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Wednesday
February 2, 1983

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

Rules and Regulations

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DEPARTMENT OF THE TREASURY

GENERAL ACCOUNTING OFFICE

4 CFR Part 56

Joint Regulations for Advance Payment of Charges for Transportation Services Furnished the United States

AGENCY: Treasury Department and General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law appearing in the Joint Regulations issued by the Secretary of the Treasury and the Comptroller General of the United States. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of provisions of law currently cited in the Joint Regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in the Joint Regulations.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Richard T. Cambosos, Office of General Counsel, General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 97–258, September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with code provisions. Section 4(a) of Pub. L. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, all provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. Section 4(c) of Pub. L. 97–258, 96 Stat. 1067.

Since the Joint Regulations issued by the Secretary of the Treasury and the Comptroller General appearing in Title 4 of the CFR were adopted under authority of provisