a change from the 69.28 percent used in the current notice and is due to use of updated market basket weights.

Use of cost-of-living adjustment for Alaska, Hawaii, Puerto Rico and the Virgin Islands.

To avoid disadvantaging HHAs located in Alaska, Hawaii, Puerto Rico and the Virgin Islands, we are providing a cost-of-living adjustment for these areas. This adjustment is the same as the provision included in the current schedule, except that it now applies to HHAs located in Puerto Rico and the Virgin Islands. In keeping with current practice, the non-wage component of the limits applicable to Alaska, Hawaii, Puerto Rico and the Virgin Islands will be adjusted by the amount of the Office of Personnel Management cost-of-living differential for those areas. We adjust the wage component by the appropriate wage index; therefore, this adjustment applies only to the non-wage component.

6. *Application of limits in the aggregate.*

We are aware of the congressional concern to improve reimbursement methodology and to make the HHA cost limits more precise. The conference report (H.R. Report No. 97–208, 97th Cong., 1 Sess. 949, (1981)) which accompanied the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) "urges the Secretary, as soon as feasible" to apply limits by type of service. We agree that conversion to limits by type of service would be an improvement over the aggregate methodology currently used because it would be a more accurate measure of efficiency. However, the feasibility of converting to per visit limits is dependent on development of a data base using a single method of cost finding and cost apportionment. We published a final rule requiring HHAs to use a single method of cost finding and cost apportionment for cost reporting periods beginning on or after October 1, 1980 (45 FR 57126, August 27, 1980). Unlike the data now available which are derived from multiple cost reporting methods, data based on a single cost reporting system will be consistent for all agencies and types of services, and will permit direct cost comparisons between various types of agencies. We anticipate that the complete data base, using the new cost report, will be available about mid-1983. Therefore, we will delay application of the limits by type of service until such time as we have the data from the new cost reports.

V. Application of Limits to State Medicaid Rates

Methods of reimbursement for home health agencies under Medicaid are determined by the individual State agencies. There is no existing regulatory requirement that Medicare cost limits be applied to payment rates for HHA services under Medicaid. Therefore, Medicare cost limits for HHAs will apply only to Medicaid payments in those States that choose to incorporate the limits into their plans for payment for home health services.

VI. Impact Analyses

Executive Order 12291

We have determined that the revised schedule of limits set forth in this notice will not result in an annual economic impact of $100 million or more. This notice will also not meet other criteria of the order

This final notice sets forth limits on HHA costs per visit that are intended to implement section 105 of Pub. L. 97–248 and to prevent Medicare reimbursement for costs not related to patient care or due to operating inefficiencies. Implementation of these limits would result in Medicare savings of $16 million in fiscal year 1983, compared to the retention of earlier limits set at the 80th percentile and using separate schedules for hospital-based facilities. Furthermore, all but $2 million of the fiscal year 1983 savings is due to the percentile reduction established in law and hence not the "result" of this notice.

Accordingly, we find no evidence that would require a regulatory impact analysis.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act, (Pub. L. 96–354), that the revised schedule of limits set forth in this notice will not have a significant economic impact on a substantial number of small entities.

As stated above, only $2 million of the $16 million incremental savings estimated for FY 83 can be attributed to the elimination of the separate schedule of limits for hospital-based facilities. Continuation of separate limits for hospital-based home health agencies would have resulted in limits higher than those now established for these agencies. Consequently, the hospital-based agencies will be the only ones affected by this policy change.

The savings are projected from a data base of 1771 participating home health agencies that includes 186 hosptial-based agencies, of which 74 are expected to exceed the proposed limits. The $2 million savings attributed to the single limit proposal is derived from the estimated dollar impact on the 74 hospital-based providers adjusted to reflect 1983 expenditures for all hospital-based agencies. We believe that this effect, which averages about $10,000 per affected provider, does not result in a significant impact on these providers when compared to average revenues of $20 million expected to be received by hospitals in FY 83. This impact averages less than one-tenth of one percent of revenues. Moreover, these institutions can take steps to reduce their costs to levels which other institutions now meet. Additionally, an exception may be granted under section 1861(v)(1)(A) of the Social Security Act, implemented by regulations at 42 CFR 405.460(f), for hospital-based agencies whose reimbursement is unfairly restricted by the limits. Accordingly, a regulatory flexibility analysis is not required.

VII. Waiver of Proposed Notice and 30-Day Delay in Effective Date

As we indicated earlier, we have used the same methodology to develop the revised limits that was used to develop the current schedule published September 30, 1981. The methodology used to develop the September 30, 1981 limits had previously been published for public comment (see 45 FR 10450). In developing those limits, we considered all comments received.

Because the main features of the methodology used in this revised schedule were previously published for public comment, we believe that it would be impracticable and unnecessary to again request public comment. To do so would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice. However, we are allowing a 60-day comment period on areas of the methodology that have been revised.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effective date of the schedule. In this case, it would be impracticable and contrary to the public interest to do so because the effective date of the statutory changes is the date of enactment of Pub. L. 97–248. Since prompt publication of the results of these changes in the limits would be in the public interest, we find good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them to HHAs effective September 3, 1982.

VIII. Methodology for Determining Cost Per Visit Limits

1. *Data.* We determined the revised limits by using actual cost per visit data obtained from the latest Medicare cost reports for periods ending on or before June 30, 1981. We adjusted the data to reflect cost increases occurring between the cost reporting periods contained in our data base and March 31, 1983 (the midpoint of the first cost reporting period to which the limits will apply), using factors developed from actual historical increases in home health reimbursement (prior to July 1, 1980) and market basket factors (beginning July 1, 1980). The annual percentage increases used to compute the per visit costs are:

Calendar year	Percent increase
1978	[1]6.7
1979	[1]7.2
1980 (1/1/80–6/30/80)	[1]8.6
1980 (market basket, 7/1/80–12/31/80)	[2]11.7
1981 (market basket)	[2]12.1
1982 (market basket)	[3]9.6
1983 (market basket)	[3]6.9
1984 (market basket)	[3]7.6

[1] Actuarial estimates subject to change based on later estimates of cost increases.
[2] Final rate.
[3] Forecasted increases.

The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase is more than 3/10 of 1 percentage point above the estimated rate. We will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each home health agency's cost limit at time of final settlement.

2. *Deflation by Wage Index.* After adjustment by the market basket, we divide each HHA's adjusted per visit costs into wage and non-wage portions. We determine the wage portion of costs (68.71 percent) by using the 63.99 percent employee wage and benefit factor derived from the market basket weight, plus 4.72 percent representing a proportionate share of the market basket weight for contract services. We then divide the wage portion of per visit costs by the wage index applicable to the HHA's location to arrive at an adjusted wage cost.

The current hospital wage index was developed from data for the year 1980 supplied by the Bureau of Labor Statistics (BLS) for the "hospital industry", a standard BLS reporting category.

3. *Basic Service Limit.* A basic service limit equal to the 75th percentile of the wage and non-wage portions is calculated for each type of service, derived from the per visit costs of freestanding HHAs. Separate determinations of percentile for the non-wage and wage portions are necessary since the wage index adjustment discussed above changes the ratio of wage to non-wage costs.

4. *Computing the Adjusted Limit.* To arrive at the wage adjusted limit applied to each service furnished by a HHA, the Medicare fiscal intermediary multiplies the wage limit component for the comparison group by the appropriate wage index. (See Tables IIIA and IIIB.)

The adjusted limit that will apply to a HHA is the sum of the non-wage component plus the adjusted wage component.

Example—Calculation of Adjusted Occupational Therapy:
Limit[1]
Non-Wage Component—$16.19
Wage Component—$32.44
Wage Index—1.0694

Computation of Adjusted Limit[1]

Wage Component—$32.44
× Wage Index—1.0694
Adjusted Wage Component—$34.69
+ Non-wage Component—$16.19
Adjusted Limit for Occupational Therapy—$50.88

5. *Adjustment for Reporting Year.* If a HHA has a cost reporting period beginning on or after November 1, 1982, the adjusted per visit limit for each service will be revised upward by a factor from Table IV that corresponds to the month and year in which the cost

[1] Includes three months of inflation to reflect cost reporting period beginning January 1, 1983. Limit in Table I multiplied by factor of 1.0173 from Table IV.

reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket index by 12, and is used to account for inflation in costs that will occur after the date on which the limits became effective.

Example—HHA A's cost reporting period begins January 1, 1983. The wage adjusted per visit limit for occupational therapy for A's group is $50.01.

Computation of Revised Limit for Occupational Therapy

Adjusted Per Visit Limit—$50.01
Adjustment Factor from Table IV—1.0173
1.0173 × $50.01 = $50.88

In this example, the revised adjusted per visit limit for occupational therapy applicable to A for the cost reporting period beginning January 1, 1983, is $50.88 per visit.

If a HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .575 is based on an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The HHA's intermediary will obtain this adjustment factor from HCFA.

6. *Adjustment for Hospital-Based Agencies.* If a HHA participates in the Medicare program as part of a hospital that is required to file a HCFA–2552 cost report (see PRM (HCFA Pub–15) § 2326.2), and meets the requirements specified in the notice published June 5, 1980 in the **Federal Register** (45 FR 38014), the HHA will be considered to be a hospital-based agency. Therefore, the HHA will be entitled to an adjustment of the per visit limit to account for higher administrative and general costs resulting from the Medicare cost allocation requirements. The intermediary will compute the adjusted cost limit as described in the example following Table II.

IX. Schedule of Limits

The schedule of limits set forth below applies to the 12-month cost reporting period beginning on or after September 3, 1982, and remains in effect until superseded. The fiscal intermediary will compute the adjusted limits using the wage index published in Tables IIIA and IIIB and notify each HHA of its applicable limits.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Medical supplies that are not routinely furnished in conjunction with patient care visits and are directly identifiable services to an individual patient (i.e., medical supplies for which a separate charge is made, in addition to the per visit charge) are excluded from the per visit cost if: (1) The common and established practice of comparable HHAs in the area is to charge separately for the items; (2) the HHA follows a consistent charging practice for Medicare and non-Medicare patients receiving the item; (3) generally, the item is not frequently furnished to patients; (4) the item is directly identifiable to an individual patient and its costs can be identified and accumulated in a separate cost center; and (5) the item is furnished at the direction of the patient's physician and is specifically identified in the plan of treatment. This explanation of non-routine medical supplies is consistent with instructions for reporting the cost of these supplies on the revised HHA cost report, forms HCFA–1728 and HCFA–2552K. The reasonable cost of medical appliances and supplies that are not routinely furnished in conjunction with patient care visits will be reimbursed without regard to the schedule of limits.

The fiscal intermediary determines the limit for each home health agency by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the home health agency's total allowable cost.

Example: Home Health Agency A, a freestanding agency located in Charlottesville, Virginia made 6,000 skilled nursing, 1,000 physical therapy and 3,000 home health aide covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning January 1, 1983.

The aggregate cost limit would be determined as follows:

Type of visit	Visits	Non-wage portion [1]	Adjusted wage portion 1.06941 [1]	Adjusted limit	
Skilled nursing	6,000	16.08	35.56	51.64	$309,840
Physical therapy	1,000	15.73	34.14	49.87	49,870
Hone health aide	3,000	12.75	26.85	39.60	118,800
Aggregate cost limit					$478,510

[1] Limits include three months of inflation to reflect a cost reporting period beginning January 1, 1983.

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (e.g., administrative compensation, contract services) that are found to be excessive under Medicare principles of provider reimbursement. In this regard, the fiscal intermediaries will review the various reported costs against such screens as the cost guidelines for physical therapy under arrangements (see 42 CFR 405.432) and against the limitation on costs that are substantially out of line with those of comparable agencies (see 42 CFR 405.451). The provider's cost will also be reduced by the amount of reimbursable costs that are not included in the limitation amount (e.g., medical appliances).

TABLE I.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES [1]

Type of visit	Limit	Wage portion (68.71%)	Non-wage portion (31.29%)
SMSA (NECMA) Location			
Skilled nursing care	48.50	32.69	15.81
Physical therapy	46.84	31.38	15.46
Speech pathology	47.56	31.89	15.67
Occupational therapy	47.80	31.89	15.91
Medical social services	57.86	38.80	19.06
Home Health aide	37.21	24.68	12.53
Non-SMSA Location			
Skilled nursing care	54.74	39.09	15.65
Physical therapy	54.85	38.98	15.87
Speech pathology	57.98	41.22	16.76
Occupational therapy	56.25	39.56	16.69
Medical social services	53.41	37.48	15.93
Home health aide	40.09	28.65	11.44

[1] Non-labor component of limits for HHAs located in Alaska, Hawaii, Puerto Rico and the Virgin Islands will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska:	
Anchorage	1.225
All other localities	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Maui and Lani	1.175
Molokai	1.175
Hawaii (island)	1.10
Puerto Rico	1.075
Virgin Islands:	
St. Croix	1.125
St. Thomas and St. John	1.125

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

	A and G add-on	Wage portion (68.71%)	Non-wage portion (31.29%)
SMSA (NECMA) Location			
Skilled nursing care	$6.49	$4.31	$2.18
Physical therapy	6.42	4.27	2.15
Speech pathology	6.36	4.21	2.15
Occupational therapy	6.51	4.31	2.20
Medical social services	6.64	4.35	2.29
Home health aide	6.37	4.22	2.15
Non-SMSA Location			
Skilled nursing care	$6.68	$4.74	$1.94
Physical therapy	6.47	4.59	1.88
Speech pathology	6.83	4.80	2.03
Occupational therapy	6.11	4.20	1.91
Medical social services	6.78	5.01	1.77

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES—Continued

	A and G add-on	Wage portion (68.71%)	Non-wage portion (31.29%)
Home health aide	6.45	4.62	1.83

Example

A hospital-based agency in New York City has a wage index of 1.3979. It provides the following services:

Skilled Nursing (SN)—1,527 Visits
Physical Therapy (PT)—1,286 Visits
Home Health Aides (HHA)—1,391 Visits

The aggregate limit for that agency is calculated as follows:

	Limit [1]		Add-on [1]	
	Wage portion	Non-wage portion	Wage portion	Non-wage portion
SN	$33.26	$16.08	$4.38	$2.22
PT	31.12	15.73	4.34	2.19
HHA	25.11	12.75	4.29	2.19

[1] Includes three months of inflation to reflect a cost reporting period beginning January 1, 1983.

Calculation of Limit

To calculate the limit multiply the wage portion by the wage index and add the non-wage portion:

SN—($33.26)×1.3979=$46.49+$16.08=$62.57
PT—($31.92)×1.3979=$44.62+$15.73=$60.35
HHA—($25.11)×1.3979=$35.10+$ 12.75= $47.85

Calculation of A & G Add-On Amount

To calculate the A & G add-on amount, multiply the wage portion by the wage index and add the non-wage portion:

SN—($4.38)×1.3979=$6.12+$2.22=$8.34
PT—($4.34)×1.3979=$6.07+$2.19=$8.26
HHA—($4.29)×1.3979=$6.00+$2.19=$8.19

Computation of Aggregate Limit

The limit and the A & G add-on for each discipline are totaled and multiplied by the number of visits for that discipline. These results are added to determine the aggregate limit:

	Limit	A&G Add-on	Total	Visits	Allowable costs
SN	$62.57	8.34	$70.91	1,527	$108,280
PT	60.35	8.26	68.61	1,286	88,232
HHA	47.85	8.19	56.04	1,391	77,952
Aggregate limit					$274,464

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	0.8360
Akron, OH	1.0997
Albany, GA	[1].8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0463
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2853
Anchorage, AK	1.5992
Anderson, IN	.9850
Anderson, SC	.8712
Ann Arbor, MI	1.2883
Anniston, AL	.8882
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.6481
Asheville, NC	1.0033
Athens, GA	.8811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9462
Austin, TX	1.0158
Bakersfield, CA	1.1813
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0366
Bay City, MI	[1]1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	[1].9181
Benton Harbor, MI	.8639
Billings, MT	[1].9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY-PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.9430
Bloomington-Normal, IL	.9168
Bloomington, IN	[1].9100
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1387
Bradenton, FL	[1].9296
Bremerton, WA	.8993
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.9764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	[1].9554
Caguas, PR	.6007
Canton, OH	.9637
Casper, WY	[1]1.0632
Cedar Rapids, IA	[1].9418
Champaign-Urbana-Rantoul, IL	1.0359
Charleston, SC	1.0333
Charleston, WV	1.0869
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0694
Chattanooga, TN-GA	.9985
Chicago, IL	1.2013
Chico, CA	1.0613
Cincinnati, OH-KY-IN	1.0959
Clarksville-Hopkinsville, TN-KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0890
Columbia, MO	1.1961
Columbia, SC	.9874
Columbus, GA-AL	.9195
Columbus, OH	1.0803
Corpus Christi, TX	.9762
Cumberland, MD-WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	[1].8960
Davenport-Rock Island-Moline, IA-IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	[1]1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.9685
Duluth-Superior, MN-WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8765
Elkhart, IN	[1].9100
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN-KY	1.0438

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Fargo-Moorhead, ND-MN	1.0057
Fayetteville, NC	[1].8618
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Myers, FL	.9389
Fort Smith, AR-OK	.9318
Fort Walton Beach, FL	[1].7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.9316
Gainesville, FL	9496.
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1438
Glens Falls, NY	.9078
Grand Forks, ND-MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	[1].9406
Greeley, CO	[1]1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greensville-Spartanburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middleton, OH	1.0706
Harrisburg, PA	1.0608
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8509
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV-KY-OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	[1]1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	[1].9059
Janesville-Beloit, WI	.8912
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN-VA	.8975
Johnstown, PA	1.0642
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO-KS	.9846
Kenosha, WI	[1]1.1136
Killeen-Temple, TX	.9185
Knoxville, TN	.9067
Kokomo, IN	1.0083
LaCrosse, WI	[1].9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718.
Laredo, TX	.8631
Las Cruses, NM	[1].7733
Las Vegas, NV	1.2134
Lawrence, KS	[1].9678
Lawton, OK	[1].9619
Lewiston-Auburn, ME	[1].8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0278
Longview, TX	.8757
Lorain-Elyria, OH	1.0438
Los Angeles-Long Beach, CA	1.3174
Louisville, KY-IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1].9762
Mansfield, OH	.9359
Mayaques, PR	.5902
McAllan-Pharr-Edinburg, TX	.8269
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9652
Memphis, TN-AR-MS	1.0594
Miami, FL	1.1623
Midland, TX	[1]1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN-WI	1.0099
Mobile, AL	.9490

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9685
Muncie, IN	[1].9595
Muskegon-Muskegon Heights, MI	.9808
Nashville-Davidson, TN	1.0498
Nassau-Suffolk, NY	1.2886
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0618
New Haven-Westhaven-Waterbury-Meriden, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9842
New York, NY-NJ	1.3979
Newark, NJ	1.2061
Newark, OH	[1].9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA-NC	1.0327
Northeast, Pennsylvania	1.0447
Ocala, FL	[1].9418
Odessa, TX	[1].9296
Oklahoma City, OK	1.0161
Olympia, WA	[1]1.0540
Omaha, NE-IA	.9859
Orlando, FL	.9890
Owensboro, KY	[1].8803
Oxnard-Simi Valley-Venturs, CA	1.4050
Panama City, FL	[1].8856
Parkersburg-Marietta, WV-OH	1.0064
Pascagoula-Moss Point, MS	[1]1.1283
Paterson-Clifton-Passaic, NJ	1.0829
Pensacola, FL	.9236
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA-NJ	1.1941
Phoenix, AZ	1.1393
Pine Bluff, AR	[1].7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR-WA	1.1208
Portsmouth-Dover-Rochester, NH-ME	.8549
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9408
Pueblo, CO	1.0859
Racine, WI	.8987
Raleigh-Durham, NC	1.0364
Reading, PA	1.0092
Redding, CA	1.0671
Reno, NV	[1]1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernadino-Ontario, CA	1.2201
Roanoke, VA	.9948
Rochester, MN	1.0438
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	.9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8638
St. Joseph, MO	1.0264
St. Louis, MO-IL	1.0367
Salem, OR	1.0834
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	.8521
San Anotonio, TX	.9595
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.6806
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4336
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.8879
Shreveport, LA	1.0540
Sioux City, IA-NE	.9975
Sioux Falls, SD	.9242
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, Il	1.1235

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0298
State College, PA	[1]1.1383
Steubenville-Weirton, OH-WV	.9905
Stockton, CA	1.3466
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahassee, FL	[1].9462
Tampa, FL-St. Petersburg, FL	1.0066
Terre Haute, IN	.8856
Texarkana-TX-Texarkana, AR	1.1761
Toledo, OH-MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9893
Utica-Ropme, NY	.9977
Vallejo-Fairfield-Napa, CA	1.6758
Victoria, TX	.8608
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC-MD-VA	1.1908
Waterloo-Cedar Falls, IA	.8884
Wausau, WI	[1].9586
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV-OH	.9953
Wichita, KS	1.0412
Wichita Falls, TX	.8576
Williamsport, PA	.9890
Wilmington, DE-NJ-MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9943
Yakima, WA	.9682
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1283

[1]Approximate value for area.

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	0.8167
Alaska	1.4316
Arizona	.9100
Arkansas	.7921
California	1.0662
Colorado	.8515
Connecticut	1.0658
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8965
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9928
Massachusetts	1.0870
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	8810
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9566
Pennsylvania	1.0428
Puerto Rico	.6438
Rhode Island	[1].9628
South Carolina	.8184

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS—Continued

Non-SMSA area	Wage index
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8808
Virginia	.8484
Washington	.9453
West Virginia	.9296
Wisconsin	.8291
Wyoming	.9782

[1]Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS[1]

	The adjustment factor is—
If the HHA cost reporting period begins—	
Nov. 1, 1982	1.0058
Dec. 1, 1982	1.0115
Jan. 1, 1983	1.0173
Feb. 1, 1983	1.0236
Mar. 1, 1983	1.0300
Apr. 1, 1983	1.0363
May 1, 1983	1.0426
June 1, 1983	1.0490
July 1, 1983	1.0553
Aug. 1, 1983	1.0616
Sept. 1, 1983	1.0679
Oct. 1, 1983	1.0743
Nov. 1, 1983	1.0806
Dec. 1, 1983	1.0869
Jan. 1, 1984	1.0933

[1]Based on projected market basket inflation rates of 6.9 percent for 1983 and 7.6 percent for 1984. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on July 1, 1983, or do not announce other changes in the current schedule by that date, the current limits will continue in effect with the adjustment factor increased by .00633 (corresponding to .633 percent) per month, until a new schedule of limits or other provision is issued. (For convenience, adjustment factors are computed and displayed in Table IV for July 1, 1983 to January 1, 1984.) The adjustment factor of .00633 is based on a projected market basket inflation rate of 7.6 percent for 1984.

Appendix I—MSA/NECMA Constituent Counties

AREAS NO LONGER QUALIFYING AS SMSAS

SMSA area	Constituent counties
Rapid City, SD	Meade. Pennington.

AREAS QUALIFYING FOR RECOGNITION AS NEW SMSAS

SMSA area	Constituent counties
Anderson, SC	Anderson
Arecibo, PR	Arecibo Municipio. Camuy Municipio. Hatillo Municipio.

AREAS QUALIFYING FOR RECOGNITION AS NEW SMSAS—Continued

SMSA area	Constituent counties
Athens, GA	Clarke.
	Jackson.
	Madison.
	Oconee.
Bellingham, WA	Whatcom.
Benton Harbor, MI	Berrien.
Bremerton, WA	Kitsap.
Casper, WY	Natrona.
Charlottesville, VA	Albemarle.
	Fluvanna.
	Greene
	Charlottesville City.
Chico, CA	Butte.
Cumberland, MD–WV	Allegany (MD).
	Mineral (WV).
Danville, VA	Pittsylvania.
	Danville City.
Florence, SC	Florence.
Fort Walton Beach, FL	Oklaoosa.
Glens Falls, NY	Warren.
	Washington.
Hagerstown, MD	Washington.
Hickory, NC	Alexander.
	Catawba.
Jacksonville, NC	Onslow.
Joplin, MO	Jasper.
	Newton.
Medford, OR	Jackson.
Newark, OH	Licking.
Newburgh-Middletown, NY	Orange
Ocala, FL	Marion.
Olympia, WA	Thurston.
Redding, CA	Shasta.
Rock Hill, SC	York.
Salisbury-Concord, NC	Cabarrus.
	Rowan
Sharon, PA	Mercer.
Sheboygan, WI	Sheboygan.
State College, PA	Centre.
Victoria, TX	Victoria.
Visalia-Tulare-Portervilie, CA	Tulare
Wausau, WI	Marathon.
Yuba City, CA	Sutter.
	Yuba.

NEW NECMAS

Necma	Constituent counties
Bangor, ME	Penobscot.
Burlington, VT	Chittenden.
Portsmouth-Dover-Rochester, NH–ME.	Rockingham (NH)
	Strafford (NH).
	York (ME)

REVISED NECMA DEFINITIONS

Necma	Constituent counties
Boston-Lowell-Brockton-Lawrence-Haverhill, MA.	Essex (MA).
	Middlesex (MA).
	Norfolk (MA).
	Suffolk (MA).
	Plymouth (MA).
Hartford-New Britain-Bristol, CT.	Hartford.
	Middlesex.
	Tolland.
Manchester-Nashua, NH	Hillsborough.
Portland, ME	Cumberland.
	Sagadahoc.
Providence-Warwick-Pawtucket, RI.	Bristol.
	Kent.
	Providence.
	Washington.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–26580 Filed 9–28–82; 8:45 am]

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federal register

Wednesday
September 29, 1982

Part IV

Interstate Commerce Commission

Implementation of the Bus Regulatory Reform Act of 1982

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC-163]

Procedures for Providing Notice of Specified Applications Through an ICC Register in Lieu of "Federal Register" Notice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 28, of the Bus Regulatory Reform Act of 1982, allows the Commission to adopt, after a rulemaking, a special procedure for providing interested persons reasonable notice of motor and water carrier, freight forwarder and broker entry applications, restriction removal applications and agricultural cooperative notices. Our proposal also includes motor and water carrier temporary operating rights and transfer applications under 49 U.S.C. 10926. In this proceeding the Commission announces its intent to expand the Daily Press Release Summary which has been offered to subscribers since April, 1982, to include such notices and to rename the expanded publication the *Interstate Commerce Commission Register (ICC Register).* The Commission publication will provide all interested persons the same information currently provided through notice in the **Federal Register** at a significant cost savings to the Federal Government.

The *ICC Register* will also include notices of exemption of motor carriers of property from merger, consolidation, and acquisition of control provisions of 49 U.S.C. 11343, 11344 and 11345a, which is a new procedure proposed in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* which is being published concurrently with this notice.

DATE: Comments should be submitted by October 29, 1982.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Ex Parte MC-163, Room 2203, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. King, 202-275-0956; or Darlene Proctor, 202-275-7233.

SUPPLEMENTARY INFORMATION: Under the Administrative Procedure Act (APA), adjudicatory proceedings, including permanent authority applications, must be conducted "on the record." This means that notice to interested persons must be given, but the APA does not prescribe any particular form of notice. Therefore, there was no statutory requirement that notice of applications be published specifically in the **Federal Register.** The Motor Carrier Act of 1980, however, specifically called for publication in the **Federal Register.** Section 28, of the Bus Regulatory Act of 1982, Public Law No. 97-261 amends 49 U.S.C. 10322(b)(3) by eliminating the specific requirement that notice of motor and water carrier, freight forwarder and broker applications be published in the **Federal Register.** This legislative change allows the Commission, after a rulemaking proceeding, to establish special procedures for providing interested persons reasonable notice of applications to provide transportation as a motor or water contract carrier, freight forwarder, or broker, or applications to remove operating restrictions.[1]

The Commission has had a long standing practice of publishing notices in the **Federal Register.** Originally, **Federal Register** publication was the most cost effective way to provide notice of application to the public. Now agencies publishing notices in the **Federal Register** must pay, from their appropriated funds, the cost of publication. Those costs have recently been increased to $408 per published page. The Commission is the largest single user of the **Federal Register,** consuming about 6.5 percent of its printed pages annually. The Commission has estimated that the cost of **Federal Register** publication for motor carrier applications will be over $1 million in fiscal year 1982. At present, more than 75 percent of all motor carrier applications published in the **Federal Register** are unopposed, which indicates that they are of no interest to any person other than the applicant.

The Commission believes that it can provide the same information currently provided through notice in the **Federal Register** to all interested persons at a significant cost savings to the Federal government by printing an in-house daily publication and mailing it to subscribers. We estimate that more than $1 million will be saved in fiscal year 1983, if we adopt this proposal.

Accordingly, the Commission proposes to publish certain application notices in its Daily Press Release Summary which has been offered to subscribers since April 5, 1982. See *Publication of Commission Press Release Summary* (47 FR 12885, March 25, 1982). We propose to expand the current publication by including notice of permanent motor and water common and contract, freight forwarder and broker applications; temporary motor and water carrier common and contract applications; agricultural cooperative notices; restriction removal applications and applications to transfer certificates and permits under 49 U.S.C. 10926 in the expanded Commission publication. The expanded publication will be renamed the Interstate Commerce Commission Register *(ICC Register).* The same application caption summary which now appears in the **Federal Register** will be published instead in the *ICC Register.*

In addition we propose to include in the *ICC Register* notices of exemption of motor carriers of property from merger, consolidation, and acquisition of control provisions of 49 U.S.C. 11343, 11344, and 11345a, which is a new procedure proposed in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* which is being published concurrently with this notice.

We believe that our publication will meet notice requirements of the APA and the Constitutional due process requirement. Notice which is adequate, *i.e.,* which satisfies the requirements of due process, must be such that the parties are informed that proceedings have been instituted and the notice must contain information sufficient to allow preparation and presentation of objections. *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950). See also *Memphis Light, Gas & Water Division* v. *Craft,* 436 U.S. 1, 13-15 (1978); *North Alambama Express, Inc.* v. *United States,* 585 F.2d 783, 786-87, 789 (5th Cir. 1978). Under the APA, 5 U.S.C. 554(b), notice must be timely, inform the parties of the time, place, and nature of the hearing, inform the parties of the legal authority and jurisdiction under which the hearing is to be held, and the matters of fact and law to be asserted. Adequate notice depends on the circumstances of each particular

[1] The text of the new subsection 49 U.S.C. 10328(b)(2) reads as follows: The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as motor or water common or contract carrier or freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceeding, that such method providing notice would not be unduy burdensome to the public.

situation. *Mullane, supra,* 339 U.S. at 314.

It should also be noted that the cost the ICC has incurred in **Federal Register** notices of applications is a factor to be considered. The Supreme Court has observed in *Mathews* v. *Eldridge,* 424 U.S. 319, 348 (1976):

> Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision. But the Government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources is a factor that must be weighed.

The notices which will appear in the *ICC Register* will contain exactly the same information as the current **Federal Register** notices. We believe our proposal will provide legally sufficient notice to all interested persons.

We also believe it would be more convenient for the public if several other motor carrier applications also appear in the *ICC Register.* Specifically, we are planning to include temporary motor carrier and water carrier operating authority applications under 49 U.S.C. 10928 and 10929. These applications are not governed by the APA. Notices of transfers under 49 U.S.C. 10926 will also be included. Most of these applications are unopposed and of interest only to the seller and purchaser involved.

At this time, our proposal only affects the types of applications for entry, transfer, exemption, or restriction removal described above. All other notices of applications such as rail merger and railroad abandonment notices, which can impact states, local communities and shippers, will continue to apear in the **Federal Register.** **Federal Register** publication of notices of intercorporate hauling is statutorily mandated and these notices will still be published in the **Federal Register** on Fridays. Our proposal will have no effect on our notices of proposed and final rulemakings. Those documents will continue to be published in the **Federal Register.** However, we would like the public to suggest additional types of non-rail cases or applications which could be published in the proposed *ICC Register* rather that the **Federal Register.** Also we would like to receive comments from the public as to whether there are rail filings for which there is no statutory **Federal Register** publication requirement, which could be included in the proposed *ICC Register.*

It is now necessary for interested persons to subscribe to the **Federal Register,** if they want to obtain notice of pending applications. The current cost of a **Federal Register** subscription is $300 per year. The subscription price for the Commission's Press Release Summary is $160 for a one year's subscription. The actual cost for producing a year's subscription to the expanded *ICC Register* is estimated to be $245. Accordingly, the annual subscription price should be no more than $245. We would like the public to comment on what they believe is an appropriate subscription fee. The public should consider whether an annual fee of $245 would be unduly burdensome. They should also consider whether the user should bear the full cost of production, or whether the ICC should subsidize the publication so that a lower subscription fee will be charged.

The Commission will mail copies of the new Register to all subscribers daily. Subscribers who want to pick up their copies at the Commission, as some current subscribers now do, will be able to do so.

We will make the *ICC Register* available to non-subscribers for inspection by maintaining file copies of the publication at the Commission's Washington, DC headquarters. Inspection copies of the *ICC Register* will be distributed to our ICC regional offices in Boston, Philadelphia, Atlanta, Chicago, Fort Worth, and San Francisco and all our field offices. This should make our publication easily accessible to non-subscribers. Individual issues can be obtained from the Commission's Washington Headquarters.

The Press Release Summary now lists all decisions that the Commission issues on a daily basis. Interested persons can review the *ICC Register* and order individual copies of decisions from the Commission. The same information respecting decisions and rulemakings now published in the **Federal Register** will be available by an alternative means.

Consequently, we do not believe that this proposed method of providing notices to interested persons will be unduly burdensome on the public. It will provide all the same information to the public as the **Federal Register** does now at less cost to the subscriber and the public. Since the ICC publication lists all decisions the Commission issues, the public can order the full text of any particular rulemaking notice or decision desired from the ICC. It will not be necessary for an individual who is interested only in motor carrier applications to subscribe to both publications.

If this proposal is adopted, we will make the necessary reference changes to involved regulations which refer to the **Federal Register.**

We anticipate that the *ICC Register* will be available probably in November 1982. The Commission will announce in a future notice the actual subscription price and when subscriptions will be taken for the *ICC Register.*

In summary, we believe that this proposed method of providing notice to the parties will not be unduly burdensome to the public and it will satisfy the notice provisions of the APA. In addition to the cost savings involved, the elimination of **Federal Register** publication of motor carrier application notices could lessen considerably the time required to decide such cases and make it easier for us to meet statutory deadlines. We estimate that the elimination of notice in the **Federal Register** will save at least a week in processing some application proceedings. This decrease in processing time will benefit all applicants.

We have analyzed our proposal under the criteria of the Regulatory Flexibility Act. We believe that the Commission publication will be as easily accessible to small entities as the **Federal Register.** The change involves only motor carrier, water carrier, freight forwarder and broker entry applications, agricultural cooperative notices, and restriction removal applications. Other proceedings of interest to small entities will continue to appear in the **Federal Register.** Consequently, the Commission certifies that this procedure, when implemented will not have a significant economic impact on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Chapter X

Administrative practice and procedures, Motor carriers.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10328(b) and 5 U.S.C. 553)

Decided: September 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26709 Filed 9-28-82; 8:45 am]

BILLING CODE 7535-01-M

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49 CFR Part 1331

[Ex Parte No. 297 (Sub-6)]

Bus Rate Bureau Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 10 of the Bus Regulatory Reform Act of 1982

establishes new guidelines for bus industry rate bureaus. In general, section 10 applies 49 U.S.C. 10706(b), formerly applicable only to motor common carriers of property, to the passenger bus industry. In addition, certain specific new provisions are applicable only to motor carriers of passengers. It adds three new subsections defining the scope of antitrust immunity for passenger motor carriers. In this proceeding the Commission will interpret and implement these provisions. The new statutory provisions will be effective 60 days from the date of enactment. New or amended agreements must be filed within 120 days of the effective date of this legislation. Existing agreements may remain in effect during the transition period, but the new legislative reforms must be complied with during the transition period, except where the statute provides other time limits. Comments on the interpretations and proposed conditions are invited. Final standards will then be set.

DATES: Comments are due October 29, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Ex Parte No. 297 (Sub-6), Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway (202) 275–7278; or Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Bus Regulatory Reform Act of 1982 (Bus Act), establishes new guidelines for bus industry rate bureaus [1] and limits the scope of antitrust immunity. Prior to the Act, passenger bus carriers were authorized under a Commission approved agreement [2] jointly to discuss, initiate, and maintain rates for transportation of passengers and express. Thus, the antitrust laws did not apply to bus carriers when acting in conformity with their collective ratemaking agreement. 49 U.S.C. 10706(c). This immunity will be permitted to continue in a limited manner under the revised guidelines enacted in the Motor Carrier Act of 1980 (Pub. L. 96–296) and now extended to passenger carriers by section 10 of the Bus Act. The instant proceeding will adopt binding norms to implement the statutory provisions. To the extent existing rate bureau regulations (49 CFR Part 1331) remain relevant, their application to bus bureaus will be continued.

Under the new statute, bus industry rate bureaus may be granted antitrust immunity for collective determination of rates, rules, and practices provided that the agreements under which they function have been approved by the Commission. Approval of an agreement is contingent upon compliance with statutory requirements and the standards adopted by the Commission. Section 10(f) requires that new or amended agreements must be submitted to the Commission for approval within 120 days of the effective date of the statute (i.e., 180 days from enactment). A transition period is provided during which existing rate bureau agreements may remain in effect until new agreements are finally disposed of by the Commission. During this transition period when the new or amended agreement is being prepared, submitted to, and considered by the Commission, the Bureau must comply with the new legislation, as well as any standards we promulgate.

Section 10 of the Bus Act applies 49 U.S.C. 10706(b) to the bus industry. In addition, certain specific new provisions are set forth which are applicable solely to buses.[3]

Section 10706(b) is largely derived from the Motor Carrier Act, *supra*. Section 14 of the Motor Carrier Act imposed specific restrictions to limit the permissible scope of collective ratemaking. Congress restricted voting on collective proposals to those carriers that have authority to participate in the transportation, totally barred bureau protests of any motor carrier rate proposal, limited discussion of general rate increases to industry average costs, imposed strict limits on bureau handling of independent action proposals, required open bureau meetings, and prohibited any discussion of or voting on single-line rates after January 1, 1984. Rules implementing section 14 were adopted in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of Pub. L. 96–296.*[4]

As noted above, section 10 of the Bus Act largely applies the rate bureau requirements of the Motor Carrier Act to passenger carriers and was intended to limit the scope of antitrust immunity accordingly. S. Rep. 97–411, *supra* at 21. Given this factor as well as the extensive record developed in implementing the rate bureau section of the Motor Carrier Act (see f.n. 4, *supra*), we are proposing the standards and procedures developed in Ex Parte No. 297 (Sub-5) where the statutory provisions are the same for both motor carriers of property and passengers. Of course, where the specific provisions of the Bus Act differ (see f.n. 3, *supra*), we are proposing new standards.

Our conclusions in this respect are only tentative. Differences between the motor carrier of property and motor carrier of passenger industries, or any other persuasive reasons, may warrant departure from these standards. We welcome specific comments on these matters.

The major findings in Ex Parte No. 297 (Sub-5), and the corresponding subsections of 49 U.S.C. 10706 and our rate bureau decisions are indicated below. See 364 I.C.C. at 467–501 for a full discussion of the standards we are proposing and the reasons for them.[5]

1. Rate bureau agreements must provide each carrier the absolute right of independent action. This must include the right to decide whether or when an independent action, or rate within the zone of freedom, will be docketed.[6] In the absence of explicit instructions from the independent actor, the bureau may not docket the item until the proposal has been filed with the Commission. There may be no bureau discussion of

[1] One distinguishing charactristic of the Nation's intercity bus industry is that there is only one industry rate bureau, the National Bus Traffic Association, Inc. (NBTA). S. Rep. No. 97–411, 97th Cong., 2d Sess. 5 (1982).

[2] The original agreement was approved in Section 5a Application No. 9, *National Bus Traffic Assn.,—Agreement*, 278 I.C.C. 147 (1950). A subsequent investigation of the agreement was terminated in Ex Parte No. 297 (Sub-No. 4), *Modified Terms and Conditions For Approval of Collective Rate Agreements Under 49 U.S.C. 10706 (b)*, served August 21, 1980. Presently pending for approval are certain amendments submitted in compliance with the decision in Ex Parte No. 297, *Rate Bureau Investigation*, 349 I.C.C. 811 (1975) and 351 I.C.C. 437 (1976). Our consideration of these matters has been rendered moot by the new legislation. Bureaus must file their new or amended agreements in conformity with the Bus Act within 120 days of the effective date of the Act.

[3] These specific provisions are found at 49 U.S.C. 10706(b)(3)(E), (b)(3)(F) and (b)(5).

[4] This proceeding was instituted on August 1, 1980 (45 FR 55734, August 21, 1980). The Commission's final decision setting standards for motor carrier rate bureau activity was issued December 19, 1980, 364 I.C.C. 464 (45 FR 252, December 31, 1980). A decision granting reconsideration in part, with certain clarifications was issued April 29, 1981, 364 I.C.C. 921. The final rules are presently in effect pending judicial review by the United States Court of Appeals for the Fifth Circuit in No. 80–7674, *American Trucking Association, Inc.*, v. *I.C.C.*

[5] See also the Commission's decison at 364 I.C.C. 921, 933 granting reconsideration in part and offering certain clarifications. For example, the 30-percent quorum requirement was made applicable for committee as well as general meetings.

[6] Docketing is the ministerial procedure of entering in writing a proposed action in the files of the bureau and providing notice of it to all interested persons upon its receipt by the bureau and prior to its filing with the Commission. *Id.* at 480.

the independent action prior to the effective date of the tariff item. General increases and decreases and broad tariff restructuring are not subject to these notice and consent requirements. The Bureau may cancel or change a rate established by independent action only for the purposes of tariff simplification, removal of discrimination, or elimination of obsolete items. The bureau must have the written permission of the independent actor to do so. (49 U.S.C. 10706 (b)(B)(3)(ii), (b)(3)(C)). See 364 I.C.C. at 467–78.

2. Rate bureau employees and employee committees are restricted from initiating a tariff proposal or determining whether to adopt, reject, or otherwise dispose of proposals. Upon request, they may provide the proponent of a rate change with expert analysis and technical assistance. Any advice concerning an independent action proposal shall remain confidential. (49 U.S.C. 10706 (b)(3)(B)(iv) and (b)(3)(E).) *Id.* at 478–81.

3. Upon request, bureaus will promptly divulge the name of the proponent of a tariff matter and the vote cast by any member on any proposal. Bureaus will provide detailed and timely public notice of meetings and their agenda. Discussion or voting on rate-related matters will not be permitted unless the meeting is reasonably noticed. Any person requesting admittance to a meeting at which rates or rules are being discussed shall be admitted immediately. Note taking and sound recording by attendees are permissible, provided the conduct of the meeting is not disrupted. If mail voting and telephonic communications are employed, they cannot be used to circumvent rate bureau restrictions. If there are abuses, we will investigate the matter. (49 U.S.C. 10706(b)(3)(B)(v).) *Id.* at 481–3.

4. Any carrier voting for another must possess a written proxy. The proxy must be dated and contain the grantor's signature, the specific items for which the vote is released, directions on voting, and certification of authority. A copy of the proxy and the written certification of authority executed by the proxy holder for the grantor will be made part of the voting record and ballot. Proxies may not be accepted for the purpose of certifying permission to cancel any item established by independent action which the carrier represented by proxy either initiated or joined. A proxy may be revoked at any time, either by subsequent written verification or by the member carrier appearing at a meeting and voting on its own behalf. (49 U.S.C. 10706 (b)(3)(B)(vi).) *Id.* at 484–5.

5. The quorum for holding meetings of the organization or a committee is 30 percent of the membership. (49 U.S.C. 10706(b)(3)(F).)[7] *Id.* at 923. We solicit comments on whether a quorum of the committee may vote on rates applicable to the full bureau membership. Further, would it be impractical to require that a given percentage of the full bureau be required to vote on rate changes subject to antitrust immunity? Our concern stems from the fact that there is only one bureau for the entire industry and the rate committee could be dominated by the two largest carriers. We also request comments on how our concerns about mail voting will be affected by these matters.

6. The bureaus are required to maintain detailed minutes of all meetings where tariff items are discussed. The bureaus will be subject to withdrawal of their immunity for serious continuing violations of Commission standards, and individual tariff publications will be subject to rejection, suspension, or investigation for improprieties in the rate bureau process. (49 U.S.C. 10706(b)(3)(E)[8] and 49 CFR 1253.20.) *Id.* at 481–83.

7. The identification and description requirements for member carriers must be complied with. (49 U.S.C. 10706(b)(3)(A).) *Id.* at 467.

8. Rate bureaus shall not file a protest or complaint with the Commission. (49 U.S.C. 10706(b)(3)(B)(iii).) *Id.* at 478.

9. Rate bureaus shall make a final disposition of a rate or rule by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission. If the 120th day falls on a Saturday, Sunday, or public holiday, the final day for disposition will be the next working day. (49 U.S.C. 10706 (b)(3)(B)(vii).) *Id.* at 486.

10. There can be no discussion of or voting on rates proposed under the zone of rate freedom. (49 U.S.C. 10706(b)(3)(C).) *Id.* at 494.

As noted above, section 10 adds three new subsections further defining the scope of antitrust immunity for the bus industry. For the most part, they are self-executing and should be reflected in amended agreements. To the extent interpretation is necessary, the following discussion sets forth our proposals.

Under new 49 U.S.C. 10706(b)(3)(E), except for areas discussed below,[9] no collective ratemaking agreement approved for motor carriers of passengers may provide for discussion of or voting on single-line rates on or after January 1, 1983. The definition of a "single-line rate" provided in 49 U.S.C. 10706(b)(1), as amended by the Bus Act, is a "rate, charge, or allowance proposed by a single motor common carrier that is applicable over its line and for which the transportation can be provided by that carrier." As in the case of single-line rates and independent actions for motor carriers of property, bus rate bureaus must give each passenger carrier the absolute right to decide whether or when a single-line rate will be docketed. Our reasons are the same as discussed with regard to motor carriers of property. See 364 I.C.C. at 488–491.

This procedure enforces the Bus and Motor Carrier Acts' absolute protection of the right of bureau members to establish rates independently, without bureau interference. It also affirms the Commission's long-standing prohibition of mandatory bureau procedures for advance notice of single-line rates and independent actions. Clearly, advance docket notice to competitors of single-line rate changes should not be allowed to circumvent the statutory ban on collective action. Therefore, the bus bureau agreement with regard to single-line rates shall be modified to permit carriers to prohibit docketing in advance of filing or to direct the timing of the docketing. Discussion of and voting on these proposals are prohibted after January 1, 1983, and the agreement shall also prohibit inclusion of single-line and joint-line rates in one proposal after January 1, 1983.

The statute also requires that, with the same exceptions, on or after January 1, 1984, no agreement approved for motor carriers of passengers may provide for discussion of or voting on any joint rate. 49 U.S.C. 10706(b)(3)(E). We note that the Senate Report [10] states that the Department of Justice, in its comments on the proposed legislation, emphasized that no antitrust immunity is needed for the discussions between direct connectors and that this is true "even when carriers that offer competing single-line services between the same two points also establish a joint-line rate for service between those same points * * *." On that basis, the Senate Committee concluded it was not necessary to exempt from operation of

[7] Redesignated as (b)(3)(H) under the new legislation.

[8] Redesignated as (b)(3)(G) under the new legislation.

[9] See 49 U.S.C. 10706(b)(3)(E) (i) and (ii).

[10] S. Rep. 97–411, *supra* at 22 (1982).

the antitrust laws collective action on joint-rates where all the carriers involved form a part of a particular route.

Excepted from these prohibitions against collective consideration of single-line and joint-line rates are the following activities: (a) General rate increases and decreases, (b) broad changes in tariff structure; (c) changes in promotional or innovative fares (49 U.S.C. 10706(b)(3)(E)(i)); (d) the ministerial functions of publishing tariffs, filing independent actions, and providing support services for members; and (e) changes in rules or regulations which are of at least substantially general application throughout the area in which the changes will apply (49 U.S.C. 10706(b)(3)(E)(ii)). *See* also 364 I.C.C. at 497.

In considering general increases and decreases, carriers are specifically prohibited from discussing individual markets or particular single-line or joint-line rates. Permissible discussion under this subsection is limited to industry average carrier costs and intermodal competitive factors. For example, carriers could discuss Amtrak pricing practices, airline rates, and the cost of private automotive travel. S. Rep. 97–411, *supra* at 22. We emphasize that these exceptions may not be used to circumvent other statutory restrictions, particularly the protection for independent action and the ban on collective setting of single-line and joint-line rates effective in 1983 and 1984, respectively.

The statute also directs the Commission to define general rate increases, and decreases, broad changes in tariff structure, and promotional or innovative fares.

General rate increases and decreases: The definition of a general rate increase used in Ex Parte No. 297 (Sub-5), 364 I.C.C. at 491 is "a proposed general adjustment of substantially all the rates published in a rate bureau's tariff or tariffs." This is the standard we propose to apply in this proceeding, as well. However, we note that in Ex Parte No. MC–82 (Sub-1), *Procedures in Motor Carrier Revenue Proceedings—Intercity Bus Industry,* 357 I.C.C. 35 (1977), bus industry general increases were characterized as proposed changes in fares and charges where the proposal would result in an increase of $1 million or more in the annual operating revenues on the traffic affected by the proposal. This definition is presently codified at 49 CFR 1104.20(a). Comments on this or other alternatives are welcome.

We view our proposed definition of a general increase as appropriate for interstate rates. However, a separate definition of general increase may be necessary to implement Section 17 of the Bus Act which adds a new subsection (e) to 49 U.S.C. 11501 to provide procedures for preempting State decisions involving rates and related practices, including interstate and intrastate general rate procedures. Because States cannot grant antitrust immunity, intrastate increases are rarely proposed by more than one carrier. A separate rulemaking pertaining to section 17, Ex Parte No. MC–160, *Procedures for Review of Intrastate Bus Rates,* addresses the issue of intrastate general rate increases.

Broad changes in tariff structures: Ex Parte No. 297 (Sub-5), 364 I.C.C. at 493–4, cited a colloquy in the Congressional Record which discussed changes in tariff structure and is applicable in principle to this proceeding. The discussion indicates that a change in tariff structure covered by the exception to termination of antitrust immunity must be broad in scope and nature; may affect both single- and joint-line rates over a large geographical area; may involve multiple commodities, rates, rate scales, origins and destinations; and may include both increases and reductions in rates. See 126 Cong. Rec. H5411 (daily ed. June 19, 1980) (remarks of Rep. Boner).

In certain instances, there may be some overlap between a general rate increase or decrease and a broad change in tariff structure. A general rate increase or decrease is an "across-the-board" increase or decrease of a given percentage proposed by a group of carriers, affecting all or substantially all their rates, while a rate restructuring changes some fares relative to others. Thus, a proposal that affects most of a carrier's (or group of carriers') rates, but in a non-uniform way (*i.e.,* it increases or decreases some rates more than others) may be both a general rate increase or decrease and a rate restructuring, and would retain antitrust immunity. As emphasized earlier, these exceptions may not be used to evade other statutory restrictions.

Promotional or innovative fare change: Continued antitrust immunity for such rates is intended by Congress to stimulate the introduction of new fares that will increase or encourage ridership. The distinction between these two types of fare changes is not always clear, since both involve departures from standard tariff rates. The Senate Report notes only that innovative and promotional fares "are below standard fares, benefit the traveling public, and should be encouraged." S. Rep. at 22.

We propose to define "innovative fare" as any type of fare or fare level that has never been previously offered. See 364 I.C.C. at 473. This also conforms to the common dictionary definition that characterizes innovative as "new" or "novel."

Promotional fares generally have three characteristics: (1) Limited duration, (2) attractive price or level of service quality, and (3) some added feature in addition to those normally offered. Some promotions, for example unlimited mileage fares or senior citizen discounts, could have unlimited duration. Thus, the first condition may not be required in all instances. Comments are requested on whether an expiration date serves the public interest. Further, criteria (2) and (3) may overlap. Comments are requested on these proposals, as well.

As noted above, it appears that Congress anticipated that antitrust immunity would be used to lower fares or encourage service levels that would increase bus ridership. Accordingly, we propose that any action increasing fares, without concomitant services enhancement, not be considered "innovative" or "promotional," and antitrust immunity would not, thus, be available. We request comments on this proposal.

Subsection (b)(3)(E)(i) specifically subjects the three exceptions to the end of antitrust immunity just discussed to "such notice requirements as the Commission may specify by regulation * * *." In implementing the Motor Carrier Act we interpreted a similar requirement to mean advance notification to shipper subscribers via a notice in the bureau's docket bulletin. We required that the notice be issued at least 15 days before the proposal is filed with the Commission, in order to facilitate shipper comment on pending rate proposals. We propose to adopt the same requirements here.

Finally, new subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter and to special operations. The restriction against joint consideration of rates applicable to charter and special operations apparently resulted from Congressional recognition that most of these operations involve few, if any, interline movements. The provision is self-executing, and should pose the industry little difficulty since NBTA has not collectively considered rates for charter or special service for several years.[11]

[11] *Deregulation of the Intercity Bus Industry: Hearing on H.R. 3663 Before the Sub-comm. on*

Section 10(f) of the Bus Act grants rate bureaus which received pre-Bus Act approval for their agreements interim antitrust immunity. These agreements may continue in effect until new or amended agreements are finally disposed of by the Commission *if*: (1) New or amended agreements are submitted to the Commission for approval within 120 days of the effective date of the Act and (2) the bureaus comply with 49 U.S.C. 10706 and the standards and requirements ultimately issued in this proceeding during the period new or amended agreements are being prepared, submitted to, and considered by the Commission. If these conditions are met, existing antitrust immunity will continue until the Commission reaches a final decision on the amended agreements.

The Commission will reach a decision in this proceeding within a short time after comments are received. The new or amended agreements must be submitted to the Commission within 120 days of the effective date of the Bus Act, and delay in issuing our final standards could adversely affect preparation of the new agreements.

The provisions of 5 U.S.C. 603 require that the Commission also examine the impact of proposed standards on small businesses and small organizations. Our proposed standards may benefit these smaller entities by granting them greater freedom to set rates independently. Moreover, the Bus Act allows carriers to use the rate bureau process to establish innovative or promotional fares. Both of these provisions will benefit individuals, and groups of, passengers, as well as carriers. On the other hand, we recognize that these procedures can also be employed by larger carriers to the detriment of smaller ones. Nevertheless, this is a statutorily-mandated proceeding, and the overall purpose of the Bus Act is to establish a new regulatory scheme that will assure a viable intercity bus industry and benefit both small and large carriers, as well as passengers. In framing these standards, we have attempted to minimize the burdens on small entities consistent with Congressional intent. Otherwise, we anticipate no significant economic impact on small entities as a result of these proposed standards.

This proposal should not significantly affect the quality of the human environment or conservation of energy resources.

Comments may be filed on any of the matters discussed above, including environment or energy considerations, and regulatory impact issues. Many of our proposed standards are the same as the final standards adopted for motor carriers. We reiterate our call for comments delineating differences between the motor carrier of property and of passenger industries. Should the differences, or any other factors so justify, we shall make the appropriate changes in the final standards and procedures. Although actual proposed rules are not set forth here, we intend to issue rules under 49 CFR Part 1331 following consideration of the comments.

Surface Transportation of the Senate Comm. on Commerce, Science and Transportation, 97th Cong., 2d Sess. 135, 144 (1982).

List of Subjects in 49 CFR Part 1331

Buses, Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre was absent and did not participate.

(Sec. 10, Bus Regulatory Reform Act of 1982, 49 U.S.C. 10321, 49 U.S.C. 10706, and 5 U.S.C. 553)

Decided: September 23, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26710 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1137

[Ex Parte No. MC-142 (Sub-3)]

Removal of Restrictions From Authorities of Motor Carriers of Passengers, Intermediate Points

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 7 of the Bus Regulatory Reform Act of 1982, which amends 49 U.S.C. 10922(h), requires the Commission to process expeditiously applications of passenger carriers seeking to remove restrictions in outstanding certificates that limit interstate service to intermediate points along certificated routes. The proposed procedures must be effective on (60 days from the date of enactment of the Bus Regulatory Reform Act of 1982.) Adoption of the proposed rules is expected to promote competition, result in fuel and cost savings and improved operating efficiency, and aid in providing and maintaining passenger service to small communities.

DATE: Comments are due October 19, 1982.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-142 (Sub-3), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Elaine Dobbins (202) 275-6272, or Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION:

The Congressional Mandate

Section 7 of the Bus Regulatory Reform Act of 1982 (the Act), amends Subtitle IV of Title 49, United States Code 10922(h),[1] by adding new paragraphs 10922 (i)(3) and (i)(4) which read as follows:

(i)(3) On the effective date of the Bus Regulatory Reform Act of 1982, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authroize (but not require)—

(A) Round-trip operations where only one-way authority exists; and

(B) Special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

(4) Upon request of the holder of a certificate, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation or service to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and it will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

The Act directs the Commission to reduce regulation and to promote competition in the bus industry. It also affords bus companies new tools to compete vigorously among themselves and with other common carrier modes, and eliminates regulatory restraints on the effective use of those tools. Sections 10922(i) (3) and (4) are among those new tools. As in the motor freight industry, Congress found that motor carriers of passengers are unduly burdened with route restrictions that hamper their ability to serve the public interest. The removal of burdensome restrictions from bus certificates would also enable several of the goals of the National Transportation Policy (as set forth in Section 5 of the Act) to be better realized. Report of the Senate Committee on Commerce, Science and

[1] Section 10922(h) is redesignated section 10922(i) by Section 6(b) of the Act.

Transportation on H.R. 3663, S. Rept. No. 97–411, 97th Cong., 2nd Sess. 20 (1982) (Senate Report).

Express package authority is not expressly mentioned in Section 7. However, the Act grants carriers holding operating certificates permissive authority to transport express packages (newspapers, express mail, passengers baggage, etc.,) in the same vehicle with passengers. Senate Report, p. 19. Accordingly, previous limitations against the transportation of express packages in interstate commerce to service points authorized in existing interstate certificates are, upon the effective date of the Act, automatically eliminated. The authority thus granted is, however, permissive.

49 U.S.C. 10922(i)(3) is self-executing, and automatically converts existing restricted authorities to permit round-trip operations and expanded special and charter operations. Section 10922(i)(4) requires the Commission to implement procedures for the removal of intermediate point restrictions from authorities of motor carriers of passengers, and Congress gave the Commission significant discretion in developing such procedures. The procedures implementing a similar section (Section 6) of the Motor Carrier Act of 1980, as promulgated in Ex Parte No. MC–142 (Sub-1), *Removal of Restrictions from Authorities of Motor Carriers of Property*, 132 M.C.C. 374 (1980), (45 FR 86747, December 31, 1980), were, in our view, widely accepted and successfully used enabling the Commission to handle expeditiously over 5,000 applications. Consequently, we propose to implement Section 10922(i)(4) by amending the earlier adopted restriction removal rules, contained at 49 CFR Part 1137, to include motor carriers of passengers.

Comments from interested parties are invited on every aspect of the proposed rules. As required by the Act, the Commission intends to conclude this rulemaking and adopt final rules within 60 days. This necessitates making the rules effective on less than 30 days notice. Further, we are providing a 20-day comment period, rather than the usual 30 days, in order to allow as much time as practicable, in keeping with the requirements of due process, to consider fully the positions of all interested parties before adopting final rules. We do not contemplate extending the time for filing comments.

Proposed Procedures for Processing Applications

Section 10922 (i)(4) gives the Commission 90 days to remove intermediate point restrictions from certificates of motor carriers of passengers. Congress intended Section 7 to create simple, expedited procedures for removing operating restrictions from existing bus certificates.

Generally, allowing 10 days for **Federal Register** publication or other official means of publication of applications the Commission may institute by rulemaking under Section 28 of the Bus Regulatory Reform Act of 1982, 25 days for comments, and 55 days for Commission disposition will be sufficient time for adequate treatment of such applications. We also propose that review on appeal will be discretionary (as opposed to an appeal the Commission's general appeal regulations contained at 49 CFR 1100.98, and appeal procedures applicable to restriction removal rules (49 CFR 1137.14(c))).

We propose that applications follow the caption summary format set forth at 49 CFR 1137.10(b)(6). It is essential that applicants include an accurate explanation of the routes over which transportation of passengers is authorized by an interstate certificate, and the restrictions against service to intermediate points they seek removed. For example, a caption summary could state that, "The application seeks to modify Sub-Nos. 1–5 by eliminating the intermediate point restrictions to authorize service at intermediate points on interstate routes A, B, and C authorizing service between Miami, FL, and New York, NY." Due to the length of many regular route certificates, it is particularly important that applicants prepare a proposed draft of the authority with the restrictions removed as required by 49 CFR 1137.10(b)(4).

We also intend to permit and encourage passenger carriers to reform a number of outstanding certificates in one application proceeding. This practice saved the motor freight industry millions of dollars in filing fees, and enabled the Commission to reduce its regulatory role sooner than expected. We note that § 1137.10(d) of the restriction removal rules promulgated in Ex Parte No. MC–142 (Sub-1), *supra*, requires applicants to combine "reasonably related" requests for modification. In the final rules, we intend to provide guidance as to what type of requests will be considered "reasonably related" in the passenger area. Comments on this issue would be particularly helpful.

The Rules Proposed

The proposed procedures do not require extensive changes in the restriction removal rules. Many existing rules have general applicability and can be readily applied to section 10922(i)(4) applications. However, some rule changes are needed. We invite comments on whether a need exists for additional changes.

Each application will be determined individually on the basis of comments received. The Act provides certain criteria that motor carriers of passengers must meet in order to protest a request to remove an operating restriction under section 10922(i)(4) of the Act.[2] The burden of proof is on the protestant to show that the proposed interstate transportation service would directly compete with a commuter bus operation and that it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.[3] Weighing the competing factors in evaluating "significant adverse effect" is difficult. Comments on this issue are welcome.

In sum, we propose: (1) To add a paragraph to 49 CFR 1137.1 of Subpart A making the restriction removal procedures available to motor carriers of passengers to the extent they seek interstate intermediate point authority; (2) to amend § 1137.2 to limit the applicability of rules to passenger authorities issued pursuant to applications filed before the effective date of the Act; (3) to amend §§ 1137.3 and 1137.12 to define who may protest, and on what basis, a section 10922(i)(4) application; and (4) to add a new Subpart D containing guidelines applicable to section 10922(i)(4) applications.[4]

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[2] Section 10922(c)(7) provides that no motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

(A)(i) It possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) It is willing and able to provide service that meets the reasonable needs of the traveling public; and

(iii) It has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

(B) It has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(C) The Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

[3] The Senate Report (at 16) notes that a carrier can be found to compete directly with a commuter bus operation even if the service to be authorized does not have all the characteristics of communter bus operations.

[4] We also note that proposed changes are set forth in the appendix of 49 CFR 1137 and in § 1137.20 of Subpart C to reflect recent Commission action bringing freight forwarders within the ambit

Environmental and Energy Considerations

It does not appear that adoption of the proposed rules, amending 49 CFR Part 1137, will have any significant impact on the quality of the human environment. However, we anticipate that they will improve carrier operating efficiency and promote competition, with a resulting beneficial impact on the bus industry and the public. Comments on these issues are welcome.

Regulatory Flexibility Analysis

The proposed rules provide expedited procedures to enable motor passenger carriers to remove operating restrictions from their interstate certificates in order to provide interstate transportation or service to intermediate points. They will not have a significant economic impact upon a substantial number of small entities, but they could have a modest, beneficial, economic impact upon an unascertainable number of carriers, counties, townships, towns, and villages. Small carriers, by serving intermediate points, will be able to improve their operating efficiency. They also should find it easier to experiment with new services, and as many of them specialize in serving small communities, this, in turn, should lead to an increase in the amount of service offered to such communities. At the same time, the rules recognize the legislative concerns for protecting commuter bus services, by providing opportunity for consideration of the competitive impact of restriction removal on such services. We welcome comments on this matter.

List of Subjects in 49 CFR Part 1137

Buses, Motor carriers, Freight forwarders, Restrictions, Restriction removal proceedures.

Summary

We propose to amend title 49, Part 1137, of the Code of Federal Regulations as described in the appendix to this notice.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Decided: August 31, 1982.

(49 U.S.C. 10321 and 10922(i) and 5 U.S.C. 553)

Agatha L. Mergenovich,

Secretary.

Appendix—Proposed Revisions to 49 CFR Part 1137

Title 49 CFR Part 1137 would be revised to read as follows:

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of the restriction removal rules. Ex Parte No. MC-142 (Sub-2), *Freight Forwarder Restrictions*, published at 47 FR 31281 (July 19, 1982).

1. The heading of Part 1137 would be revised to read as follows:

PART 1137—REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY, MOTOR CARRIERS OF PASSENGERS AND FREIGHT FORWARDERS

2. Section 1137.1 of Subpart A would be amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a)–(e) as subparagraphs (1)–(5), and by adding a new paragraph (b) to read as follows:

§ 1137.1 Purpose.

* * * * *

(b) These regulations govern applications filed by motor carriers of passengers seeking to remove operating restrictions from their certificates in order to authorize interstate transportation or service to intermediate points on any route covered by the certificate. These regulations implement 49 U.S.C. 10922(h)(1)(B), 10922(h)(2), 10922(h)(i)(3), and 10922(h)(i)(4).

* * * * *

3. Section 1137.2 of Subpart A would be revised to read as follows:

§ 1137.2 Applicability of rules.

Applications may be filed under these rules to remove restrictions or to broaden authority in certificates and permits issued pursuant to applications filed before December 28, 1980. Motor carriers of passengers may file applications under these rules to remove intermediate point restrictions in certificates issued pursuant to applications filed before (the effective date of the Bus Regulatory Reform Act of 1982).

4. Section 1137.3 of Subpart A would be amended by adding a new paragraph (c), to read as follows:

§ 1137.3 Definitions.

* * * * *

(c) *Commuter Bus Operations.* "Commuter bus operations" means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak period operations.

5. Paragraph (c) of § 1137.10 would be amended by revising the heading to read as follows:

§ 1137.10 Form and content of application.

* * * * *

(c) *Information that shall accompany the application of a motor carrier of property or freight forwarder.* * * *

* * * * *

6. Section 1137.12 would be revised to read as follows:

§ 1137.12 Participation of interested persons.

Comments (an original and one copy) shall be filed with the Commission within 25 days of the date of publication in the **Federal Register** or other official means of publication by rulemaking under Section 28 of the Bus Regulatory Reform Act of 1982. The envelope containing the comments and the comments shall be clearly marked "RESTRICTION REMOVAL COMMENTS."

(a) Comments on applications filed by motor carriers of property and freight forwarders. Any interested person may comment on the applicant's proposal. Comments shall be directed to either:

(1) The merits of the particular proposal, or

(2) Whether the proposal should properly be considered under these rules.

(b) No motor common carrier of passengers may protest an application to remove an operating restriction under 49 U.S.C. 10922(i)(4) unless:

(1)(i) It possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) It is willing and able to provide service that meets the reasonable needs of the traveling public; and

(iii) It has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

(2) It has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(3) The Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

(c) Protests for motor carriers of passengers shall be directed to:

(1) Whether the proposed interstate transportation directly competes with a commuter bus operation; and

(2) Whether the resulting interstate transportation would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

7. The first sentence of § 1137.20 of Subpart C would be revised to read as follows:

§ 1137.20 Scope of this subpart.

This subpart contains guidelines designed to assist applicants in filing applications for the removal of operating restrictions in authorities of motor carriers of property and freight forwarders. * * *

8. Part 1137 would be amended by adding a new Subpart D to read as follows:

Subpart D—Guidelines for Determination of Applications—Passenger Carriers

§ 1137.30 Scope of this subpart.

This subpart describes guidelines to be used by motor carriers of passengers seeking to remove intermediate point restrictions.

§ 1137.31 Intermediate point service.

Certificates which authorize interstate regular route passenger service and preculde interstate service at intermediate points on the carrier's service routes, either by way of a specific restriction against performing such service or by limiting intermediate point service at specific points, are considered unduly restrictive. Use of these procedures is appropriate for seeking authority to perform interstate service at all intermediate points along a motor carrier of passenger's existing interstate regular routes. Applications for such authority will be denied only if the Commission finds that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

9. The table of contents to Part 1137 would be amended to include a new Subpart D and to revise the authority citation to read as follows:

Subpart D—Guidelines for Determining Applications—Passenger Carriers

Sec.
1137.30 Scope of this subpart.
1137.31 Intermediate point service.

Authority: 49 U.S.C. 10321 and 10922[h](i); 5 U.S.C. 553.

[FR Doc. 82-26711 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1100

[Ex Parte No. MC-160]

Procedures for Review of Intrastate Bus Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: Section 17 of the Bus Regulatory Reform Act of 1982 directs the Commission to establish procedures for processing petitions which seek review of State regulation of intrastate rates. The proposed regulations implement this mandate.

DATES: Comments are due October 19, 1982. Because of the time constraints in the Bus Act, no extensions shall be granted. Final rules may be made effective on less than 30 days' notice.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Ex Parte No. MC-160, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278; or Tom Smerdon (202) 275-7277

SUPPLEMENTARY INFORMATION: Section 17 of the Bus Regulatory Reform Act of 1982 (Bus Act) amended 49 U.S.C. 11501 by adding, among other things, a new subsection (e) which vests the Commission with jurisdiction to prescribe increased rates, as well as rules or practices (rate) applicable to intrastate transportation (including freight such as package express) provided by a motor carrier of passengers (bus) subject to our regulation. Before we can assert jurisdiction, however, two conditions must be satisfied. First, a carrier must initially request permission to establish a rate from the relevant State authority responsible for regulating intrastate rates, and the State authority must either deny the request, in whole or in part, or not act finally, on the request in whole or in part, within 120 days.[1] Second, the Commission must find that the assailed intrastate rate causes unreasonable discrimination against, or imposes an unreasonable burden on, interstate commerce.

The Bus Act delineates four situations in which an intrastate rate is rebuttably presumed to impose an unreasonable burden on interstate commerce: (1) The rate is less than the rate levied by the carrier for comparable interstate bus transportation; (2) it does not exceed the variable costs [2] of providing the service; (3) it was not subject to final action by the State authority within 120 days; or (4) the most recent intrastate bus general rate increase is less than the most recent interstate general rate increase.[3] 49 U.S.C. 11501(e)(2) (A) and (B). With regard to the last presumption, we may look to any reasonable period of time to find a disparity. See S. Rep. No. 97-411, 97th Cong., 2d Sess. 28 (1982).

Under new 49 U.S.C. 11501(e)(3)(A), a carrier may seek Commission review of a State's denial of, or inaction on, a request to increase rates. A proceeding is begun by the carrier filing an application for precription of a rate. At that time, the carrier must certify that it has notified the State authority having jurisdiction over the rate, the State governor, as well as any other interested persons which the Commission, by regulation, may specify. We must take final action no later than 60 days after the application is filed.

There are two exceptions to the Commission's preemptive jurisdiction over intrastate rates. First, States retain full authority over carriers owned or controlled by the State or a local government. Second, States have exclusive ratemaking jurisdiction over solely intrastate carriers. Senate Report, *supra* at 27-28. *See* also 49 U.S.C. 11501 (e)(4) and (e)(1).

Section 11501(e)(3)(B) requires the Commission to establish, by regulation, procedures for processing the petitions of carriers who have been unable to establish desired intrastate rate levels because of State action or inaction. This proceeding is instituted to establish those procedures.

The legislative history of Section 17 in the Senate Report, *supra* at 28, reveals that Congress envisions that the States would continue to be primary regulators of increases proposed for intrastate rates,[4] and the Commission would serve

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[1] The Commission will not assert jurisdiction over any case pending before the relevant State authority before the effective date of the Bus Act, because there does not appear to be a clear legislative intent for the new law to apply.

[2] We will not attempt to define variable costs or to develop a cost methdology in this proceeding. These are not required by statute and would require a lengthy and controversial process without commensurate returns. Carriers will submit their calculations of revenue/variable cost ratios with a full explanation of how the calculations were derived (including supporting documentation), what assumptions were made, what and how common costs are allocated, and so on. Anyone filing a protest may challenge the figures, assumptions, allocations, or other aspect of the carrier's calculation, as not complying with generally accepted accountings (or costing) principles, or on any other relevant ground.

[3] Intrastate general increases, unlike interstate ones, are usually not taken collectively by all involved carriers. Instead, for State purposes, a general increase often involves an individual carrier adjusting substantially all its rates. Comments are invited on this matter, and specific examples would be helpful to assist us in developing the most appropriate rule to implement this presumption.

[4] The States no longer regulate reductions of intrastate rates applicable over authorized interstate routes. Senate Report, *supra*, at 29, 49 U.S.C. 11501(e)(5). The only vestigial regulation of these reductions is that the Commission may remedy through the complaint process situations where a reduction constitutes a predatory practice. 49 U.S.C. 11501(e)(6).

primarily as an appellate reviewer of State regulation.[5] Through the rebuttable presumptions discussed above, Congress established certain specific standards to guide our review of State action (or inaction) once our jurisdiction attaches. There is no basis for us to conclude that the specific presumptions are exclusive. We have full authority to implement Congressional intent through other presumptions or standards. In this regard, for example, Congress gave the Commission wide discretion in the procedural implementation of the new preemption provisions. This seems to manifest an intent that, where necessary, we would fill in the broad legislative outline in a manner which would best implement the statute. As indicated below, there may be areas where presumptions which are substantive in effect but procedural in actuality are necessary. In addition, by virtue of its imposition of a 60-day time limit, Congress mafidated that our work be completed expeditiously. Finally, Congress shaped the scope of review by statutory language making "a full hearing" unnecessary. Instead, the Act specifically provides only that we decide these cases in accordance with the procedures we are directed to establish. 49 U.S.C. 11501(f)(2).

Since this process is appellate in nature, subject to short deadlines, and to be accomplished with less than a full hearing, Congress apparently did not intend that our review would be *de novo*. Obviously the starting point of our analysis should be the State record. However, there may be instances where that record is incomplete or other reasons exist for accepting new evidence.

The aggrieved carrier may apply for prescription of rates by filing a petition for review. It will be required to submit its entire case at this time. This should include a copy of the entire State record.

Only the Governor, the State, and any parties of record who participated at the State level may, as a matter of right, participate as respondents to a carrier's petition for review. The participation of these parties will ensure a complete and accurate record.

All others must seek leave to intervene on a showing of good cause why an appearance was not entered in the State proceeding, but is appropriate in this proceeding. Petitions to intervene must also contain all argument on which petitioners rely. We also seek comments on the feasibility of allowing interested individuals to file informal comments. Written arguments of the parties should specify, on the one hand, why a State decision or inaction unreasonably burdens interstate commerce, or, on the other hand, why a State decision or inaction is reasonable.

Within the framework outlined above, it is clear that, for a carrier to represent its interests effectively, it must make every effort to include necessary evidentiary showings at the State level required by any of the statutory presumptions on which it may rely at the Federal level. In short, it must build a proper record for review. This will ensure that the State's authority is not being improperly circumvented. It is possible, however, that existing State standards and procedures may preclude carriers from establishing fully the evidentiary showing necessary for that carrier to sustain to its burden on review (with regard to presumptions 1, 2, and 4).[6] One option, as discussed above, is to allow, as much as possible, presentation of any relevant new evidence. another remedy we may consider for the final rules would be to presume that the assailed rate constitutes an unreasonable burden on interstate commerce, since it was established pursuant to standards and procedures, which are inconsistent with the Bus Act. The statutory presumptions could be interpreted as constituting the minima which the States must follow in regulating intrastate rates, and thus a failure to accommodate these procedurally could be construed as a refusal to regulate in harmony with the Bus Act. In this regard, Section 5 of the Bus Act amended the national transportation policy in certain respects which are particularly relevant here. New 49 U.S.C. 10101(a)(3) states, as pertinent, that it is national policy in regulating bus transportation:

> (B) To provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives * * * are not nullified by State regulatory actions.

In discussing these new provisions, the Senate Report, *supra* at 14, states:

> Further, the consideration of State regulatory actions and procedures recognizes the significant burdens on regulatory actions and procedures resulting from numerous regulatory decisions. The inclusion of specific policy goals for motor carriers of passengers in the transportation policy and the specific preemption of burdensome State regulation contained in other sections of this act are clearly intended as a recognition that the other goals of the national transportation policy with respect to motor carriers of passengers can only be achieved by a rational and less burdensome system of governmental regulation.

We particularly invite comment on the need for and the propriety of these procedural presumptions.

Where a State has failed to act on a carrier's request for permission to establish a rate within 120 days, the carrier must submit a verified statement to this efect in its petition for review. In this instance, a State could successfully rebut the carrier's allegations through submission of a certified copy of a decision issued before the expiration of the 120 days.

The decisional deadline in the legislation dictates the adoption of procedures geared towards swift accumulation of the required materials. Response time subtracts from the 60 days allowed for review. Consequently, we propose that replies be filed 15 days after the filing of the carrier's petition. Rebuttal by the carrier seems unnecessary and contrary to normal appellate procedures. However, we seek comments on this issue. Rebuttal to petitions to intervene will be allowed, as stated earlier, since the carrier would not have had the opportunity to reply to the positions of these parties in the State proceeding.

Under 49 U.S.C. 11501(e)(3)(A), the carrier must notify the Governor, the State agency, and "such other interested persons as the Commission may specify by regulation." Besides the Governor and the State agency, we propose that the carrier be responsible for notification and service of its petition for review (but not a copy of the record before the State agency) upon all parties of record who participated at the State level. Parties of record include only those who made a formal appearance before the State agency.

PART 1100—GENERAL RULES OF PRACTICE

We propose to add a new § 1100.220 to Title 49, Part 1100 to read as follows:

§ 1100.220 Processing of petitions for review of intrastate bus rate regulation filed under 49 U.S.C. 11501.

(a) *Petitions governed by these rules.* These rules govern the handling of petitions which seek review under 49 U.S.C. 11501 of State rate regulation of

[5] In actuality, the process outlined by Congress is broader in scope than traditional appellate review by courts. The Commission is directed to prescribe an intrastate rate, rule, or practice to remedy unreasonable discrimination against, or undue burden on, interstate commerce. Remand to the State agency to correct its decision is apparently beyond the intent of Congress.

[6] The problem could be particularly acute in two instances. First, where the issue is cost related, States may not include the same elements in variable costs that we do. Second, where the issue is comparable interstate transportation, States may not make comparisons with interstate rates in their cases. In these instances, State procedures might not permit the development of a proper record.

interstate bus carriers providing intrastate service.

(b) *Commission jurisdiction.* If an interstate bus carrier has requested a proper State authority for permission to establish an increased intrastate rate, rule, or parctice and the request has been denied (in whole or in part) or the State authority has not taken final action (in whole or in part) on the request by the 120th day after the request is made, then that carrier may apply by petition to the Commission for review of the State action (or inaction).

(c) *Information to be submitted by petitioner.* A carrier's petition for review shall include: (1) A cover sheet indicating the statutory authority (49 U.S.C. 11501) under which the filing is authorized and that a decision shall be made within 60 days; (2) a copy of the entire State record, if available, and other evidence the carrier deems relevant to the petition (and, if the basis for the carrier's petition is State inaction, the carrier shall also submit a statement of counsel or a verified statement by a competent witness indicating that the State has not acted by the 120th day following receipt of the carrier's request); (3) written argument detailing the reasons that the State action (or inaction) should be reviewed: (4) certification that the State Governor, State authority which denied, or failed to take action on, the carrier's request, and all parties of record in the State proceeding have been served with a copy of the petition; and (5) the name(s) and address(es) of petitioner's representative(s) on whom service of a reply and of the Commission's decision can be made.

(d) *Notification Procedures.* No later than the date on which a carrier files its petition for review, it shall serve copies of its entire petition on the State Governor, the State authority which denied, or failed to act on, the carrier's request, and on all parties of record in the proceeding at the State level. See, in addition, 49 CFR 1100.20.

(e) *Where pleadings are sent; copies.* The original and 12 copies of the petition and reply shall be sent to the Interstate Commerce Commission, Office of the Secretary, Wshington, D.C. 20423. Only two copies of the State record need be furnished for the Commission's use. Copies of the State record need not be furnished to the Governor, State agency, or other parties of record.

(f) *Who may oppose a petition; deadlines.* A reply to a petition may be filed as a matter of right by the Governor, the State authority which denied, or failed to act on, the carrier's request, or by any party of record in the State proceeding. These parties shall have 15 days from the filing of the carrier's petition in which to file a response with the Commission. All others wishing to participate shall file a petition for leave to intervene. The petition shall be filed within 15 days from the filing of the carrier's petition. See, in addition, 49 CFR 1100.20.

(g) *Contents of the reply.* Replies and petitions to intervene shall include: (1) Written argument detailing the reasons the State's action was reasonable; (2) certification that a copy has been served on the petitioner's representatives(s). Replies and petitions may contain evidence submitted in response to carrier's submission of new evidence. Petitions to intervene shall also include a statement of good cause why an appearance was not entered in the State proceeding and why an appearance is appropriate in this proceeding.

(h) *Rebuttal by the carrier.* The carrier shall not file rebuttal, except in response to a petition to intervene. Rebuttal to intervention petitions shall be filed within 10 days of the filing of the petitions.

Conclusions

The Commission will reach a decision in this proceeding within a short time after comments are received. Final rules may be made effective on less than the normal 30 day's notice. 5 U.S.C. 553(d). The statute becomes effective 60 days after enactment, and any delay in making final rules effective could deprive carriers of taking full advantage of the rules at the earliest possible date. Good cause exists for making final rules effective concurrently with **Federal Register** publication or on abbreviated notice. 5 U.S.C. 553(d)(3).

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources. The provisions of 5 U.S.C. 603 also require that the Commission examine the impact of proposed rulemakings on small business and small organizations. The effects on small entities who are carriers of passengers would be largely positive, since the new law gives them additional recourse in attempting to increase revenues. To a small extent, the effect of our rules could be adverse because of the minor litigation expenses associated with the evidentiary and service requirements. Nevertheless, this is a statutorily-mandated procedure, and the overall purpose of the statute is to improve the financial condition of the industry, including both small and large companies. In framing these rules, we have attempted to minimize the burdens on small entities consistent with Congressional intent. Otherwise, we anticipate no significant economic impact of small entities as a result of these proposed regulations.

Comments may be filed on any matters discussed above, including making the final rules effective on publication or on abbreviated notice, environmental or energy considerations, and regulatory impact issues.

List of Subjects in 49 CFR Part 1100

Administrative practice and procedure, Buses, Intergovernmental relations.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 11501(e)(3)(B) and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26712 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1043

[Ex Parte No. MC-5 (Sub-4)]

Passenger Broker Surety Bonds or Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bus Regulatory Reform Act of 1982 exempted brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, discretion to impose requirements for bonds and/or insurance if it determines that security requirements are needed to protect passengers and carriers dealing with brokers. The Commission requests comments on whether a need for passenger and motor carrier protection exists, and whether, if such a need exists, it can be met by an exercise of the discretionary bonding/insurance authority.

Since an exercise of the discretionary authority may affect small entities, their participation in this proceeding is particularly solicited.

DATES: Comments must be received on or before October 29, 1982.

ADDRESS: Comments should be addressed to: Ex Parte No. MC-5 (Sub-4), Office of Compliance and Consumer Assistance, Room 7115, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ray G. Atherton, Jr. (202) 275-7844; Patricia M. Schulze (202) 275-7841.

SUPPLEMENTARY INFORMATION: Before the enactment of the Bus Regulatory Reform Act of 1982, passenger brokers were required to file a security of the type prescribed by the Commission, and the Commission could only issue a broker license if the prescribed security had been filed. The stated purpose of the security filing under the statute was "to ensure that the transportation for which a broker arranges is provided" (49 U.S.C. 10927(b)). The Commission originally adopted a bonding requirement in the amount of $5,000. The amount was increased to $10,000 in 1979 [1] but the regulation was stayed and did not become effective.[2]

The Bus Act of 1982 exempted passsenger brokers from regulation but conferred on the Commission discretion to impose requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers (49 U.S.C. 10924(f)).

The amended statute vests jurisdiction in the Commission to adopt bonding and/or insurance requirements to protect passengers and carriers. While there is no express limitation of authority to the transportation aspect of the broker's activities like the statute prior to its amendment, the legislative history is clear that *less* regulation of brokers is intended.[3] Accordingly, should we decide that bonding and/or insurance requirements are warranted, such requirements will be limited, as in the past, to the transportation aspects of the broker's activities.

The Bus Act reflects an intent to minimize Federal regulation in this area. To determine whether the Commission's authority to impose a security requirement should be exercised, it is necessary to identify the potential harm which passengers and carriers could experience absent such a requirement. Proponents of security requirements should present evidence addressing abuses they believe are likely to occur, and why they see a need for the requirement.

We are obligated to balance the costs and benefits of a security requirement. We must determine whether passengers and carriers can protect themselves adequately without our intervention, and whether a form of security will be continued voluntarily, as a matter of business practice. We are concerned, and seek comment on whether the cost of bonding or insurance would pose an entry barrier to prospective brokers.

Furthermore, a decision to continue a security requirement should be based on a finding that it will, in fact, remedy identified problems. In this regard, we question the level of security that would be necessary. Raising the dollar amount above that now required would appear to be inconsistent with minimizing regulation.

We also seek comments on the relative attributes and cost of bond vis-a-vis insurance, and whether filing at the Commission of proof of security (if found necessary) should be required.

Congress had provided a 60-day delay of the effective date of this change in the law. Should an insurance or bonding requirement not be adopted within this period, the existing rule (49 CFR 1043.4(b)) will be void as a matter of law. Accordingly, if the Commission decides to implement a security requirement, interim rules may be necessary.

Regulatory Flexibility

Since no regulations are proposed at this time, it is premature to conduct an Initial Regulatory Flexibility Analysis as contemplated by the Regulatory Flexibility Act (5 U.S.C. 601). The Commission does, however, seek information to determine whether and to what extent small entities would experience a significant economic impact as a consequence of exercising jurisdiction over passenger brokers.

Lists of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds, Passenger bonds.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10924(f) and 5 U.S.C. 533)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26714 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[1] Ex Parte No. MC-96 (Sub-2), *Passenger Brokers Entry Control.*

[2] A stay was issued by the D.C. Circuit Court of Appeals but was subsequently lifted and the rules affirmed. On its own motion the Commission then stayed the effectiveness of the rules because of the pendency of the Bus Act. *National Tour Brokers Assn.* v. *ICC and U.S., No. 80-1073; 49 CFR 1043.4(b); 44 FR 70175; 45 FR 12796.*

[3] The House bill would have authorized entry based on fitness and continued in effect the present requirement for filing of security under 49 U.S.C. 10927(b). In contrast, the Senate provision adopted by the Committee of Conference and incorporated in the final bill *exempts* passenger motor carrier brokers from regulation except that the ICC retains *discretion* to impose requirements for bonds or insurance.

49 CFR Parts 1130 and 1002

[Ex Parte No. MC-161]

Preemption of State Regulation of Regular-Route Exit; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 16 of the Bus Regulatory Reform Act of 1982, codified at 49 U.S.C. 10935, provides statutory authority for the Commission to preempt State regulation of exist from regular-route passenger services in certain circumstances. The rules proposed here would establish procedures for the expeditious processing and consideration of petitions filed under section 10935, The new procedures must be effective on (60 days from enactment of the Act). The proposed rules are expected to allow motor passenger carriers to operate more efficiently by allowing discontinuance of unprofitable services.

DATE: Comments are due October 19, 1982.

ADDRESSES: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-161, Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: James L. Brown (202) 275-7898; or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: .

The New Legislation

Section 16 of the Bus Regulatory Reform Act of 1982 (the Act) added a new Section 10935 to Chapter 109 of Title 49 of the United States Code. In addition, the National Transportation Policy at (49 U.S.C. 10101(a)(3)) was amended to declare it to be Government policy:

(3) in regulating transportation by motor carriers of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.

Enactment of 10935 reflected Congress' determination that State regulation of exit from regular-route motor passenger

services (where both interstate and intrastate services are provided over the same routes) has created, in many instances, a burden on interstate commerce. Report of the Senate Committee on Commerce, Science and Transportation on H.R. 3663, May 20, 1982 (S. Rep. No. 97–411, 97th Cong., 2nd Sess.) (Senate Report) p. 25.

Section 10935 applies to any motor passenger carrier transportation between two points along a carrier's interstate route within a state regardless of the origin or destination of the bus. As long as the two points form some part of a carrier's existing ICC regular route interstate operating authority, intrastate service between those points falls within the Commission's jurisdiction under this Section of the new Act.

Section 10935 sets forth conditions which must be met before the Commission may exercise this preemption power: (1) The carrier must hold both interstate and intrastate authority to provide the service involved; (2) the carrier must be seeking either to discontinue all service over the route involved or to reduce the level of that service to less than one trip per weekday; (3) the carrier must already have requested permission to discontinue or reduce this service from the appropriate State regulatory body; (4) the State body must have either denied all or part of this request or failed to act on the request within 120 days; (5) if the request involves discontinuance of the service, the carrier must also seek revocation of its pertinent interstate authority; and (6) the carrier may not be owned or controlled by a State or local government.[1]

Many of the procedural aspects of processing discontinuance petitions are also spelled out in the law. For example, the law requires notification of certain State and local governmental bodies; the petition must be granted if no objections are filed within 20 days; a response by the carrier is required within 15 days after any objection is filed; and the Commission must complete processing of the petition and enter a final decision within 90 days after the petition is filed. Indeed, this 90-day statutory deadline is a significant constraint on these regulations, and most of the features of the rules we are proposing are designed to ensure that a final decision can be entered within that time limit, yet still allow full notice to interested persons and a fair opportunity to be heard and to present evidence.

As a substantive matter, the bill provides one set of standards for permitting discontinuance in protested cases involving authority granted before August 1, 1982, and another set of standards for cases involving bona fide new authority granted thereafter.

In cases which involve routes for which the interstate authority was granted on or before August 1, 1982, opponents of the discontinuance bear the burden of proving that the discontinuance or reduction is not consistent with the public interest or that continuing the transportation will not constitute an unreasonable burden on interstate commerce. In making a finding in such proceedings, the Commission must accord great weight to the extent to which revenues on the route are less than the variable costs of the service, and the carrier has the burden of proving the amount of the revenues and the variable costs.

On the other hand, where new interstate authority was granted after August 1, 1982, opponents of the discontinuance bear the burden of proving that continuing the transportation will not constitute an unreasonable burden on interstate commerce. This standard, however, is defined by the statute as meaning that the discontinuance or reduction is not consistent with the public interest and the revenues from the service are not less than the variable costs of providing the service. The net effect of these two standards is that the discontinuance of service over bona fide new routes will be easier than over old routes.

The Act requires the Commission to conclude this rulemaking and adopt final rules within 60 days. This necessitates making the rules effective on less than 30 days' notice. Further, we are providing a 20-day comment period, rather than the usual 30 days, in order to allow as much time as practicable, in keeping with the requirements of due process, to consider fully the positions of all interested parties before adopting final rules. We do not contemplate extending the time for filing comments.

Background

The concept of regulation of exit from regular-route motor passenger services is comparatively new to this Commission. The Commission does not now have any procedural rules governing the discontinuance of interstate services, except for the requirement of 49 CFR 1063.6(b) that notice be given of regular-route schedule changes. The Commission never required carriers to obtain permission to discontinue regular-route services, and the certificates held by most regular-route motor passenger carriers include numerous "dormant routes" (that is, authorized routes over which no scheduled services are actually provided). Thus, while the Commission has exercised very little regulatory control over discontinuance, the States generally exercised relatively strict control. Typically, a carrier's regular-route operations serve both interstate and intrastate passengers at the same time. This meant that a passenger carrier seeking to abandon an unprofitable interstate route could still be forced to serve the similarly unprofitable intrastate portion of the route if the State denied the carrier's request for discontinuance of the route. Faced with this situation, a carrier might be forced to maintain service over the interstate route to minimize overall losses even though it would place a burden on the carrier's interstate service as a whole. See H. Rep. 97–334, 97th Cong. 1st Sess. p. 42. The new exit provisions are intended to resolve this problem.

Accordingly, section 10935(e)(3) requires a carrier to apply for and receive authority to discontinue its *interstate* transportation over the invovled routes in order to be granted permission to discontinue *intrastate* transportation. The proposed rules, therefore, require a carrier seeking permission to discontinue intrastate service to include in its petition a corresponding request for revocation of the pertinent portions of its interstate certificates.

As briefly described above, section 10935 directs the Commission to approve carriers' requests to discontinue or substantially reduce such intrastate services, unless objecting parties carry one of two specified burdens of proof. This burden of proof will depend upon whether the interstate authority corresponding to the intrastate service in question was granted before or after August 1, 1982. As noted earlier, Congress has established a situation where the discontinuance of service over new routes is to be easier than over old routes. We propose to calculate the date that authority for a route is granted as the date on which the carrier's interstate certificate of public convenience and necessity was issued.

The statute requires us to consider the "variable costs" of operating the services involved, regardless of the date authority to operate was granted. We do not propose to define "variable costs." Rather, the proposed rules require the parties to present calculations of the

[1] In addition, section 10935(h) prohibits State regulation of the discontinuance of services begun under the "fitness only" standard of 49 U.S.C. 10922(c)(4). These services, accordingly, do not fall under the rules proposed here.

variable costs of operating these services, together with an explanation of how the costs were calculated, including assumptions underlying the calculations. Likewise, we will not define "reasonable pricing practices," but will require carriers to offer a description of the pricing practices applicable on the affected route. This will allow these terms to be more specifically defined on a case-by-case basis, with parties opposing the discontinuance submitting evidence supporting any allegation that the carrier's pricing practices are not reasonable. We believe these proposals to be consistent with the congressional intent to provide for easier discontinuance, less regulation generally, and faster procedures, and with Congress' decision to generally place the burden on parties opposing discontinuance. We recognize that opponents may not possess specific information about a carrier's costs or pricing practices. Therefore, we will grant reasonable discovery requests (pursuant to our rules at 49 CFR 1100.55), so long as such requests are made within 5 days of the filing of the petition, and ask for information relevant only to the affected route. Carriers must respond in a timely fashion. If they fail to do so, we may assume that the cost and pricing allegations of the opponents are correct. We request comments from the parties on these proposals.

Section 10935(g) spells out precisely the other factors we must consider in each case: the national transportation policy, the availability of operating subsidies or financial assistance, and the availability of alternate transportation services. No extended discussion of these factors is necessary at this time. However, in considering the availability of operating subsidies or financial assistance to provide the transportation to be discontinued or reduced, there is an implicit relationship to the authority given to the Commission to order continuation of the service for as long as 165 days after the filing of the petition. The Senate Report indicates (at p. 27) that the purpose of this provision is to allow time in which arrangements for operating subsidies or financial assistance can be worked out or for reasonable alternatives services to be arranged. We propose to order continuation of service only if we are notified that a subsidy or assistance offer has been made, and it appears to be both responsible and reasonably likely to induce the carrier to continue the service voluntarily, or if the evidence shows that this time period is needed to allow another carrier to take over the operation of the involved service. The mere offer of an operating subsidy or financial assistance—no matter how responsible or substantial—does not automatically change the decision on the petition. If the party opposing the discontinuance does not sustain the burden of proof established in the statute, we must grant the petition to discontinue or reduce the service: we can, if the circumstances warrant, delay the effective date of the discontinuance until 165 days after the filing of the petition, but continuation of service beyond that is strictly voluntary for the carrier.

As to the procedural aspects of the proposed rules, the 90 day time limit for deciding these cases necessitates rather strict procedural burdens for all parties. Obviously, it does not allow time for oral hearings or for protracted responsive pleadings. Accordingly, we have included in the rules statements of the primary issues each party should address in pleadings filed in these cases. Our purpose in doing this is two-fold: It will help to ensure that appropriate evidence will be available to allow a reasoned decision on the merits of each case; and it will provide assistance to those parties who may not be familiar with procedures before the Commission in understanding the issues and circumstances surrounding each petition.

In many respects, these rules parallel procedures already employed for removal of restrictions from the operating authorities of motor carriers of property. (See 49 CFR Part 1137, as promulgated in Ex Parte No. MC–142 (Sub-1), *Removal of Restrictions, Motor Car. of Property*, 132 M.C.C. 374 (1980)). In *Removal of Restrictions, Motor Car. of Property*, 132 M.C.C. 114, at 116–117 (1980), we had concluded that the applicable statutory provisions (49 U.S.C. 10922(h)(2)) did not require that an opportunity be provided for oral hearings, or for a conventional adversary licensing proceeding. A similar conclusion is mandated in this situation. These rules provide appropriate, simplified, and expedited procedures, under which interested parties and carriers have a reasonable opportunity to present their positions, and through which the Commission can reach reasoned decisions within the mandated time limit.

The Proposed Rules

The proposed rules allow us to process petitions within the statutory deadline. We have considered proposing a procedure whereby the Commission's consideration of these petitions would be essentially an appellate process, based on the record made before the State body. We note, however, that the statute does not contemplate this procedure and, indeed, speaks instead of "evidence" to be presented by parties objecting to the petition before this Commission. Further, we are concerned that difficulties would arise if the record in the State proceeding were not complete by the 120-day deadline for State action, either through deficiencies in State procedures, or through the recalcitrance of a carrier which might prefer to await the invocation of the preemptive Federal jurisdiction. Our rules permit the States to have a full and fair opportunity to participate in these cases, through their own proceedings before petitions are filed with us, and through the opportunity to challenge and to respond to any additional evidence petitioning carriers may submit to us.

The statute clearly intends that States be permitted a meaningful opportunity to consider these issues in the first instance. Although the procedures we propose provide for presentation of evidence before this Commission by interested parties, we view this as a means to ensure the completeness of the record and full notice to opposing parties of the issues involved.

We see no need to publish notices of these petitions in the **Federal Register**. Each petition will cover operations in only one State, and thus will not be of nationwide impact. Also, the statute specifically provides for notice to pertinent State and local officials and governmental bodies, and this appears to be the most appropriate means of assuring effective notice to potentially interested persons. We propose that the only additional persons who should be notified by the petitioning carrier, are those who were parties of record in the State proceeding. In those few past instances where the Commission has considered requests for revocation of regular-route passenger authority, it has been our practice (on a case-by-case basis) to require the posting of notices in affected stations and on buses serving affected routes, as well as publication of notices in local newspapers. We are not of the opinion now that these requirements would be helpful. Since local governments will receive notice directly, State procedures are liable to have caused interested parties to have received actual notice already, and the statutory time limits make the more cumbersome process of posting and publication inappropriate. We request comments on this issue.

We propose that the form of the notice be a complete copy of the petition itself. The short time available for an objection to be filed does not realistically permit

an interested party to obtain a copy of the petition from the carrier *after* a summary notice is provided. We seek comments on whether a deadline should be imposed on the filing of petitions after the State body issues its final decision.

Petitions and objections must be in the form of verified statements setting forth all of the evidence the party intends to present in the case. There is not time for successive responsive pleadings and additional evidence to be considered fairly by the Commission. Our proposed rules include a statement of the primary issues each party should address in its pleading. This helps the potential parties to participate meaningfully and to know what they are expected to show in order to meet the statutory burden of proof.

The statute requires the carrier to provide each person who files an objection to the petition a copy of the subsidy estimates and financial data which are described in section 10935(e)(4). We anticipate a significant number of the people who may object to these petitions to be individual passengers to whom this information would have little applicability. In some cases, certainly, it is possible that a large number of individuals may submit substantially identical comments through an organized campaign. Clearly, thos could cause a significant burden on the carrier in reproducing and mailing a large number of copies of such information. We invite comments and suggestions as to whether we should create an alternative category of "informal comments" whereby interested persons could submit their views without becoming formal parties to the proceeding. Persons submitting informal comments could thus be relieved of the procedural burdens applicable to formal objections, while still having a forum in which to present their views; and the carriers could be spared the expense of providing extensive material which these persons might not be interested in receiving.

Energy and Environment

It does not appear that the adoption of the proposed rules will have any significant impact on the quality of the human environment. However, we anticipate the rules will enable carriers to improve operating efficiency and reduce mileage for regular-route motor passenger carriers, thus contributing to the conservation of energy resources. We invite comment with respect to these issues.

Regulatory Flexibility Analysis

The proposed rules are intended to provide individuals, small businesses, and local governments the greatest possible help in developing evidence to meet the burden of proof established in the statute. The statute clearly affects both small carriers and the small communities they serve, and it is our intention in proposing these rules to make it possible for them to participate meaningfully in these cases without legal representation, if they so desire. To this end, the proposed rules provide step-by-step instructions for presenting evidence relevant to the proceeding. Further, we believe the rules will have a beneficial impact on many carriers who are now operating routes that are not economically justified. Therefore, we do not expect that the proposed rules will have a significant adverse economic impact upon a substantial number of small entities. We welcome comments on this issue.

List of Subjects

49 CFR Part 1130

Administrative practice and procedure, Buses, Intergovernmental relations.

49 CFR Part 1002

Freedom of information.

We propose:

1. To amend title 49 of the Code of Federal Regulations by the addition of a new Part 1130 as described in the Appendix to this notice.

2. To amend 49 CFR 1002.2(d) to include a provision setting the filing fee for applications filed under the procedures proposed in the appendix at $350.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321 and 10935 and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the CFR would be amended by adding a new Part 1130 to read as follows:

PART 1130—RULES GOVERNING DISCONTINUING BUS TRANSPORTATION IN ONE STATE

Subpart A—How To Petition for Permission To Discontinue or Reduce Bus Service in One State

Sec.

Subpart B—How To Object To Discontinuation or Reduction of Bus Service in One State

Subpart C—General Rules Governing the Petition Process

Authority: 49 U.S.C. 10321 and 10935; 5 U.S.C. 553.

Subpart A—How To Petition for Permission To Discontinue or Reduce Bus Service in One State

§ 1130.1 Requests governed by these rules.

(a) These rules govern petitions by motor common carriers for permission to discontinue providing regular-route passenger transportation over any route to any points in a State, or to reduce the level of service over such route to less than one trip per day (excluding Saturdays and Sundays).

(b) To use these rules, the carrier must:

(1) Hold both interstate authority and intrastate authority over the routes involved;

(2) Have requested permission from the appropriate State regulatory body for the proposed discontinuance or reduction in service (and the State body has either failed to take final action on the request within 120 days or has denied all or part of the request); and

(3) Not be owned or controlled by a State or local government.

(c) Each petition may cover services in only one State. If a carrier intends to discontinue or reduce service on a route which crosses one or more State lines, and permission under these rules is needed for two more of these States, then a separate petition must be filed for each State.

§ 1130.2 General procedures.

The Commission must take final action on these petitions within 90 days after they are filed. Accordingly, it is not possible to conduct oral hearings on these petitions. These petitions will be considered on the basis of the written record, consisting of the carrier's petition (and the materials filed with the petition), the objections of interested persons, and the carrier's rebuttal.

§ 1130.3 Starting the petition process.

There is no application form for these petitions. A carrier wishing to use these rules must comply with the notice requirements described in §1130.6 and submit the information described in §§ 1130.4 and 1130.5. The filing fee is $350.

§ 1130.4 Information to be submitted by petitioning carriers.

The petitioning carrier must file the following information:

(a) Beginning on the first page of the petition, the following information must appear:

(1) Identification Caption—(This information must be shown prominently and concisely, because it is the only means of identifying the petition and other pleadings which relate to it):

(i) The carrier's lead ICC docket number;

(ii) The carrier's name;

(iii) The carrier's mailing address;

(iv) The words "Exit Petition:", followed by the name of the State affected by the petition; and

(v) The endpoints of the route or routes over which the carrier proposes to discontinue or reduce service.

Examples:

No. MC–149076, U.S. Bus, Inc., P.O. Box O, Laurel, MD 20810. Exit Petition: Maryland Between Hyattsville and Baltimore, MD.

No. MC–132985, John Doe, d.b.a. Doe Bus Lines, 1776 Main St., Pittsburgh, PA 15222. Exit Petition: Ohio Between Conneaut and Cleveland, OH.

(2) Name, address, and telephone number of the carrier's representative.

(3) Identity and qualifications of the carrier's witness, who signs the verified statement.

(b) Request for permission to discontinue or reduce service, including a concise summary of what the carrier is asking permission to do, *and* if the carrier proposes to discontinue service, a written request for the revocation of the pertinent portions of the carrier's interstate Certificate(s) of Public Convenience and Necessity;

(c) Certification that the petitioning carrier is not owned or controlled by a State or local government;

(d) Verified statement giving the information described in § 1130.5;

(e) A copy of the pertinent portions (including the date of issuance) of the carrier's interstate Certificate(s) of Public Convenience and Necessity, which authorize the regular-route passenger services which the carrier proposes to discontinue or reduce;

(f) A copy of the pertinent portions of the authority issued by the appropriate State body, which authorize the same services;

(g) A copy of the decision or decisions (if any) by the appropriate State body denying the proposed discontinuance or reduction in service; and

(h) Certification that copies of the petition and all the accompanying materials described in this paragraph have been served on (1) the Governor of the State in which the transportation is provided, (2) the State body having jurisdiction over granting discontinuances of transportation and reductions in levels of service by motor common carriers of passengers, (3) local governments (both counties and municipalities) having jurisdiction over areas which would be affected if such petition is granted, and (4) each party of record to any State proceedings involving the proposed discontinuance or reduction in service.

§ 1130.5 The petitioning carrier's verified statement.

The carrier's verified statement must contain all of the evidence it intends to submit concerning at least the following issues:

(a) Description of the carrier's pertinent present operations and the way the proposed discontinuance or reduction in service will change these operations;

(b) Identification of the date on which the request was made to the appropriate State body for permission to discontinue or reduce the involved service and the dates of any actions the State body may have taken on that request, and any description of the proceedings conducted by the State body which the carrier believes to be relevant to the petition;

(c) Calculation of the interstate and intrastate passenger and package express revenues (specifying the time period involved) which accrue directly from the services which would be discontinued or reduced (but *not* including revenues which the carrier expects to retain in connection with other services which it will still operate), with an explanation of how the revenues were calculated and of any assumptions underlying the calculations;

(d) Description of the rates and pricing practices applicable to the affected service;

(e) Calculation of the variable cost of operating the affected service, with an explanation of how the costs were calculated, and of any assumptions underlying the calculation;

(f) Description of any present operating subsidies or financial assistance applicable to the affected service, and of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the petition;

(g) Description of any other public transportation facilities known by the carrier to be available for passenger service at the points on the route affected by the proposed discontinuance or reduction in service; and

(h) Any additional evidence or legal argument the carrier believes to be relevant to the petition.

§ 1130.6 Where to send the petition.

(a) Copies of the petition and all of the accompanying materials described in § 1130.4, must be sent or delivered to (1) the Governor of the State in which the transportation is provided, (2) the State body having jurisdiction over granting discontinuances of transportation and reductions in levels of service by motor common carriers of passengers, (3) local governments (both counties and municipalities) having jurisdiction over areas which would be affected if the petition is granted, (4) each party of record to any State proceedings involving the proposed discontinuance or reduction in service, and (5) the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, DC 20423. This delivery must be undertaken concurrently with that to the Commission.

(b) The original and one copy of the petition and accompanying materials shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.7 Rebuttal.

(a) Within 20 days after the petition is filed with the Commission, interested persons may file objections to the petition, and must send a copy of these objections to the carrier. Within 15 days after the filing of any objection, the carrier must furnish to the Commission and to each person who has filed an objection,

(A) an estimate of the annual subsidy required, if any, to continue the involved service, and (B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service.

(b) At the same time, the carrier may file a rebuttal to the objections. Copies of any rebuttal must be sent or delivered to each person who has filed an objection at the same time as the information described in paragraph (a) of this section.

§ 1130.8 Commission review of the petition.

(a) If a petition is incomplete, or if the carrier has not substantially complied with these rules, the Commission may reject or dismiss the petition at any time before the statutory deadline for final action.

(b) If no objections are received by the Commission within 20 days after the petition is filed, and if it is determined that the petition is complete and properly filed in accordance wth these rules, the Commission will grant the permission sought and revoke the pertinent portions (if any) of the carrier's interstate Certificate of Public Convenience and Necessity. The decision taking this action will be entered at the end of the 20-day period but will not be served until clerical processing is completed. The effective date of the revocation will be 30 days after the decision is served.

(c) If timely formal objections are filed, the Commission will consider the evidence on the basis of the written record, consisting of the petition (including the accompanying materials), the objections, and the rebuttal.

§ 1130.9 Continuation of service.

The Commission may order the carrier to continue the operation of the affected service for 165 days after the petition is filed, even if the permission to discontinue or reduce the service is otherwise granted, but before it has become effective, if an offer of subsidy or financial assistance has been made, which appears to be both responsible and reasonably likely to induce the carrier to continue the service voluntarily, or if the evidence shows that this time period is needed to allow another carrier to take over the operation of the service.

§ 1130.10 Withdrawal of petition.

If the carrier wishes to withdraw its petition, it may do so by requesting in writing that the petition be dismissed. The request shall be directed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and shall include the identification caption described in paragraph (a) of § 1130.5.

§ 1130.11 Administrative finality and appeals.

(a) A decision disposing of a petition is a final action of the Commission. Appeal is discretionary and will be granted only upon a showing of extraordinary circumstances. The appellate procedure to be followed is that set forth at 49 CFR 1100.98. Any party seeking review should specify the "extraordinary circumstances" warranting review which are involved in the proceeding.

(b) In the event of a procedural defect (such as the loss of a properly filed objection or the failure of the carrier to serve its petition on all the required persons), the Commission will entertain a petition to vacate a decision which grants the permission sought on the grounds that no objection has been filed.

Subpart B—How To Object to Discontinuation or Reduction of Bus Service in One State

§ 1130.20 Filing an objection.

(a) An objection must be filed (received by the Commission) within 20 days after the carrier files its petition. A copy of the objection must also be sent or delivered to the petitioning carrier.

(b) If an objection is not filed within this time limit, the right to participate in the proceeding is waived.

§ 1130.21 Contents of the objection.

(a) Beginning on the first page of the objection, the following information must appear:

(1) In order to identify properly the petition toward which the objection is directed, copy the identification caption set forth at the beginning of the carrier's petition (as described in paragraph (a) of § 1130.4).

(2) Name and address of the person filing the objection, and the name and address of the legal representative (if any) of the party in this proceeding.

(3) Name and address of the witness signing the objection (if different from paragraph (a)(2) of this section) and an explanation of why the witness is qualified to speak on behalf of the objecting party.

(b) An objection must be verified.

(c) An objection may be rejected if it is not in substantial compliance with these rules.

§ 1130.22 Evidence.

The objection should contain all of the evidence upon which the objecting party intends to rely, including at least the following issues:

(a) Description of any relevant operating subsidies or financial assistance known to have been offered to the petitioning carrier to support the service involved, including the amount of the subsidy or assistance that is available and the financial qualifications of the person making the offer of subsidy or assistance;

(b) Description of the adverse impact the proposed discontinuance or reduction in service would have on the public interest, including passengers traveling to or from the affected points or over the affected routes, or on the communities served, or on others;

(c) Analysis of the interstate and intrastate revenues derived from the service, the pricing practices applied to the service, and the variable costs of operating the service; and

(d) Any additional evidence or legal argument relevant to the petition.

§ 1130.23 Where to send the objection.

(a) An original and one copy of the objection must be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. An additional copy of the objection must be sent to the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, D.C. 20423.

(b) At the same time that the objection is filed with the Commission, a copy must be sent or delivered to the petitioning carrier (and to its representative, if one is listed), in the same (or a more expeditious) manner that the objection is sent or delivered to the Commission.

§ 1130.24 Obtaining a copy of the petition.

A copy of the petition will be available for inspection at the Commission's offices in Washington, D.C. In addition, the carrier is required to serve a copy of the petition on the affected State and local governments, and copies of the petition may be available from them.

§ 1130.25 Offers of subsidies.

Any financially responsible person who intends to offer an operating subsidy or financial assistance to the carrier to enable it to continue providing the service which is proposed to be discontinued or reduced, must notify the Commission and the carrier within 50 days after the petition is filed. This notification must indicate the amount of the subsidy or assistance being offered and demonstrate the financial responsibility of the person making the

offer. An offer of operating subsidy or financial assistance does not require the Commission to deny the discontinuance or reduction of service, but it will form the basis for the Commission's decision whether or not to order continuation of the service until 165 days after the filing of the petition.

§ 1130.26 Withdrawal of objections.

If a party wishes to withdraw its objection, it shall inform the Commission and the carrier in writing.

Subpart C—General Rules Governing the Petition Process

§ 1130.30 Contacting another party.

When a person wishes to contact another party or serve a pleading on that party, it shall do so through the party's representative (if any).

§ 1130.31 Serving copies of pleadings; the certificate of service.

(a) Because of the short statutory time limits applicable to these petitions, service of pleadings on other parties must be done as expeditiously as possible. Therefore, where these rules require service of a pleading on another party, every effort must be made to ensure that the other party receives that pleading no later than the day it is due to be filed with the Commission.

(b) Each pleading shall contain a statement (certificate of service) that the pleading has been mailed or delivered to the other party in accordance with the requirements of paragraph (a) of this section.

(c) All pleadings mailed to the Commission in Washington, D.C., should be addressed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.32 Copies.

All pleadings filed with the Commission shall include an originial and one copy. An additional copy of each pleading shall be sent to the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.33 Request for extensions of time.

The time limits applicable to these case are established by statute. Therefore, granting requests for extension of time is not contemplated.

§ 1130.34 Verification of statements.

All statements must be verified by the person signing the statement, as follows:

I, ————, verify under penalty of perjury under the laws of the United States of America, that the information in this statement is true and correct. Further, I certify that I am qualified and authorized to file this statement. (See 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

(Signature and Date)

PART 1002—FEES

In § 1002.2(d), item (50) would be added to Part IV: Other Proceedings to read as follows:

§ 1002.2 Filing Fees

* * * * *

(d) * * *

(50) A petition to discontinue transportation in one State	350

[FR Doc. 82-26715 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1104

[Ex Parte No. MC-82 (Sub-1)]

Provisions for Foreseeable Future Costs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 9 of the Bus Regulatory Reform Act of 1982 authorized procedures allowing for the recovery of estimated or foreseeable future costs. The Commission is proposing it permit the intercity bus industry to recover foreseeable future costs in their general increase filings. Under the proposed procedures foreseeable and estimated future costs will be allowed to be recovered in six (6) month intervals. In addition, comments are requested on procedures to include future costs in individual carrier rate filings.

DATES: Comments on the proposal are due October 19, 1982. Due to time constraints, the final rules adopted in this proceeding may be made effective on less than thirty days notice.

ADDRESS: An original and 15 copies of comments should be submitted to: Bureau of Accounts, Section of Cost Development, Room 3311, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
William T. Bono (202) 275-7354, Bureau of Accounts; or
Paul R. Meder (202) 275-7457, Bureau of Accounts.

SUPPLEMENTARY INFORMATION:

Foreseeable Future Costs

Prior to the passage of the Bus Regulatory Reform Act of 1982 (Act), the Commission's rules governing general rate increases permitted motor carriers of passengers (bus industry) to recoup only provable increased costs that were incurred previously and/or anticipated on the date of a particular filing. See 49 CFR 1104.20–1104.26, and Schedules A through G detailing information to be submitted in general revenue proceedings. The Act allows the bus industry to "* * * cover the costs of inflation by taking into consideration estimated or foreseeable future costs."[1] However, the Act does not designate the time periods for projecting estimated or foreseeable future costs.

In compliance with the provisions of the Act, we propose to permit the bus industry to recover additional and reasonable estimated or foreseeable future cost increases that will be experienced during a six (6) month period following the effective date of any general increase filing. For example, general fare and rate increase proposals set to become effective on July 1 can include, along with previously incurred cost increases, reasonable estimated or foreseeable future cost increases for the period July 1 through December 31. This provision will have the advantage of reducing regulatory lag and is consistent with the future time period adopted for the motor carriers of property resulting from the 1980 Motor Carrier Act. See Future Costs and Requirements for Additional Data, 365 ICC 410 (1981), as modified by decision served March 11, 1982.

Additionally, if the proponent of a general increase includes in its request future cost increases covering the future time period, and then files another general increase during the six month projection period, proponent will be required to establish that the second increase sought has not been previously recovered in the first general increase filing.

Methodology

Future costs will be divided into two categories, namely: (1) Wage and wage related increases and (2) non-labor expense increases. Wage and wage related cost increases are generally scheduled with some occurring simultaneously with the effective date of a general increase filing and others occurring at various times subsequent to the effective date. Non-labor cost changes are incurred on an irregular and unscheduled basis. Therefore, future cost estimates will be separated between these two categories. Moreover, fuel and fuel tax expense

[1] S. Rept. 97-411, 97th Cong., 2d sess., 21 (982).

increases will be treated in the non-labor unscheduled expense category.

A. Scheduled Wage and Wage Related Increases

To be consistent with the proposed six (6) month future cost time period, the full impact of those wage and wage related expenses which coincide or start simultaneously with the effective date of the general increase will be allowed in the projected pro-forma future expense level. The impact from wage contracts which become effective subsequent to the effecteve date of the proposed general increase and within the six (6) month period will be treated on an "as incurred" basis. Since these wage and wage related costs may increase be varying amounts on varying dates it will be necessary for the bus industry to determine the impact wage increases will have on total expenses. The bus industry will be permitted to rely on any reasonable forecasting methodology.

Table 1 below provides a simple illustration of how the computation of the total impact of the wage increases can be applied. This illustration assumes that there will be six separate contracts or increases. Each contactual wage increase amounts to 10 percent. Each contract covers employee groups which bear a differing expense relationship to total expenses and occur on different dates between July 1 and December 31. The impact of the wage and wage related expense increase may be calculated as follows:

TABLE 1

[In percent]

Effective date of Wage Inc.	Rate of increase	×	Portion of total expenses	=	Impact to total expense	×	Portion of 6 month period in effect	=	Impact on total expense
July 1	10		15		1.5		100		1.50
Aug. 1	10		10		1.0		⅚ or 83.3		.83
Sept. 1	10		5		.5		⅔ or 66.7		.33
Oct. 1	10		10		1.0		½ or 50.0		.50
Nov. 1	10		15		1.5		⅓ or 33.3		.50
Dec. 1	10		10		1.0		⅙ or 16.6		.17
									3.83

Total (6 individual wage increases applicable to 65 percent of total expenses = 3.83% future expense increase labor).

The application of the wage and wage related increases need not be developed in the manner indicated above but the resulting impact from the methodology used cannot exceed the impact developed on the basis of the methodology used in the example.

B. Unscheduled Non-labor Expense Increases

Unscheduled Non-labor cost increases will be allowed on the basis of one-half of the estimated increase in expenses at the end of the 6 month future period. For example, if the estimated future unscheduled cost increase for the period is 10 percent, a cost increase of 5 percent will be allowed over the 6 month period. Materialization of the remaining increase can be recovered in the next general increase filing. This approach will permit a reasonable recovery of short-run non-scheduled expense increases and assumes a single cost increase over the entire six month future period equivalent to the steadily rising costs in unscheduled non-labor expense increases. This approach will also minimize the impact resulting from over projections by allowing advance passthroughs of anticipated unscheduled costs.

C. Expense Forecasting

The Commission will accept estimates based on any reasonable methodology used to provide future labor and non-labor expense increases. However, the burden of proof as to the reasonableness of the methodology or methodologies rests with the proponent and must be adequately supported.

D. Additional Reporting Requirements

Chapter X of Title 49 Part 1104 Subpart B (Revenue Need) Schedule C Parts I, II and III will be expanded to include, for all carriers, revenue/expense comparisons for all future cost estimates. The impact of these changes shall be shown separately for system and issue traffic and shall be in addition to the presently required revenue/expense comparisons. Data reflecting future cost estimates shall be identified as such.

Section 10701(e) allows for the inclusion of future costs in individual rate filings as well as industry-wide general rate increases. Since the standards for consideration of the reasonableness of individual carrier rates now includes consideration of future costs, we request comments on how the Commission can most efficiently implement and encourage the use of this provision.

List of Subjects in 49 CFR Part 1104

Buses, Freight, Motor carriers.

Adoption of these provisions will not significantly affect the quality of the human environment or energy consumption. Pursuant to 5 U.S.C. 605(b), we certify that these procedures will not have a significant economic impact on a substantial number of small entities. However, comments applicable to these mater are also invited.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(Sec. 9, Bus Regulatory Reform Act of 1982)

Dated: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26716 Filed 9-28-82; 8:45]

BILLING CODE 7035-01-M

49 CFR Parts 1045B, 1046, 1100, and 1130a

[Ex Parte No. 55 (Sub-56)]

Applications for Operating Authority; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: Sections 6 and 13 of the Bus Regulatory Reform Act of 1982 ("the Act") which amend, respectively, 49 U.S.C. 10922 and 10923, allow applicants to obtain motor common or contract passenger operating authority from the Commission upon satisfying a "fit, willing, and able" test. The legislation also introduces a new "public interest" entry test. Section 6 further amends the Act to allow preemption of State regulations which prevent a motor common carrier of passengers from performing operations entirely in one State over regular routes authorized in interstate transportation. This rulemaking proceeding (1) discusses the entry provisions of the Act, and (2) proposes rules for applying for new passenger authority and for opposing applications. The new procedures must be effective 60 days from enactment of the Act.

DATE: Comments are due October 19, 1982.

ADDRESS: An original and 15 copies, if possible, should be sent to: Ex Parte No. 55 (Sub-56), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20433.

FOR FURTHER INFORMATION CONTACT:
Marc Lerner (Interstate entry), 202–275–7150;
Barbara Reideler (Intrastate entry), 202–275–7982; or
Howell I. Sporn, 202–275–7691.

SUPPLEMENTARY INFORMATION:

Background

Congress enacted the Bus Regulatory Reform act of 1982 ("the Act") to reduce government regulation of the bus industry, promote competition, and, at the same time, make available more responsive service to the traveling and shipping public.

Congress stated that the purpose of the liberalized entry provisions of the bill is "* * * to significantly reduce entry barriers for all forms of intercity bus service and to permit existing bus companies to expand their services and to provide more efficient interstate and intrastate services." Report of the Senate Committee on Commerce, Science, and Transportation on H.R. 3663, S. Rep. No. 411, 97th Cong., 2nd Sess., at 15 (1982) (Senate Report). Congress concluded that the new legislation will lead to increased carrier flexibility, experimentation with new services, opportunities for expansion, reduced paperwork and costs, improved equipment use and operational and energy efficiency, a greater variety of service and price options, and better service to the traveling and shipping public. *Id.* at 10–20. Congress determined that to achieve the broad reforms mandated by the Act, regulatory restraints at both the Federal and State levels must be removed to afford bus companies the opportunity to compete vigorously.

Comments are requested on the proposed rules and the issues discussed in this notice. As the Act requires that final rules be in place within 60 days, these rules must be effective on less than 30 days notice. Because of this, we are able to provide only a 20-day comment period, rather than the usual 30 days, to allow as much time as practicable to consider all the comments before adopting final rules. We do not contemplate extending the time for filing comments.

Interstate Authority

Statutory Highlights

Section 6 of the Act adds a new subsection (c) to section 10922 of Title 49, United Stated States Code, to govern applications for authority to operate as motor common carriers of passengers. Applications for interstate authority are governed by subsection (c)(1), which reads as follows:

(A) A certificate shall be issued by the Commission to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and a certificate shall be issued to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

(B) For all applications for authority except those under clause (A) of this paragraph, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

Three types of service are exceptions to requests under (c)(1)(A) and are statutorily determined to be in the public interest. Section 10922(c)(4) eliminates the requirement that the Commission make public interest findings for the following "fitness only" proposals:

(A) Interstate transportation service to any community not regularly served by a motor common carrier of passengers * * *

(B) Interstate transportation service which will be a substitute for discontinued rail or commercial-air passenger service to a community if such discontinuance results in such community not having any rail and commercial-air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

(C) Interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to reduce its level of intrastate service to such community under section 10935 of this subchapter.

Section 13 of the Act amends 49 U.S.C. 10923(b)(2) to make "fit, willing, and able" the sole entry test for passenger contracts carriers as well.

Section 14 of the Act amends 49 U.S.C. 10924 to exempt passenger brokers from licensing regulation. New subsection (f) gives the Commission permissive authority to impose requirements for bonds or insurance or both to the extent it determines such requirements are needed to protect passengers and carriers dealing with brokers. The Commission is considering this issue in Ex Parte No. MC–5 (Sub-4), *Passenger Broker Surety Bond.* All interested persons are encouraged to participate in that proceeding.

Applicant's burden of proof

An applicant's evidentiary burden is significantly reduced by the Act and grants of authority are presumed to be consistent with the public interest. Every applicant for motor common or contract authority has the burden of demonstrating only that it is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with pertinent statutory requirements and Commission regulations. "Fit, willing, and able" is specifically defined in sections 10922(c)(6) and 10923(b)(2) as safety fitness and proof of insurance pursuant to the minimum financial responsibility requirements of section 18 of the Act. Pursuant to that section, the Secretary of Transportation is directed to establish minimal levels of public liability and property damage insurance; regulations will be forthcoming. In defining the phrase "fit, willing, and able," the Senate Report stresses that safety and insurance are "* * * the only factors appropriate for the government to evaluate in making fitness determinations" and that it "* * * does not intend for the ICC to place additional barriers to entry by a restrictive interpretation of fitness requirements and applicant's abilities to meet them, or to attempt to substitute regulatory processes and bureaucratic judgement for normal business judgments * * *" *Id.* at 18.

Protestant's burden of proof

Under the new legislation, a protestant's evidentiary burden differs according to, and is defined by, the type of passenger service proposed by the applicant. Where an applicant seeks regular-route authority or is subsidized by the government (or is an operator for a recipient of government financial assistance), section 10922(c)(1)(A) requires opposing carriers, once an applicant has satisfied its burden, to provide sufficient evidence to negate the presumption that the proposal is consistent with the public interest (public interest applications).

The "public interest" test represents a quantum step in eliminating obstacles to applicant motor passenger carriers obtaining desired operating authority. Indeed, even the House Report, *supra* at 29, which envisioned slightly more regulation than either the Senate Report, *supra*, or the Conference Report (See Cong. Rec. H6691–692 (August 19, 1982)), recognized that the new entry standard is more relaxed than the standard of entry for carriers of property under the Motor Carrier Act of 1980. The House Report states:

> It should also be noted that under this bill entry will be easier than it is for motor common carriers of property under the Motor Carrier Act of 1980. Unlike applicants for authority to transport property, those who seek to transport passengers will not be required to come forward with any evidence of public need or demand for the proposed service by prospective users. The Committee is convinced that grants of operating authority should not be governed by how adept applicants and their attorneys are in collecting signatures from the public. Thus, the new entry standard, in effect, assumes that a proposed new bus service will be used by the traveling public. Applicants would not be prohibited, however, from submitting evidence of persons who would use the service proposed but this would no longer be required.

Section 10922(c)(3) directs the Commission to consider certain factors, to the extent applicable, in reaching its "public interest" determination. They are:

> (A) The transportation policy of section 10101(a) of this title;
> (B) The value of competition to the traveling and shipping public;
> (C) The effect of issuance of the certificate on motor carrier of passenger service to small communities; and
> (D) Whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system. Diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular route scheduled system.

Regarding the fourth factor, (D), the Senate Report, observes that to meet this impairment test a protestant would be required to establish that granting the application would jeopardize its ability to continue operating over a substantial portion of its "entire regular route system" (defined to include the routes of the company's subsidiaries and affiliates). *Id.* at 17.

In addition to these four statutory factors, the Commission is directed by Congress to consider whether there has been a reduction in service along the route proposed to be served by the applicant, and to accord substantial weight to evidence of a significant reduction in service. *Id.* Congress also emphasizes that the paramount consideration in reaching a public interest determination is the benefit to be derived by the public and not the protection of existing carriers. *Id.* at 16.

Persons opposing "fitness-only" applications filed under sections 10922(c)(1)(B) and 10922(c)(4) can do so only on grounds that the applicant is not fit or does not fall within the fitness only category. Applications for contract carrier passenger authority under section 10923(b)(2) also may be opposed only on these limited grounds.

Application Procedures

Introduction

All applications for interstate authority fall under the statutorily mandated time limits of 49 U.S.C. 10322. The new legislative provisions do not require major revision of the Commission regulations at 49 CFR 1100.251 and 1100.252 under which all applications for property and passenger motor carrier authority are currently filed and processed. However, for a number of reasons, we propose to adopt new and separate rules to implement the provisions of the Act rather than make use of the current rules.

Separate rules for motor passenger and motor property applicants will emphasize that the rules are products of two separate acts. A separate set of rules for motor passenger applications will facilitate the administrative burden of handling these matters. The proposed new regulations are set forth in Appendix B and are designated 49 CFR 1100.253 and 1100.254.

Almost all motor passenger applications will continue to be handled under the modified procedure, although oral hearing provisions are included. An applicant is to continue to submit its entire application package upon filing. Appellate procedures will continue to be governed by the provisions at 49 CFR 1100.98.

How To Apply for Operating Authority

Application Form OP–1. All passenger applicants will continue to submit a completed OP–1 application form. That form will be altered slightly, however, as a consequence of the new legislation. To reflect the new types of applications for interstate operating authority created by the Act, new headings "(b). Passenger Fitness-Only Applications" and "(c). Passenger Public Interest Applications" will be added to the form under current Part III. The current fitness-only section will be redesignated "(a). Property Fitness-Only Applications". As with the current fitness-only applications, applicants will be required to check the box(es) corresponding to their particular proposal. The revised form is set forth in Appendix D.

Service proposal and caption summary. All applicants will continue to submit a caption summary describing the authority sought. The Commission authorizes motor common carrier transportation of passengers only over a regular route and between specified places, except to the extent the carrier is authorized to provide special or charter transportation. The Act adds new subsections 10922(j)(2) (A) and (C) to allow an interstate carrier to transport special or charter passengers and regular-route passengers in the same vehicle if (1) it holds separate authority to provide each type of service, and (2) the mixing will not interfere with the common carrier obligation. New section 10922(j)(3) permits a carrier with charter rights to transport more than one charter group in the same vehicle at the same time, subject to Commission regulation.

Section 10922(e)(4) requires that certificates to transport passengers be deemed to include permissive authority to handle newspapers, baggage, express packages, or mail in the same motor vehicle with passengers, or baggage of passengers in a separate vehicle. Accordingly, common carrier applicants will no longer have to request specific commodity authority. A request for authority to transport "passengers" will meet all of applicant's authority needs. Contract carrier applications are not affected by these provisions and requests will remain in their current form.

Specific provisions of the legislation address the problem of burdensome operating restrictions on existing certificates. Section 10922(i)(3) states that a certificate to transport passengrs "* * * shall be deemed to authorize (but not require)—(A) round-trip operations where only one-way authority exists. * * *" Section 10922(i)(3) also provides at (B) that certifiates shall be deemed to authorize, but not require, special and charter transportation from all points in a political subdivision of a State in any case where the authority provided for in this section is limited to one or more points of origin. Section 10922(c)(9) states that authority to provide special or charter transportation includes

authority to provide such transportation as round-trip service. These provisions are self-executing and require neither initiation by carriers, nor administrative action by the Commission. Further, these statutory provisions plainly indicate a legislative intention that we no longer should issue certificates with such restrictions. Consequently, unless there is good reason shown for not doing so, we will require applicants to request round-trip authority and special or charter authority from all points in a political subdivision of a State rather than from specific points.

Section 10922(i)(4) directs the Commission, upon a carrier's request, to remove intermediate point restrictions from existing regular-route certificates to authorize interstate transportation service to all intermediate pints on any route covered by the certificate. This will be implemented in Ex Parte No. MC–142 (Sub-3), *Restriction Removal Procedures—Motor Passenger Carriers—Intermediate Points,* published concurrently with this notice. To prevent future authorities from being subject to the same restrictions, we propose to prohibit intermediate point restrictions in regular-route authorities. Service over regular-routes is to be authorized to all intermediate points, as well as to those off-route points specifically sought by applicants. Finally, the entry provisions of this legislation reflect an intent to relax regulation and eliminate unnecessary barriers to competition. Towards this end, we encourage applicants to frame their requests for authority (both "fitness-only" and "public intrest") in broad terms, as opposed to the fragmented, limited applications common in the past.

The House Report (H. Rep. No. 97–334, 97th Cong., 1st Sess. at 32) directs that we consider the possiblility of inserting intermediate point restrictions in fitness only grants of regular route interstate operating authority for rural communities pursuant to 49 U.S.C. 10922(c)(4)(A) in order to prevent applicants from using this application procedure as a ruse to obtain regular route authority to serve major cities as intermediate points. We have considered the use of such restrictions and we believe that such restrictions would be inappropriate.[1] First, they would be contrary to the spirit of the Act which is to allow motor passenger carriers freely to provide service and to stimulate the market place through increased competition. Second, it would discriminate against new entrants which would rceive permanently restricted authority while similarly situated existing carriers would be eligible to have restrictions removed from their certificates. Third, it is unnecessary to prevent misuse of the fitness only provisions, because we have the power to dismiss any application under this provision not made in good faith. Finally, it would be destructive of the goal of the fitness only provision itself, which is to encourage carriers to provide service to isolated rural communities.

If the intermediate point restrictions were imposed, it is doubtful that many carriers would be interested in serving rural communities if they could not also supplement their revenues with fares from the larger intermediate points. For these reasons, we intend not to place any intermediate point restrictions in "fitness only" grants to serve rural communities pursuant to 49 U.S.C. 10922(c)(4)(A).

Applicant's verified statement. Because a motor passenger applicant need only establish that it is fit, willing, and able to acquire authority, its verified statement will now be shorter. To satisfy its burden of proof, we propose that the applicant certify that it is in compliance with DOT safety regulations or, if a new entrant, certify that it has access to, is familiar with, and will comply with, relevant DOT safety regulations. Before beginning operations, an applicant will be required, as now, to comply with relevant statutory insurance requirements to satisfy the insurance aspect of the new fitness standard.

Applications to perform any of the three categories of service under section 10922(c)(4) must contain specific information to qualify for the type of service proposed in a manner similar to that required under § 1100.251(h) of our rules for motor property applicants.

Applicants will be required to include a brief description of the service they will perform if the application is granted to demonstrate that the proposed service is properly described and conforms with the definition for the service.

Notice. We propose that each applicant continue to submit a caption summary with its application which contains a concise, accurate, and complete description of the scope of its proposed operations suitable for publication in the **Federal Register.** Section 28 of the Act allows the Commission to adopt, after a rulemaking, a special procedure for providing interested parties reasonable notice of entry applications, rather than requiring use of the **Federal Register.** Accordingly, any reference to publication in the **Federal Register** in this notice and proposed rules should also be read to include any other means of publication of applications the Commission may adopt pursuant to section 28. Section 10328(b)(1) has been modified to eliminate the statutory requirement that notice of filing of new applications be provided to state regulatory commissions of the States in which the applicant proposes to operate.

Reply. If the application is opposed, the applicant may want to file a reply statement. In fitness-only applications, the reply should only rebut a protestant's claims that applicant is unfit to perform the service or that it does not qualify for fitness-only treatment. In public interest applications, however, where protestants can also argue that the proposal is not consistent with the public interest, the applicant may also want to address that issue.

How to oppose requests for authority

A carrier opposing a request for motor passenger authority must first establish that it meets the protest standards in section 10922(c)(7). Intervention is also allowed under subparagraph (C) on the ground of safety fitness. Motor contract carriers of passengers are prohibited under section 10922(c)(8) from protesting applications of motor common carriers of passengers.

As previously discussed, protestants in "fitness only" applications may only introduce evidence establishing that the applicant is unfit or cannot qualify for the type of service proposed; public interest protestants may also argue that the proposal is not consistent with the public interest.

Intrastate Authority

Statutory Highlights

Section 6 of the Act provides at subsection (c)(2) of 49 U.S.C. 10922, as follows:

(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of the Bus Regulatory Reform Act of 1982 to provide interstate transportation of passengers if the

[1] We do not believe we are obligated to impose restrictions by virtue of the essentially hortatory language of the House Report which has not reiterated in either the Senate Report or the Report of the Committee on Conference. As indicated, we have considered the use of such restrictions and have rejected resort to imposition of intermediate point restrictions for the reasons set forth.

Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority or will be granted authority after the effective date of the Bus Regulatory Reform Act of 1982 to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

Congress determined that restrictive State entry policies which deny carriers performing operations under interstate rights the authority to pick up and discharge passengers traveling between intrastate points over the interstate routes result in an unreasonable burden on interstate commerce. *Id.* at 9. As a result, these provisions govern, for the first time, applications for intrastate operating rights by motor common carriers for authority to provide transportation entirely in one State. Amendments to section 10101(a)(3) recognize that the national transportation policy with respect to passenger carriers can be achieved by a rational and less burdensome system of State regulation. The Commission is directed to: cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and ensure that Federal reform initiatives contained in this Act are not nullified by State regulatory actions.

Sections 10922(c)(2) (A) and (B) allow the Commission to issue certificates for regular-route transportation of passengers performed entirely in one State by a motor common carrier also on the basis of a "fitness-only" showing by the applicant, unless protestants satisfy their respective burdens of proof. Sections 10922(c)(2) (A) and (B) applies to any motor passenger carrier transportation between two points along a carrier's interstate route within a state regardless of the origin or destination of the bus. As long as the two points form some part of a carrier's existing ICC regular route interstate operating authority, intrastate service between those points falls within the Commission's jurisdiction under this Section of the new Act. Section 10922(c)(2)(H) specifies that these provisions do not apply to regular-route transportation of passengers provided entirely in one State which is in the nature of special operations. The mixing of regular route passengers and charter or special operations passengers in the same vehicle, which is permitted interstate carriers under section 10922(j)(2)(A), is disallowed in intrastate transportation by subsection (j)(2)(B), unless the carrier has the appropriate State authority and the State permits such mixing.

Finally, section 10922(c)(2)(C) prohibits the regulation by local, State, or Federal authorities of the pickup and delivery of express packages, newspapers, or mail within the commerical zone of a city by a carrier authorized by this Commission to serve that city in regular-route service service as a common carrier of passengers, if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce. The provision allows immediate entry for interstate carriers to provide pick-up and delivery express service within the commercial zone of each city they serve. *Id.* at 16.

Application Procedures

Introduction

Section 10922(c)(2)(G) requires the Commission to take final action on applications filed under section 10922(c)(2)(A) within 90 days. The 90-day time limit for acting on such applications requires that they be processed under a simple and expedited procedure. The proposed procedure is set forth at 49 CFR 1130a in Appendix C. Applications filed under the provisions of subsection (c)(2)(B), however, are subject to the normal deadlines for Commission action in licensing proceedings and will be governed by the procedures proposed at 49 CFR 1100.253 and 1100.254 set forth in Appendix B.

Form of request. Decisions on applications under sections 10922(c)(2) (A) and (B) will be made on case-by-case basis. We propose that all requests for intrastate authority be submitted on application Form OP-1. The proposed revisions to Form OP-1, which are described in Appendix D, include provisions for intrastate passenger applications.

Service proposal and docketing procedure. No intrastate operating right can be authorized by the Commission except over regular routes that the applicant is authorized to serve in interstate commerce. An applicant seeking authority to provide intrastate service must describe the desired authority in terms of the regular service routes described in the underlying interstate authority. The authority to be granted should be described together with the underlying interstate service authorization. Issuance of a separate certificate is impractical and creates ambiguities in interpreting a carrier's regular-route operating rights. An application for intrastate authority shall be assigned the next available sub-number under applicant's docket. Any underlying interstate authority upon which the applicant may be relying in that proceeding would be superseded by the certificate to be issued upon a grant of the application. That certificate would embrace the newly authorized intrastate rights and any underlying interstate authority. Comments on any practical difficulties with this approach are encouraged.

Consolidation of authorities. We propose to permit the consolidation of more than one authority in a single application if the underlying authorities are "reasonably related." We invite comments on which authorities should be considered reasonably related.

Service description. Intrastate authority will be issued on the service routes over which an applicant is authorized to provide interstate transportation of passengers and may not exceed the underlying routes upon which the application is based. An applicant may propose intrastate authority over the interstate route without regard to its ability to conduct intrastate operations over any portion of the route under State authority or an applicant may propose merely to fill gaps in existing State operating authority. Intrastate operations will be authorized to include service at all intermediate points on the underlying route, or any portion of the route, upon which the application is base. An applicant's service request should correspond to the entire route described in the underlying interstate authority, or to a portion of the route, without intermediate point restrictions. This comports with the statute and congressional concern that the Commission assure opportunities for

new service and promote competition and maximum equipment use.

Applicant's verified statement. In addition to establishing its fitness, an applicant must show either that it possesses authority to provide interstate regular-route transportation over the routes on which it proposes to perform intrastate regular-route service or that it has been, or will be, granted that authority. Whether an applicant holds the underlying interstate authority on the effective date of the Act determines the statutory provision under which the application is to be filed and the information to be submitted. Intrastate authority can be granted only if applicant holds or has been granted the underlying interstate authority. An applicant should also submit a proposed redraft of the underlying authorities. The draft certificate would include the service description contained in each of the underlying interstate authorities and the modifications to reflect the proposed intrastate operations.

Notice. Each applicant would be required to submit with its application a caption summary suitable for publication in the **Federal Register**, which contains a summary of the underlying interstate authority or authorities and a description of the proposed operations. As with interstate applications, we do not intend to require applicants to notify State regulatory commissions of their applications because of the change to section 10328.

Applications for Intrastate Authority under 10922(c)(2)(B)

Proposed procedure. Applicants filing intrastate authority requests under these provisions will be granted authority if they establish their fitness and that they have been granted the underlying interstate authority after the effective date of the Act, unless a protestant establishes that the transportation to be authorized is not consistent with the public interest. The "public interest" standard is the same test required of protestants of interstate regular route applications filed under section 10922(b)(1)(A), except in those "fitness-only" interstate applications at section 10922(c)(4). We propose that intrastate applications be governed by the procedures proposed for handling interstate regular-route applications to ensure equitable and uniform disposition.

A uniform application procedure will allow applicant to seek both interstate and intrastate authority in the same application. To establish that it is requesting intrastate authority on a route over which interstate authority has been granted after the effective date of the Act, an applicant would have to submit a copy of an appropriate existing interstate right upon which it is relying, a description of an appropriate pending interstate application, or a request for the underlying interstate rights simultaneously in the same application in which it seeks the intrastate rights. A denial of a pending or concurrently filed request for interstate authority would result in the denial of the intrastate request. Applications in which an applicant requests both the interstate regular-route authority and the corresponding intrastate authority will provide the applicant with the ability to compete effectively and efficiently in accordance with the Congressional mandate. We propose to adopt the rules in Appendix B to implement the provisions of subsection (c)(2)(B).

Proposed rules. Applicants including those applying concurrently for the underlying interstate regular-route authority, will submit a request on application Form OP–1 by checking the appropriate boxes reserved for applications filed under this subsection. These applications are listed in Form OP–1 under the heading at part (c) for passenger "public interest" applications.

The rules proposed in Appendix B at 49 CFR 1100.253 and 1100.254 to govern all applications for interstate authority as motor carriers of passengers include applications under subsection (c)(2)(B). In addition to providing certain standard information in the verified statement, and applicant is to submit information specifically described at 49 CFR 1100.253(f)(9). Qualifying protestants are to submit the factual evidence required of "public interest" protestants under 49 CFR 1100.254(f).

Applications for Intrastate Authority Under 10922(c)(2)(A)

Proposed Procedure. A qualifying applicant who files under these provisions will be granted authority unless a protestant demonstrates that the intrastate service would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. The entry provisions under subsection (c)(2)(A) and the restriction removal provisions at section 10922(i)(4) of the Act provide for the removal of regulatory restrictions from an existing regular route over which a carrier has been performing operations on or before the effective date of the Act to allow full use of an entire route. The "commuter bus operations" test imposed on protestants is the same evidentiary burden as that imposed on opponents to restriction removal requests under section 10922(i)(4). Also, the Commission is required to take final action within 90 days after the filing of a request in both areas.

Accordingly, we propose to adopt a procedure similar to that proposed in Ex Parte No. MC–142 (Sub-3), *Supra*, (which modifies the earlier adopted rule contained at 49 CFR 1137) to handle restriction removal requests under the new Act. The restriction removal procedure has been used successfully by the Commission to process many requests under the Motor Carrier Act of 1980. The proposed rules at 49 CFR 1130a set forth in Appendix C modify the procedure to conform with the statutory requirements applicable to applications filed under section 10922(c)(2)(A). Carriers seeking intrastate authority under (c)(2)(A) are likely also to be seeking removal of intermediate point restrictions from their existing certificates. A uniform process for these actions would ease the financial and administrative burdens of the parties and greatly ease the processing of these requests.

The 90-day time limit make it impossible for the Commission to provide for a full-scale adversary proceeding. We propose to issue a decision accompanied by a certificate authorizing the operations granted. This will allow commencement of intrastate service upon the effective date of a decision and upon compliance with certain insurance and other requirements, unless the decision is stayed by the Commission. Such a decision will be considered a final action of the Commission, subject to review at the Commission's discretion (as opposed to an "appeal of right"). Appeals would be governed by the "exceptional circumstances" standard and otherwise by 49 CFR 100.98.

Proposed rules. Applicant would be required to submit a request for authority under section 10922(c)(2)(A) on Form OP–1, which is further revised at Appendix D to include these applications. Applicants are to check the service box under the heading at part (d) entitled "90-Day Intrastate Application" and also mark the envelope accordingly to ensure prompt attention. A separate verified statement must contain the information listed at 49 CFR 1130a.3(b).

Given the 90-day time limitation, we propose that the Commission generally publish notice of the application in the **Federal Register** within 10 days of its filing. It is particulary important that the caption summary submitted by an applicant concisely and accurately describe the full scope of the proposed intrastate operations in a form suitable

for publication. The time limits do not allow for supplementation or correction of the caption summary, so an application which does not contain an appropriately described summary would be rejected.

If an applicant establishes a prima facie showing and meets the evidentiary burden required under section 10922(c)(2)(A), a certificate will be issued unles a qualifying protestant satisfies the "commuter bus operations" test. The burden of proof is on the protestant to demonstrate that the intrastate service proposed would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Comments are encouraged on weighing the competing factors in evaluating "significant adverse effect."

Issuance and Authority

In order to mesh procedures for administrative review with the procedures governing the issuance of certificates or permits under the Act, authority will be issued (a) only after the 20-day filing period for petitions for discretionary review to the full Commission has expired and no such petition is filed, or (b) if a petition is timely filed, only after the full Commission issues its decision. These procedures are employed by the Commission to govern the issuance of operating rights under the Motor Carrier Act of 1980.

Energy and Environmental Considerations

This proposed action does not appear to affect significantly the quality of the human environment or conservation of energy resources. However, we anticipate that their adoption will improve carrier operating efficiency and reduce mileage, with a resulting beneficial impact on the conservation of energy resources. Comments on these issues are welcome.

Regulatory Flexibility Statement

The proposed application rules will provide an expedited procedure to enable moter passenger carriers to obtain interstate and intrastate operating authority. They will not have a significant economic impact upon a substantial number of small entities. The rules could also have a modest, though beneficial, economic impact upon an unascertainable number of carriers, counties, townships, towns, and villages.

Small carriers will be able to enter new routes or service areas. Eased entry, concurrent with the Act's liberalized exit policies and increased freedom to adjust schedules, fares, and rates, will make it easier for small carriers who do not have extensive financial resources to experiment with new services and in new markets without undertaking long-term commitments at substantial cost and economic risk. By being able to acquire intrastate authority to complement interstate service, these carriers will have an additional means available to improve operational and energy efficiency. The increased competition that should result from eased entry ultimately will benefit small communities and the public by making available efficient service at the lowest rates consistent with the quality of service that consumers prefer.

List of Subjects

49 CFR Part 1045B

Administrative practice and procedure, Brokers, Buses, Motor carriers.

49 CFR Part 1046

Brokers, Buses, Motor carriers, Reporting requirements.

49 CFR Part 1100

Administrative practice and procedure.

49 CFR Part 1130a

Administrative practice and procedure, Motor passenger carrier intrastate licensing.

Summary

We propose to adopt the rules set forth in Appendix A, to amend Title 49, Parts, 1045B, 1046, 1100 and to add Part 1130a of the Code of Federal Regulations and the proposed changes in Application Form OP-1 listed in Appendix B.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321 and 10922, and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix A

Title 49, Code of Federal Regulations Parts 1045B, 1046, and 1100 are proposed to be amended as follows:

PART 1045B—PASSENGER BROKER LICENSING [REMOVED]

1. Part 1045B, Passenger Broker Licensing, would be removed.

PART 1046—BROKERS OF PASSENGER TRANSPORTATION [REMOVED]

2. Part 1046, Brokers of Passenger Transportation, would be removed.

PART 1100—GENERAL RULES OF PRACTICE

3. The heading of § 1100.251 would be revised to read as follows:

§ 1100.251 How to apply for operating authority (except motor passenger).

4. In paragraph (a)(1), the words "passengers or" would be removed.

5. In paragraph (c)(2), the reference to "§ 1100.253i" would be revised to read "1100.255(i)."

6. In the Key for Regular Applications in paragraph (f), items (2), (4), and (5) would be removed and item (3) would be redesignated as item (2) and items (6)–(9) would be redesignated as items (3)–(6).

7. In Information To Be Submitted in paragraph (f) the reference to "except 5" in item (5) would be removed, item (9) would be removed and items (10)–(12) would be redesignated as items (9)–(11).

8. In paragraph (h), item (1) under Key for Fitness Only Applications would be revised to read as follows:

* * * * *

(h) * * *

(1) Motor carrier of property applications.

* * * * *

9. Paragraph (s)(3) would be removed and paragraphs (s)(4)–(6) would be redesignated as (s)(3)–(5).

10. The heading of §1100.252 would be revised to read as follows:

§ 1100.252 How to oppose request for authority (except motor passenger).

§ 1100.253 [Redesignated as § 1100.255 and amended]

11. In paragraph (g), the reference to "§ 1100.253(i)" would be revised to read "§ 1100.255(i)."

12. Section 1100.253 would be redesignated at § 1100.255.

13. In paragraph (e)(3), the reference "and § 1100.253(k)" would be added to follow the reference to "§ 1100.253(m)."

14. In paragraph (i), the reference "and § 1100.253" would be added to follow the reference to § 1100.251.

Appendix B

1. A new §1100.253 would be added to read as follows:

Title 49 Code of Federal Regulations, Part 1100 is proposed to be amended as follows:

§ 1100.253 How to apply for operating authority—motor passenger.

(a) *Applications governed by these rules.* These rules govern the handling of applications for permanent operating authority of the following types:

(1) Applications for certificates and permits to operate as a motor common or contract carrier of passengers in interstate or foreign commerce.

(2) Applications for certificates under 49 U.S.C. 10922(c)(2)(B) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has been granted or will be granted interstate authority after the effective date of the Bus Regulatory Reform Act of 1982 ("the Act").

Note.— Applications for certificates under 49 U.S.C. 10922(c)(2)(A) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant already holds interstate authority as of the effective date of the Act are governed by the provisions at 49 CFR 1130a.

(b) *Types of proof required for applications for operating authority to perform motor carrier transportation of passengers.* All types of authority to transport passengers by motor vehicle can be obtained by an applicant showing only that it is fit, willing, and able to provide the transportation to be authorized and to comply with the law and Commission regulations. Fit, willing, and able means safety fitness and proof of insurance pursuant to the minimum financial responsibility requirements of section 18 of the Act.

(1) "Fitness-only" applications. Certain types of applications require only the finding that the applicant is fit, willing, and able. These applications can be opposed only on the grounds that applicant is not fit or does not fall into a fitness-only category of service under the Act. These applications are:

(i) Motor common carrier of passengers charter transportation.

(ii) Motor common carrier of passengers special transportation.

(iii) Motor common carrier of passengers authority to serve any community not regularly served by a certificated motor common carrier of passengers.

(iv) Motor common carrier of passengers authority to provide service as direct substitute for complete abandonment or discontinuance of all rail or commercial-air passenger service in a community.

(v) Motor common carrier of passengers transportation to any community where the only interstate motor common carrier of passengers has applied to discontinue such interstate service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays).

(vi) Motor contract carrier of passengers transportation.

(2) "Public interest" applications. Certain types of applications require the finding that applicant is fit, willing, and able, and when protested that the transportation to be authorized is consistent with the public interest. In addition to the grounds listed in (b)(1) above, a protestant may oppose the application on the grounds that a grant of the application will not be consistent with the public interest. These applications are:

(i) Motor common carrier of passengers transportation provided by an applicant receiving governmental financial assistance for the purchase or operation of buses, or by an applicant that is an operator for such a recipient, except to perform a service described in paragraphs (b)(1), (iii), (iv), or (v) of this section.

(ii) Motor common carrier transportation of passengers over regular routes in interstate or foreign commerce, except to perform a service described in paragraphs (b)(1), (iii), (iv), or (v) of this section.

(iii) Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B).

(c) *Procedures used generally*—(1) Modified procedure. Almost all cases are handled under the modified procedure. The applicant and protestants send statements made under oath (verified statements) to each other and to the ICC. There are no personal appearances or formal hearings.

(2) Oral hearings. Oral hearings are used infrequently. Either an applicant or a protestant may request oral hearing at any time during the proceeding. The rules governing requests for oral hearings are set forth at § 1100.255(i).

(d) *Starting the application process:* Form OP–1.

(1) All applicants shall use Form OP–1.

(2) Obtain the form at Commission regional and field offices, or call any of the following headquarters offices: Publications (202–275–7833), Ombudsman (202–275–7863), or Small Business Assistance (202–275–7597).

(e) *Information to be submitted by applicants.*

(1) A completed OP–1 form, except for the appendix.

(2) A caption summary describing the authority sought.

(3) A separate verified statement from the applicant, as described in paragraph (f) of this section.

(f) *Applicant's verified statement.* Applicant shall file the information described in this paragraph. The information shall be provided in separately numbered paragraphs.

(1) Legal name and domicile of applicant.

(2) Name of witness presenting evidence and why this person is qualified to speak for applicant (*e.g.*, position with applicant and experience).

(3) Authority requested in this application (caption summary description).

(4) A brief description of the service that will be provided if this application is granted.

(5) Safety evidence: Motor passenger carriers holding ICC authority shall indicate that they are in compliance with DOT safety regulations. New entrants shall state the following:

I certify that I have access to and am familiar with all applicable regulations of the U.S. Dept. of Transportation relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials, and I will comply with these regulations.

Note to applicants.—These regulations are found in Title 49 of the Code of Federal Regulations, Parts 171 to 179 and Parts 390 to 399. Information concerning safety and hazardous materials regulations may be obtained by calling 202–426–1700 or 202–426–1726.

(6) Application under § 1100.253(b)(1)(iii): If the application is to serve a "community not regularly served," describe the location of the community and the Interstate or other major highways which serve the community. If known, state the last date of service from other carriers and their identity, and the subsequent dates when service was requested from these carriers.

(7) Application under § 1100.253(b)(1)(iv): If the application is for transportation services as a substitute for discontinued rail or commercial-air passenger service, give the location of the points sought to be served; certify that rail or commercial-air service, or both, was offered at the points for which authority is sought; and certify that all rail and commercial-air service has been discontinued, and give the effective date of the latest discontinuance. The application must be filed within 180 days after the latest discontinuance becomes effective.

(8) Application under § 1100.253(b)(1)(v): If the application is to provide transportation to any community where the only interstate motor common carrier of passengers seeks to discontinue such interstate

service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays), certify that the community has only one interstate appropriate reference to, existing carrier's application to the Commission for discontinuance or reduction.

(9) Application under § 1100.253(b)(2)(iii): If the application is for a certificate to provide regular-route transportation entirely in one State under the provisions of 49 U.S.C. 10922(c)(2)(B), submit a copy of each of the authorities granted after the effective date of the Act which authorizes the transportation of passengers in interstate commerce on the regular routes over which the proposed intrastate transportation is to be provided, or refer to pending applications for such authority, and submit a proposed redraft of the certificate to be issued upon a grant of the application.

Note.—The proposed redraft should include the regular-route service description contained in each of the underlying interstate authorities, numbered separately by sub-number, and a description of the intrastate operations to be authorized. Applicant should submit sufficient information under paragraph (4) of this paragraph for the Commission to determine readily the precise portions of the existing service routes over which applicant proposes to obtain intrastate authority. Applicant must request the underlying interstate transportation in the same application as the request for intrastate authority if applicant has not already been granted interstate authority and does not have pending an application for interstate authority. No draft of a proposed certificate would be submitted with such applications. A denial or rejection of the underlying interstate proposal would require the rejection of the request to provide intrastate transportation.

(10) Any oral hearing request (optional). Verification: Separate verification of this statement is not necessary. Applicant understands that the oath in the application form applies to this statement.

(g) *Where to send the application.* (1) The original and one copy shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the proper application fee. Make checks payable to the Interstate Commerce Commission.

(2) One copy of the application shall be sent to the ICC regional office in which applicant is domiciled.

(h) *Commission review of the application.* (1) ICC staff will review the application for correctness, completeness, and for adequacy of the evidence.

(i) Minor errors will be corrected without notification to the applicant.

(ii) Materially incomplete applications will be rejected without prejudice to refiling. Applications that are in substantial compliance with these rules will be accepted.

(iii) An employee review board will decide whether there is adequate evidence so that the full scope of the authority applicant seeks may be published in the **Federal Register.** If there is not, the application will be rejected in a letter. An applicant may appeal rejections made under paragraphs (h)(1)(ii) and (h)(1)(iii) of this section. See § 1100.253(r). If an applicant chooses to resubmit the application, it shall refer to its prior application by docket number and give the ICC fee number stamped on the canceled check so as to avoid a second fee being assessed. If no appeal or resubmittal is made, the fee will not be refunded. The date of refiling will be considered the date of the application.

(2) The caption summary will be published in the **Federal Register** to give notice to the public in case anyone wishes to oppose the application. The application will be published in the form of a grant of authority.

(3) If the **Federal Register** publication does not properly describe the authority being sought because of ministerial error, applicant shall inform the ICC's Section of Operating Rights as soon as possible. Where notification is received within 10 days of the publication, ministerial errors will be corrected and the notice will be republished. Notification after 10 days will result in republication only at the Commission's discretion, and may result in an application being rejected without prejudice to refiling.

(i) *Changing the request for authority or filing supplementary evidence after the application is filed.* (1) An applicant may not supplement evidence once the application is filed (unless directed to do so by the Commission).

(2) Amendments to the application are not permitted.

(j) *After publication in the Federal Register.* (1) Interested persons have 45 days to file protests. See § 1100.254.

(2) If no one opposes the application, the grant published in the **Federal Register** will become effective.

(3) If no one opposes an application for an extension of authority, the grant published in the **Federal Register** will be made effective by issuance of a certificate or permit that will be effective when applicant meets compliance requirements outlined in the certificate or permit. If no one opposes an application for initial authority, the grant published in the **Federal Register** will be made effective by a Commission notice outlining compliance requirements which must be met before applicant can receive a certificate or permit and commence the proposed service.

(k) *Furnishing a copy of the application package to interested persons.* Applicant is required to furnish a copy of the application package to interested persons after publication. A request for the package must be made in writing to applicant and must contain a check or money order for $10, payable to applicant. Applicant need not supply copies to any person not sending the appropriate payment. Applicant is required to mail the copy within 3 days of the receipt of the request being received. Non-compliance with this rule may result in dismissal of the application.

(l) *Opposed applications.* If the application is opposed, opposing parties are required to send a copy of their protest to the applicant.

(m) *Filing a reply statement.* (1) If the application is opposed, applicant may file a reply statement. This statement is due at the Commission within 60 days of the **Federal Register** publication.

(2) The reply statement need not be notarized or verified. Applicant understands that the oath in the application form applies to all evidence submitted in the application. Separate legal argument by counsel need not be notarized or verified.

(n) *After all statements are submitted.* (1) When the proceeding is handled under modified procedure, the next notification to the parties will be the service of the initial decision.

(2) If the proceeding is handled by oral hearing, parties will receive a notice to this effect.

(o) *Application withdrawal.* If applicant wishes to withdraw an application, it shall request dismissal in writing.

(p) *Caption summary.* (1) The caption summary, which shall accompany all applications, shall be in the form prescribed by the Commission. Commission field and regional offices and the Small Business Assistance Office (202–275–7597) offer assistance in preparing correct caption summaries, or examples may be found in the daily **Federal Register.**

(2) Applications for motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B). Where an applicant holds an underlying, interstate regular-route grant of authority to provide transportation on routes over which applicant proposes to provide intrastate transportation, or has

pending an application for such authority, the caption summary should provide a brief summary of the authorized or pending interstate authority and a description of the intrastate transportation to be authorized. Where applicant is relying upon more than one underlying interstate grant of authority, each authority or pending application shall be summarized, and the proposed intrastate service shall be described, in separately numbered paragraphs, by specific sub-number.

(q) *Compliance.* An applicant must comply with the following requirements before beginning operations under a certificate or permit: 49 CFRA Part 1043 (Insurance), Part 1044 (Designation of Process Agent), and Part 1306 (Tariffs).

(r) *Appeals.* (1) If a review board or other decisional body rejects an application, applicant has a right of appeal. The appeal must be filed at the Commission within 10 days of the date of the letter of rejection.

(2) If the appeal is successful and the filing is found to be proper, the application shall be deemed to have been properly filed as of the decision date on the appeal.

2. A new § 1100.254 would be added to read as follows:

§ 1100.254 How to oppose requests for authority—motor passenger.

(a) *Definitions.* A person wishing to oppose an application governed by the procedures in 49 CFR 1100.253 for permanent authority to operate as a motor carrier of passengers may file a protest. A person filing a valid protest becomes a protestant.

(b) *Time for filing.* A protest shall be filed (received at the Commission) within 45 days after notice of the application appears in the **Federal Register.** A copy of the protest shall be sent to applicant at the same time. Failure to timely file a protest waives further participation in the proceeding.

(c) *Contents of the protest.* (1) All information upon which the protestant plans to rely must be put into the protest.

(2) A protest must be verified, as follows:

I, ————, verify under penalty of perjury under the laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this protest. (*See* 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

(Signature and date).

(3) A protest not in substantial compliance with these rules will be rejected.

(4) A protestant files two separate types of evidence. Protestants shall submit qualifications evidence in the format in paragraph (d) of this section and factual evidence, according to the guidelines in paragraph (e) or (f) of this section.

(d) *Qualifications format.* This information shall be submitted in separately numbered paragraphs:

(1) Docket number of application being opposed.

(2) Name and domicile of protestant, including lead docket number, if any.

(3) Name and address of protestant's representative.

(4) Name and address of witness presenting the evidence, and why qualified to speak for protesting party.

(5) Description of the extent to which the person seeking to protest possesses authority to handle the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the traveling public, and has either performed service within the scope of the application during the 12-month period before the application was filed or has actively in good faith solicited service within the scope of the application during that period, or

(6) Description of any application which the protestant has pending before the Commission which was filed before applicant's application and which covers substantially the same traffic, or

(7) Description of any other legitimate interest not contrary to the transportation policy set forth in 49 U.S.C. 10101(a), or of any right to intervene under a statute. A person seeking to qualify under this paragraph shall describe in detail the circumstances which warrant its participation and how they are consistent with 49 U.S.C. 10101(a). The Commission may permit such person to intervene if it shows that a proceeding is novel or of first impression, is of industry-wide importance, or has significant economic impact beyond the impact on protestant itself. Any carrier may protest under this paragraph on the grounds of safety fitness.

Note.—A motor contract carrier of passengers may not protest an application to provide transportation as a motor common carrier of passengers.

(e) *Factual evidence format for fitness-only applications:* Scope. The types of applications listed in § 1100.253(b)(1) may be protested only on the grounds listed here.

(1) Evidence that applicant cannot meet the statutory fitness criteria.

(2) Evidence that the application does not properly fall within one of the statutorily described categories.

Note.—If the Commission finds that the application does not properly fall within one of the categories, the application shall be dismissed without prejudice to the filing of an application for authority under other criteria.

(3) Legal argument (optional).

(4) Verification.

(5) Certificate of service.

(6) Request for oral hearing (optional).

(f) *Factual evidence format for public interest applications:* Scope. The types of applications listed in § 1100.253(b)(2) may be protested only on the grounds listed here.

(1) Evidence that a grant of the application would not be consistent with the public interest. Four factors are to be considered, to the extent applicable, in determining whether authorization would be consistent with the public interest.

(i) The transportation policy of section 10101(a) of this title,

(ii) The value of competition to the traveling and shipping public,

(iii) The effect of issuance of the certificate on motor carrier of passenger service to small communities; and

(iv) Whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system. Diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route scheduled system. The routes and services of affiliates and subsidiaries of protestant shall be considered part of a protestant's system.

(2) Evidence that applicant cannot meet the statutory fitness criteria.

(3) Legal argument (optional).

(4) Verification.

(5) Certificate of service.

(6) Request for oral hearing (optional).

(g) *Requests for oral hearing by a protestant.* The Commission will handle application proceedings under § 1100.253 using the modified procedure, if possible. *See* § 1100.255(i). Protestants shall file requests for oral hearing with their protests.

(h) *To whom the protest is sent.* (1) An original and one copy of the protest shall be sent to the Office of the Secretary, ICC, Washington, DC 20423. The docket number of the proceeding shall be placed conspicuously on the top of the first page of the protest.

(2) Concurrent with the filing in paragraph (h)(1) of this section, a copy shall be sent to applicant.

(i) *Obtaining a copy of the application.* (1) A copy of the application is available for inspection at the Commission's offices in Washington, DC, or the regional office of applicant's domicile. (2) In addition, applicant is required to send a copy to interested persons upon payment of a $10.00 charge. *See* § 1100.253(k).

(j) *Withdrawal.* A protestant wishing to withdraw from a proceeding shall inform the Commission and the applicant in writing.

Appendix C

Title 49 of Code of Federal Regulations is proposed to be amended as follows:

A new part 1130a would be added to read as follows:

PART 1130a—RULES GOVERNING THE ISSUANCE OF A CERTIFICATE TO PROVIDE REGULAR-ROUTE TRANSPORTATION OF PASSENGERS ENTIRELY IN ONE STATE UNDER 49 U.S.C. 10922(c)(2)(A)

Sec.

Authority: 49 U.S.C. 10321 and 10922; 5 U.S.C. 553.

§ 1130a.1 Controlling legislation.

(a) *Applicability of rules.* A motor common carrier of passengers establishing that it has authority on the effective date of the Bus Regulatory Reform Act of 1982 ("the Act") to provide interstate transportation of passengers on a route over which the carrier now proposes to provide regular-route transportation entirely in one state will be granted a certificate to provide the intrastate transportation if the Commission finds that the carrier is fit, willing, and able to provide the intrastate transportation and to comply with Commission rules and regulations, unless the Commission finds, on the basis of evidence presented by a person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

Note.—Applications for certificates under 49 U.S.C. 10922(c)(2)(B) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant is granted interstate authority after the effective date of the Act are governed by the provisions at 49 CFR 1100.253 and 1100.254.

(b) *Time limits.* The Commission will take final action upon an application filed under 49 U.S.C. 10922(c)(2)(A) for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

§ 1130a.2 Definitions.

Commuter bus service or operation means short-haul, regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and used primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak periods of operation.

§ 1130a.3 Filing of applications.

(a) *Form and filing.* (1) An applicant is to file a completed application Form OP–1. Applicant is to check the service box provided under the heading at part (d) entitled "90-DAY INTRASTATE APPLICATION."

(2) The form may be obtained at Commission regional and field offices, or by calling the Office of the Secretary at 202–275–7833.

(3) The signed original and one copy of the application and all required documents described in paragraphs (b), (c), (d), and (e) of this section shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the proper application fee to be submitted with the Form OP–1. Make checks payable to the Interstate Commerce Commission.

(4) One copy of the application shall be sent to the ICC regional office in which applicant is domiciled.

(b) *Verified statement.* Applicant shall file the information described below in a separate statement attached to the application and in separately numbered paragraphs:

(1) Legal name and domicile of applicant, and the docket number assigned by the Commission to the applicant's authorities.

(2) Name of witness presenting evidence and why this person is qualified to speak for applicant.

(3) Brief description of the proposed redraft of the certificate to assist the Commission in determining the portions of the existing service routes over which applicant proposes to obtain intrastate authority.

(4) Safety evidence. Applicants should state that they are in compliance with DOT safety regulations.

Note to Applicants.— These regulations are found in Title 49, Code of Federal Regulations, Parts 171 to 179 and Parts 390 to 399. Information concerning safety and hazardous materials regulations may be obtained by calling this toll-free number: 800–424–9158.

(c) A copy of the interstate authority or authorities issued on or before the effective date of the Act authorizing the regular routes over which applicant seeks to obtain intrastate authority.

(d) A proposed redraft of the authority or authorities upon which the application is based showing broadened authority including the proposed intrastate service. The redraft shall be in the same format as the original authority. It should include the regular route service description contained in each underlying authority, numbered separately by sub-number, and modifications indicating the intrastate operating rights to be authorized. Applicant should submit sufficient information under subpart (3) of the application for the Commission to determine readily the precise portions of the existing service routes over which applicant proposes to obtain intrastate authority.

(e) A caption summary (an original and one copy) of the intrastate authority requested, suitable for publication in the **Federal Register.** The caption summary shall include an accurate summary of the intrastate, regular-route authority that applicant seeks to obtain and of the underlying service routes described in the existing interstate certificate. The summary should indicate existing authorities, by sub-numbers, which would be superseded by issuance of a certificate upon a grant of the application.

(f) Consolidation of authorities. Applicants may combine requests for intrastate authority in a single application relying on more than one interstate authority if the underlying authorities are reasonably related. In applications based on more than one authority, the requests shall be clearly marked and segregated according to each certificate, and each request shall comply with the requirements set forth in § 1130a.3. Failure to comply may result in a rejection of the application.

(g) Repeat applications. A certificate can be modified under these rules more than one time. However, an application shall not be filed under these rules before a preceding application to obtain the same intrastate authority has been processed by the Commission.

§ 1130a.4 Processing of applications.

(a) Notice to interested persons. (1) Notice to the public of the filing of an application under these rules will be given by the Commission through publication of a caption summary in the **Federal Register.**

(2) A copy of the application is available for inspection at the Office of the Secretary, ICC, Washington, DC 20423, and the regional office of applicant's domicile.

(b) Filing of protests. A person wishing to oppose an application may file a protest. The protest must contain the information required by this paragraph. Protests shall be filed (received at the Commission) within 25 days after notice of the application appears in the **Federal Register.** An original and one copy of the protest shall be sent to the Office of the Secretary, ICC, Washington, DC 20423. The docket number of the proceeding shall be placed on the top of the first page. A copy of the protest shall be sent to applicant at the same time. Failure to timely file a protest waives further participation in the proceeding.

(c) Furnishing a copy of the application package to interested persons. Applicant is required to furnish a copy of the application package to interested persons after publication. The request must be in writing and must contain a check or money order for $10, payable to applicant. Applicant need not supply copies to any person not sending the appropriate payment. Applicant is required to mail the copy within 3 days of receipt of the request. Non-compliance with this section by applicant may result in dismissal of the application.

(d) Contents of the protest. All information upon which the protestant plans to rely should be put into the protest. The comments and the envelope shall be clearly marked in a corner as follows: "90-Day Intrastate Application." A protest not in substantial compliance with these rules will be rejected. A motor contract carrier of passengers may not protest an application to provide transportation as a motor common carrier of property. A protestant shall submit qualifications evidence and factual evidence, as described below.

(1) Docket number of application being opposed.

(2) Name and domicile of protestant, including lead docket number, if any.

(3) Name and address of protestant's representative.

(4) Name and address of witness presenting the evidence, and why qualified to speak for protesting party.

(5) Qualifications evidence. (i) Description of the extent to which the person seeking to protest possesses authority to handle the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the traveling public, and has either performed service within the scope of the application during the 12-month period before the application was filed or has actively in good faith solicited service within the scope of the application during that period; or

(ii) Description of any application which the prospective protestant has pending before the Commission which was filed before applicant's application and which covers substantially the same traffic; or

(iii) Description of any other legitimate interest not contrary to the transportation policy set forth in 49 U.S.C. 10101(a), or of any right to intervene under a statute. A person seeking to qualify under this paragraph shall describe in detail the circumstances which warrant its participation and how they are consistent with 49 U.S.C. 10101(a). Under this subparagraph, any carrier may protest on the grounds of safety fitness.

(6) Factual evidence to establish that the intrastate service would directly compete with a commuter bus operation, and that the direct competition would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(i) A summary, description, or copy of the specific commuter authorities in conflict with that sought in the application, if pertinent.

(ii) Information to demonstrate: that the proposed service is directly competitive with a commuter bus service, that the proposed service will adversely affect commuter bus service in a significant manner, and the degree to which all commuter bus services in the area where the competing service would be performed would be adversely effected.

(7) Factual evidence that applicant is not fit, willing, or able under the statutory fitness criteria.

(8) Legal argument (optional).

(9) Verification, as follows:

I, ———— verify under penalty of perjury under the laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this protest. (*See* 18 U.S.C. 10101 and 18 U.S.C. 1621 for penalties.)

———————————

(Signature and date).

§ 1130a.5 Decision.

(a) Basis. Applications will be decided solely on the basis of the application and the protests that are received. There will not be an opportunity for oral hearing nor for submission of any other evidence under modified procedure.

(b) The Commission's decision. (1) Notice of applications will be published in the **Federal Register** in the form of tentative decisions granting the authority requested. If no protests are filed, the application will stand granted, without any further public notice, at the conclusion of the 25-day protest period, unless the Commission, prior to that time, stays the effectiveness of the tentative decision.

(2) If protests are filed, a final decision will be reached by the Commission before the expiration of the 90-day time period for final action.

(c) Administrative finality and appeals. A decision disposing of an application subject to these rules is a final action of the Commission. Any party seeking review should specify the "extraordinary circumstances" involved in the proceeding which would require the Commission to reopen the proceeding. Review of such an action on appeal is discretionary and is otherwise governed by the Commission's appeal regulations at 49 CFR 1100.98.

§ 1130a.6 Compliance.

(a) A reformed certificate will be issued upon a grant of an application. Prior to the beginning operations under the newly issued authority, compliance must be made with the following statutory and regulatory requirements: 49 CFR Parts 1043, 1044, and 1306.

Appendix D

Application Form OP–1 is revised as follows:

At page 2, move three lines below heading "Fitness-Only Applications" to top of page.

Change heading to "(a). Property Fitness-Only Applications" and insert entire section below the top three lines.

Number each of the types of service under (a). as (1) through (7).

After section (a). add:

(b). Passenger Fitness-Only Applications

[ ] (1) Motor common carrier of passengers charter transportation.

[ ] (2) Motor common carrier of passengers special transportation.

[ ] (3) Motor common carrier of passengers authority to serve any community not regularly served by a certificated motor common carrier of passengers.

[ ] (4) Motor common carrier of passengers authority to provide service as a direct substitute for the complete abandonment or discontinuance of all rail or commercial-air passenger service in a community.

[ ] (5) Motor common carrier of passengers transportation to any community where the only interstate motor common carrier of passengers has applied to discontinue such interstate service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays).

[ ] (6) Motor contract carrier of passengers transportation.

(c) Passenger Public Interest Applications

[ ] (1) Motor common carrier of passengers transportation provided by an applicant receiving governmental financial assistance for the purchase or operation of buses, or by an applicant that is an operator for such a recipient, except to perform a service described in (b)(3), (4), or (5) above.

[ ] (2) Motor common carrier transportation of passengers over regular routes in interstate or foreign commerce, except to perform a service described in (b)(3), (4), or (5) above.

[ ] (3) Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B) on a route over which applicant has been granted authority or will be granted authority in interstate commerce after the effective date of the Bus Regulatory Reform Act of 1982.

Note.—An applicant which has not been granted or does not have pending an application for the underlying interstate, regular-route authority over which the intrastate operations are to be performed may file a request for such intrastate authority only if the underlying interstate, regular-route transportation is requested also in this application.

(d) 90-Day Intrastate Passenger Application

[ ] Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(A) on a route over which applicant already has authority as of the effective date of the Bus Regulatory Reform Act of 1982.

Note.—Applicant shall clearly mark the envelope containing the application and the upper right-hand corner of the front page of this application: "90-Day Intrastate Passenger Application."

[FR Doc. 82-26764 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 400 (Sub-1)]

Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed procedures.

SUMMARY: The Commission is proposing procedures for handling individual petitions for exemption filed by motor carriers of property under 49 U.S.C. 11343, in light of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261, enacted September 20, 1982. This legislation amends 49 U.S.C. 11343 to provide that the Commission may exempt motor carriers of property from the merger, consolidation, and acquisition of control provisions of sections 11343, 11344, and 11345a if the transaction meets criteria like those applied to all rail carriers in 49 U.S.C. 10505. Under the proposed procedures, the Commission will generally issue a final decision based solely on the petition.

DATES: Comments must be submitted by October 19, 1982.

ADDRESSES: Send comments (an original plus 10 copies) to: Interstate Commerce Commission, Section of Finance, Room 5349, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245, or Gloria E. Blazsik (202) 275–0948.

SUPPLEMENTARY INFORMATION: Section 21(b) of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261, enacted September 20, 1982 (Bus Act), authorizes the Commission to exempt merger, consolidation, and acquisition of control transactions involving motor carriers of property from the pertinent provisions of 49 U.S.C. 11343, 11344, and 11345a. The Commission may exempt a person, class of persons, transaction, or class of transactions if we find that examination of the transaction is not necessary to carry out the national transportation policy of 49 U.S.C. 10101 and either that the transaction is of limited scope or that examination is not needed to protect shippers from the abuse of market power. The Commission may revoke an exemption if we find that review of the transaction is necessary to carry out the national transportation policy of section 10101, or if it is necessary to review and address the effects on adversely affected employees. Section 21(b) also requires that at least 60 days before any exempt transaction may take effect, a carrier intending to participate in the transaction must file with the Commission a notice of its intention to do so. We must prescribe the information to be included in the notice, and ensure that the public is given notice of the transaction.[1]

The Staggers Rail Act of 1980 (Pub. L. No. 96–448, 94 Stat. 1895, October 14, 1980) (Staggers Act) amended 49 U.S.C. 10505 by granting the Commission broad authority to exempt rail transactions of all kinds from regulation, and by eliminating the requirement that a proceeding be held in all rail exemption matters. The legislative history of the Staggers Act indicated that Congress, in eliminating this requirement, intended to give the Commission wide-ranging flexibility in rail exemption matters. In Ex Parte No 400, Modification of Procedure For Handling Exemptions Filed Under 49 U.S.C. Section 10505 (not printed), served December 29, 1980 (45 FR 85180 December 24, 1980), we announced new procedures for handling petitions for exemption under section 10505 in light of the Staggers Act. There, we adopted rules under which the Commission would make an initial decision to grant the exemption as long as the petition did not indicate that the proposed exemption could potentially have a significant adverse impact or the impact was not readily ascertainable from the petition. We also eliminated notice and comment procedures and provided that a final decision, based solely on the petition for exemption, be issued. In our opinion, Congress intends to give the Commission similar flexibility in the motor exemption area. Accordingly, the procedures proposed here generally follow those established in Ex Parte No. 400, *supra*.

As we did in Ex Parte No. 400, we will not require initial notice and comment in most cases. Pursuant to section 21(b) of the Bus Act, the petition seeking an exemption under 49 U.S.C. 11343(e)(1) will be considered a notice of intent. The petition shall contain at least the following: (1) The names of all the parties involved; (2) the nature and scope of the transaction; and (3) the representatives of the parties to be contacted concerning the proposal. Upon receipt of the petition, we will publish a notice of the transaction in the *ICC Register*, a new Commission publication announced in Ex Parte MC–163 *Procedures For Providing Notice of Specified Applications Through an ICC Register in Lieu of Federal Register Notice*, which is being served currently with this decision. An initial determination will then be made as to whether the transaction requires regulation: if the Commission finds that prior Commission approval of the transaction is (1) not necessary to carry out the transportation policy of section 10101 and (2) either (A) the transaction is of limited scope or (B) regulation is not needed to protect shippers from the abuse of market power, notice of a final decision on the exemption proposal will be published in the *ICC Register* which is proposed to be established in Ex Parte No. MC–163, published concurrently with this notice. This will generally be effective 30 days from publication, as long as this date is no sooner than 60 days after the petition seeking exemption was filed.

This procedure provides an opportunity for anyone, including employees objecting to the decision, to file petitions seeking reconsideration. These petitions must be filed within 20 days of the date of publication. The filing of the petition will not automatically stay the effectiveness of the decision. Nonetheless, the Commission may, on its own motion or on petition, stay the effective date while considering any petitions. Petitions to stay must be filed within 10 days of the date of publication. These are similar to the time frames established in Ex Parte No. 400. We will process all petitions for exemption expeditiously to meet statutory requirements.

In extraordinary circumstances, the Commission may determine that a decision on a particular exemption petition should become effective either immediately upon *ICC Register* publication or in less than 30 days after publication, but this effective date will not be less than the required 60 day period. In such circumstances, the decision will specify the time period for filing petitions to reopen.

In cases where the impact of the proposed exemption is not readily ascertainable from the petition, or where it appears that employees may be adversely affected, we may exercise our discretion to seek notice and comment instead of making an initial determination.

These procedures will enable us to expedite decisions in the motor exemption area without depriving interested persons of an opportunity to state their views. While our procedures do not involve the issuance of new regulations, comments from the public on these procedures will be useful.

[1] Should additional rules be required for exemption of a class of persons or a class of transactions, the matter will be addressed in a separate proceeding. In any event, as specified in the statute, no exempt transaction may take effect on less than 60 days' notice.

This action will not affect significantly the quality of the human environment or conservation of energy resources.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.
Commissioner Simmons was absent and did not participate.

(49 U.S.C. 11343 and 5 U.S.C. 553)

Decided: September 15, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

Procedures For Filing Exemptions Pursuant To 49 U.S.C. 11343(e)

A motor carrier of property intending to file a petition seeking exemption from the requirements of 49 U.S.C. 11343 regarding a merger, consolidation, and acquisition of control transaction must file with the Commission an exemption petition. The petition shall contain at least the following: (1) The name of all the parties involved; (2) the nature and scope of the transaction; and (3) the representatives of the parties to be contacted concerning the proposal. When the petition is filed, notice of it will be published in the *ICC Register*, and processed by the Commission. An initial determination will then be made as to whether regulation of the transaction is (1) necessary to carry out the transportation policy of 49 U.S.C. 10101; and (2) either (A) whether the transaction or service is of limited scope, or (B) whether regulation is needed to protect shippers from the abuse of market power.

If the determination is made that regulation is not necessary, a summary of the final decision will be published in the *ICC Register*, generally to be made effective 30 days from the date of publication, but in no instance less than 60 days after the petition was filed.

[FR Doc. 82-26713 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 55 (Sub-43D)]

Certification of Canadian or Mexican Ownership or Control of Applicants for Motor Common or Contract Carrier Authority

AGENCY: Interstate Commerce Commission.

ACTION: Temporary procedure.

SUMMARY: The Commission is temporarily modifying its procedures for applying for motor carrier operating authority to comply with the congressional prohibition against issuing operating authority to certain applicants set forth in the Bus Regulatory Reform Act of 1982. As long as the moratorium is in effect all applicants in motor carrier operating rights, finance, and restriction removal proceedings must make certifications with respect to domicile in Canada or Mexico, or ownership or control by persons of Canada or Mexico as part of verified statements accompanying their applications. Failure to make a required certification will result in rejection of the application.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph B. O'Malley, Jr. (202) 275-7928, or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: Section 6 of the Bus Regulatory Reform Act of 1982 prohibits the Commission from issuing a certificate to a motor common carrier, or a permit to any motor contract carrrier domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country for a period of 2 years after the effective date of the Act. The President may extend this moratorium if a contiguous foreign country or any political subdivision thereof substantially prohibits grants of authority to persons from the United States to provide for-hire transportation therein. The President may also end or modify the terms of the moratorium if he should determine that it would be in the national interest to do so. The legislative history indicates that the purview of the measure extends to all operating right finance, and restriction removal proceedings.

In accordance with the terms of the moratorium the President has determined that a partial suspension thereof with respect to Canada is in the national interest. Effective September 21, 1982, applications by Canadian domiciled, owned, or controlled motor carriers for motor carrier merger, consolidation, acquisition of control, temporary authority, emergency temporary authority, or for permanent authority involving the interstate transportation of traffic moving entirely within the United States (that is not in foreign commerce), are excepted, at least temporarily, from the coverage of the moratorium. The Commission may also grant other types of authority in accordance with appropriate statutory provisions after giving great weight to the national transportation policy (particularly the mandates to promote "economical and efficient transportation" and "to encourage sound economic conditions among carriers"). The President also determined that no modification of the moratorium is warranted with respect to Mexico.

Our present procedures do not require applicant motor carriers to identify the nationality of those persons who own or control these carriers. In some cases domicile identification likewise may not be required. Accordingly, to comply with the requirements of the new Act we must modify our procedures temporarily.

After consideration of various options, we have decided on a method that we believe places the least burden on motor carrier applicants, but at the same time insures that the Commission will receive the information necessary to comply with the moratorium. All motor carrier applicants will be required, as part of verified statements accompanying their applications, to make certain certifications regarding their domicile, ownership, or control. One of two alternative certifications set forth below must be employed, the choice depending on the circumstances applicable to a particular carrier.

The first form should be used by applicants having no domiciliary, ownership, or control relationship with either Mexico or Canada, and should be in the following form:

> I certify that the applicant in this proceeding is not domiciled in any country contiguous to the United States. Moreover, the applicant is not owned by or controlled by persons of any such country.

The alternative form should be used by applicants unable to make the above-described certification. These carriers must also certify that they have neither Mexican domicile, ownership, nor control. In addition, they must certify the nature of any such domicile, ownership, or control relationship involving Canada. Details need not be furnished at this stage. The certification must be in the following form:

> I certify that the applicant in this proceeding is not domiciled in Mexico. Moreover, the applicant is not owned by, or controlled by persons of that Country. Applicant is domiciled in Canada (or controlled by or owned by persons of that country).

One of these two forms of certification must appear on the first page of the verified statement immediately following the name and address of the applicant. Failure to include the certification will result in rejection of the application. The Commission will determine the applicability of the moratorium to the authority sought. A person desiring to challenge an applicant's representation of domicile, ownership, or control may do so as part of a pleading filed in accordance with the provisions of 49 CFR 1100.241 or 1100.252, 49 CFR Part 1132, or 49 CFR Part 1137.

Because this temporary procedural change is merely a change in agency procedure or practice, we believe that notice to the public and opportunity to comment prior to adoption of the

temporary procedure is not required. 5 U.S.C. 553(b)(3)(A). In addition, notice and comment would be both impracticable and unnecessary. 5 U.S.C. 553(b)(3)(B). The moratorium becomes effective upon enactment and it is necessary that the Commission take immediate steps toward implementation. The mandate of the new statutory provision is clear and leaves no discretion in the Commission. In our procedures we have attempted to track its language and intent as closely as possible without placing an undue burden on motor carrier applicants. The uncertain duration of the moratorium also militates against any lengthy consideration of public input into our decision. For the above reasons, we find that there is good cause to dispense with notice and comment procedures. Similarly, there is good cause under 5 U.S.C. 553(d)(3) for making the procedure effective on less than 30 days notice. Congress has determined that the moratorium should become immediately effective and thus the public interest requires the agency to act immediately or the intent of Congress will be frustrated.

This action will not have any significant impact on the quality of the human environment or conservation of energy resources.

The provisions of 5 U.S.C. 603 require that the Commission examine the impact of our action on small businesses and small organizations. We can perceive no significant economic impact on small entities as a result of this temporary procedure.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321, and 10922 (1), and 5 U.S.C. 553)

Decided: September 27, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26873 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

federal register

Wednesday
September 29, 1982

Part V

Office of Management and Budget

Budget Deferral

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferral

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6,500,000 for the Department of Commerce and a revision to an existing deferral increasing the amount deferred by $1,250,000 for the United States Information Agency (formerly the International Communication Agency).

The details of the deferrals are contained in the attached reports.

Ronald Reagan.

The White House,
September 23, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Commerce	
D82-253	Science and Technical Research	
	Scientific and technical research and services	6,500
	Other Independent Agencies	
D82-249A	United States Information Agency	
	Salaries and expenses (special foreign currency program)	1,950
	Total, deferrals	8,450

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Eighteenth special message		
New items	---	6,500
Change to amount previously submitted	---	1,250
Effect of eighteenth special message	---	7,750
Previous special messages	7,734,461	8,207,547
Total amount proposed in special messages	7,734,461	8,215,297 1/

1/ This amount represents budget authority except for $20,922 thousand in one general revenue sharing deferral of outlays only (D82-23A).

Deferral No: D82-253

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce
Bureau: Science and Technical Research
Appropriation title & symbol:
Scientific and Technical Research and Services
13X0500

OMB identification code:
13-0500-0-1-376

Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☐ Multiple-year _____ (expiration date)
☒ No-year

New budget authority (P.L. 97-161): $117,822,000
Other budgetary resources: 5,835,585
Total budgetary resources: 123,657,585

Amount to be deferred:
Part of year: _____
Entire year: 6,500,000

Legal authority (in addition to sec. 1013):
☒ Antideficiency Act
☐ Other _____

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other _____

Justification: This deferral action reflects the Department of Commerce's decision to do a comprehensive study on the feasibility of establishing a Department-wide scientific computer center to provide for a large-scale scientifically oriented computer capability. This computer facility, recommended in GAO Report #GAO/CED 82-81, would improve service at lower costs to its users. The study is planned for completion by December 31, 1982. This deferral action preserves $6.5 million for the balance of FY 1982 and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This action will delay the purchase of the National Bureau of Standards (NBS) computer. However, if the planned study results in a central computer facility for the Department of Commerce, the savings resulting from the consolidation will more than offset the time delay in procuring the NBS computer.

Outlay Effect: This deferral action will have no effect on FY 1982 outlays.

D82-249A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Publication 93-344

This report revises Deferral No. D82-249, transmitted to the Congress on June 2, 1982.

The amount deferred for the Salaries and expenses (special foreign currency program) account is $1,950,000, an increase of $1,250,000 over the amount previously reported as deferred. This increase is a result of additional budgetary resources realized from recoveries of prior year obligations, additional reimbursements, and savings resulting from foreign exchange rate changes.

[FR Doc. 82-26816 Filed 9-28-82; 8:45 am]

BILLING CODE 3110-01-C

Deferral No: D82-249A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: United States Information Agency *1/	New budget authority (P.L. 97-161) $ 9,800,000
Bureau	Other budgetary resources 2,769,243*
Appropriation title & symbol: Salaries and expenses, (special foreign currency program) 67X0205	Total budgetary resources 12,569,243*
	Amount to be deferred: Part of year —; Entire year 1,950,000*
MB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual; ☐ Multiple-year ____ (expiration date); ☒ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other ____

Justification:* The United States Information Agency (USIA) is authorized to carry out international communication, cultural and education exchange programs. The "Salaries and expenses (Special Foreign Currency Program)" account is used to pay USIA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirement of the U.S. Government. In fiscal year 1982, the "excess currency" countries are Burma, Guinea, India, and Pakistan.

The amounts available under this appropriation exceed 1982 program requirements due to a higher unobligated balance carryover than originally estimated. Also, additional budgetary resources have been realized from recoveries of prior year obligations, increased reimbursements, and savings resulting from exchange rate changes. The excess funds are being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665) and will be used for program needs in succeeding years.

Estimated Effects: None. The amount deferred could not be obligated before fiscal year 1983.

Outlay Effect: There is no outlay effect from this deferral, because the funds would not be obligated if made available.

* Revised from previous report.

1/ Formerly the International Communication Agency.

federal register

Wednesday
September 29, 1982

Part VI

Environmental Protection Agency

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Policy Statement on Revocation of Tolerances for Cancelled Pesticides

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-00145; PH-FRL 2157-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Policy Statement on Revocation of Tolerances for Cancelled Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: The purpose of this policy is to describe when and how tolerances will be revoked and action levels substituted for certain pesticide chemicals for which registered uses have been cancelled or which may be cancelled in the future, and what factors will be considered in setting action levels.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: This notice sets forth a policy regarding the revocation of formal tolerances for cancelled pesticides and, where necessary, the establishment of action levels for these pesticides. The Food and Drug Administration (FDA), and the Agricultural Marketing Service (AMS) and Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture have reviewed and agreed with the policy statement.

The purpose of this policy is to provide a mechanism for establishing action levels in the place of formal tolerances for persistent pesticides which may be cancelled in the future, as well as a mechanism for replacing formal tolerances with action levels for residues of certain persistent pesticides which were subject to past EPA cancellation actions.

Pesticides which were cancelled under FIFRA without the revocation of the corresponding tolerances include: DDT and TDE in 1972 (37 FR 13369), aldrin/dieldrin in 1975 (39 FR 37246) and BHC in 1978 (43 FR 31432). The tolerances were not revoked because the pesticides in question were persistent in the environment, and hence residues were expected to be present in raw agricultural commodities, processed foods and feeds for a significant time period.

The mechanism announced in this notice will allow the replacement of formal tolerances with action levels for persistent pesticides which degrade very slowly in the environment and thus may continue to occur in the food for many years after the legal application of the pesticide has ceased. The agencies are concerned that having formal tolerances remaining in effect for cancelled pesticides may serve to condone use of these pesticides in this country and/or in or on commodities imported from foreign countries. The agencies believe that steps should be taken to replace such tolerances with action levels that cover only unavoidable residue levels of cancelled pesticides in or on raw agricultural commodities, and processed foods and feeds.

This notice discusses the rationale for replacing formal tolerances with action levels for certain cancelled pesticides. This notice also details the criteria that will normally be used in determining appropriate action levels and the mechanisms which will be utilized to replace such tolerances with action levels, both for pesticides which were previously cancelled and for pesticides which will be the subject of future cancellation actions.

I. Pesticide Regulation Under FIFRA

The Environmental Protection Agency has the authority under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136, *et seq.*, to regulate the use of pesticide chemicals in the United States. The Act requires that all pesticides which are sold and distributed in the United States must be registered in accordance with the statutory standard for registration set forth in FIFRA. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (FIFRA, section 3(c)(5)). Under section 6 of FIFRA, the Administrator may cancel the registration of a use of a pesticide or modify the terms and conditions of registration whenever she determines that the use of the pesticide no longer satisfies the statutory standard for registration.

II. Establishment of Tolerances for Use Under FFDCA

For a pesticide to be sold and used in the production of a crop or an animal, generally the pesticide must not only be registered for the particular use under FIFRA, but also must have a tolerance (maximum allowable limit of pesticide residue) or an exemption from a tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301, *et seq.*) for each individual crop or for the meat of animals on which it will be used or may be present because of another approved use. The FFDCA authorizes the establishment of tolerances and exemptions from tolerances for residues of pesticide chemicals in or on raw agricultural commodities, and the promulgation of food additive regulations for pesticide residues in processed food.

Under section 408 of the FFDCA, a registrant or applicant can file a petition proposing issuance of a formal tolerance or an exemption from such a tolerance for residues of a pesticide chemical in or on raw agricultural commodities or the agency can initiate a tolerance regulation on its own or at the request of any interested person. An agency proposal is published in the **Federal Register** with a complete discussion of the residue and toxicology data which were reviewed by the agency. For a registrant-proposed tolerance, a very brief notice of filing is published in the **Federal Register** within 30 days of filing, and the data base which was reviewed is detailed in the final tolerance rule. A 30-day comment period is provided during which a request for an advisory committee review of the proposed tolerance may be submitted. If the agency does not receive a request for an advisory committee review within the 30-day comment period, the final tolerance regulation can be published at the end of the comment period. Where a request for an advisory committee review is submitted, the agency can publish a final regulation after receipt of the advisory committee review. A hearing on a final tolerance rule can be requested within 30 days of publication of the final rule. Section 409 provides similar procedures for the establishment of tolerances for residues of pesticide chemicals in or on processed foods at the request of any person or by agency action.

In 1970, pursuant to Reorganization Plan No. 3 of 1970, 84 Stat. 3086, the authority for establishing pesticide chemical tolerances and exemptions from tolerances under the FFDCA was transferred from the Food and Drug Administration to the Administrator of EPA. The FDA, however, retained the authority to enforce these tolerances and to implement seizure actions and regulatory sanctions against raw agricultural commodities or processed foods, other than meat, poultry and products thereof, and egg products in certain circumstances, which are found to be in violation of the adulteration provisions of the FFDCA. In the exericse of this enforcement authority, FDA

conducts a nationwide monitoring program in which representative food samples are analyzed for residues of pesticide chemicals. The surveillance of meat, poultry, and products thereof, for pesticide residues is carried out by the Food Safety and Inspection Service and the surveillance of egg products for pesticide residues is carried out by the Agricultural Marketing Service under the authority granted by the Federal Meat Inspection Act (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031, *et seq.*). The FSIS, and AMS are authorized to take enforcement action against meat, poultry, products thereof, and egg products which are found to be adulterated in contravention of the provisions of the above-mentioned Acts.

III. Establishment of Action Levels

Food sometimes contains pesticide chemical residues not because of purposeful, direct application, but rather because the pesticide persists in the environment and subsequently contaminates the food. Thus, the presence of the residue in the food cannot be prevented or removed by good agricultural or manufacturing practice. Consequently, residues of pesticides may be present long after cancellation has occurred. In the absence of a tolerance, FDA, FSIS, and AMS rely on an action level recommended by the EPA in determining whether the pesticide chemical is present at levels which make it unsafe and whether regulatory action should be taken. This level is then applied by the FDA, FSIS, and AMS in their regulatory programs.

In determining what action level should be used, the criteria of section 406 of the FFDCA are followed; that is, the level must be sufficient to protect the public health, while also taking into account the extent to which the contaminant is unavoidable. These criteria and the procedures for setting action levels are set forth in FDA's regulations for poisonous or deleterious substances in food (21 CFR Part 109), which were published in the **Federal Register** of Friday, September 30, 1977 (42 FR 52814).

IV. Rationale for Replacing Tolerances With Action Levels

When a pesticide's registration for a food or feed use is cancelled because of concern about the safety of the pesticide, the associated tolerance for use or food additive regulation is no longer justified and logically should be revoked. The tolerance revocation should discourage misuse, i.e., the illegal application of a cancelled pesticide, as well as discourage persons in other countries from exporting to the United States food bearing residues of pesticides which can no longer be legally used in the United States because of safety reasons. For pesticides which degrade rapidly in the environment, particularly in the soil, revoking the tolerance should cause no problem because any pesticide residues remaining from applications prior to the cancellation action would not be expected to be present at detectable levels. However, for pesticides which persist in the environment, i.e., which take long periods of time to degrade, crops may contain detectable residues of these pesticides, perhaps even at or near the tolerance levels, for many years after the application of the cancelled pesticide has ceased. Similarly, the meat of animals fed crops containing such residues may also contain such residues. If the formal tolerances for persistent pesticides were revoked and no other action were taken, land to which the cancelled pesticides have been applied could be unavailable for crop use for many years to come. Therefore, in order to avoid unfairly penalizing food producers whose commodities may still contain unavoidable residues of persistent pesticides which can no longer be legally applied, the agencies have agreed to establish action levels to replace formal tolerances that will be revoked. The action levels will be reviewed periodically and lowered as the chemicals dissipate from the environment.

V. Factors Considered in Setting Acton Levels

EPA has developed certain factors which will be considered during its deliberations on recommending action levels. These same factors will be used to lower the action levels as subsequent data, reviewed periodically, indicate that these chemicals are still present in foods at declining levels. The factors to be considered during action level review are as follows:

1. *Limit of action level.* Action levels will be set limiting the quantity of a pesticide in or on food commodities to the extent necessary to protect the public health. In determining the quantity of pesticide that can be tolerated in or on food or feed commodities, consideration will be given to the extent to which the pesticide cannot be avoided in the production of such commodities. Consideration will also be given to other ways in which the consumer may be affected by the same pesticide or other poisonous or deleterious substances.

2. *Review of surveillance data.* Surveillance data on pesticide residues collected by (a) FDA for food or feed crops, dairy products, and eggs, (b) FSIS for meat and poultry, and (c) AMS for egg products or any other monitoring data available will be reviewed by EPA to determine the current anticipated unavoidable residue levels for a cancelled pesticide. EPA will also review available toxicology data to determine if these residue levels would be unsafe. It is conceivable that, for a given pesticide, no residue level would be acceptable because of the health risk and the agency would be obliged to conclude that the tolerance should be revoked with the concurrent establishment of an action level no higher than the accepted chemical limit of detection.

3. *Crop grouping assessments.* Action levels will be set on crop groups rather than on individual crops, whenever possible, in accordance with the crop groupings listed in 40 CFR 180.34 and the proposed crop grouping scheme as published in the **Federal Register** of May 13, 1982 (47 FR 20635).

4. *Codex review.* Consideration will be given to harmonizing EPA-recommended action levels with those pesticide residue limits recommended by the Codex Alimentarious Commission (Codex). Codex is an international organization set up under the auspices of the Food and Agricultural Organization of the United Nations.and the World Health Organization. One of Codex's functions is to develop and recommend tolerances on an international basis. A Codex maximum residue limit (MRL) corresponds in basis and effect to EPA tolerance levels and a Codex extraneous residue limit (ERL) usually corresponds in basis and effect to action levels used by FDA, FSIS, and AMS for unavoidable residues in foods.

VI. Procedure for Converting Tolerances to Action Levels for Pesticides Which Were Previously Cancelled

A **Federal Register** notice will be published setting forth a proposal by EPA to revoke the tolerance involved and stating the reasons for this action. The procedures which must be followed for issuing a regulation repealing a tolerance are set forth in section 408(d), (e), (f), and (g) of the FFDCA for raw agricultural commodities and section 409(d), (e), (f), and (g) of that Act for processed foods. Procedural regulations pertaining to these provisions of the FFDCA are found in 40 CFR 180.7, *et seq.* Once a tolerance revocation becomes effective, an action level will,

where appropriate, be used by FDA, FSIS, and AMS.

VII. Procedure for Converting Tolerances to Action Levels for Pesticides Which Will Be Cancelled in the Future

In the future, when a notice of intent to cancel the pesticide is published, a proposed tolerance revocation notice issued by EPA will be published and simultaneously, if possible, a notice proposing the establishment of an action level will also be published. EPA may request surveillance information from FDA, FSIS, and AMS about pesticide residue levels in food or feed crops, dairy products, eggs and egg products, meat, and poultry in the following situations: (1) Prior to a final cancellation action when concerns have been raised that the use of the pesticide may produce unreasonable adverse effects on the environment; or (2) after the final cancellation action, as applicable. EPA will evaluate these data in light of the toxicological concerns, and recommend to FDA, FSIS, and/or AMS as soon as possible, appropriate action levels to replace the current formal tolerances in accordance with the criteria and procedures set forth in this notice. This mechanism will allow any affected parties to request advisory committee review of the proposed tolerance revocation action during the same 30-day time period provided for hearing requests on the cancellation action.

In the event that a request for submission of the proposed tolerance revocation to an advisory committee is submitted for a tolerance established under section 408 of FFDCA, the advisory committee review will take place prior to the completion of administrative hearings on the cancellation action. By statute, the advisory committee must submit its report and recommendations within 90 days of receipt of the referral; thus, in all likelihood, the advisory committee review will be completed before the beginning of the testimony phase of the cancellation hearing. Whether or not an advisory committee referral is requested, a final tolerance revocation notice will not be published in the **Federal Register** until the administrative conclusion of a cancellation action. The regulation revoking the tolerance is effective upon publication and until such time as it is modified, e.g., by a subsequent regulation issued after a public hearing. In a situation where the cancellation action allows the sale and/or use of existing stocks for a finite time period, the final tolerance revocation notice will not be issued until the expiration of the time period during which these existing stocks could be legally sold and/or used or until the time when residues will not result from the legal use of the pesticide.

In addition to the determination at the end of a cancellation hearing under FIFRA, section 6(b)(1) or 6(b)(2), that some or all the uses of a pesticide are cancelled, a cancellation action can be concluded by the voluntary cancellation of a pesticide by a registrant or failure to request a hearing following the issuance of a notice of intent to cancel under section 6(b)(1). It is anticipated that in the case of cancellation actions that do not follow an administrative hearing, a request for advisory committee review will occur rarely and that, in most cases, the final tolerance revocation notice will be issued shortly after the expiration of the 60-day comment period on the proposed notice of revocation.

For the revocation of food additive regulations under section 409 of the FFDCA, the proposed revocation notice will be published at the same time the notice of intent to cancel the pesticide is published. A notice proposing the establishment of an action level will be published simultaneously, if possible, with the revocation notice. Since section 409 of the FFDCA does not provide a procedure for submission to an advisory committee of proposed food or feed regulation revocations, a final order may be published if no objections are received within 60 days after the publication of the proposed order. The EPA will not promulgate a final revocation notice for publication until the administrative conclusion of a cancellation action. A 30-day period is provided for hearing requests on the final revocation order.

This revocation is effective upon publication in the **Federal Register**; the Administrator may, however, stay the effectiveness of the order if a hearing request is received in response to the revocation notice.

List of Subjects in 40 CFR Part 180

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

Dated: April 12, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-26937 Filed 9-28-82; 8:45 am]

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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 (telephone 202–275–3030).

H.R. 1710 / Pub. L. 97–263 To authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives. (September 24, 1982; 96 Stat. 1132) Price: $1.75.

S. 2582 / Pub. L. 97–264 To amend the Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes. (September 24, 1982; 96 Stat. 1133) Price: $1.75.

S.J. Res. 186 / Pub. L. 97–265 To authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week". (September 24, 1982; 96 Stat. 1134) Price: $1.75.

S.J. Res. 205 / Pub. L. 97–266 To designate (September 1982 as "National Sewing Month". (September 24, 1982; 96 Stat. 1135) Price: $1.75.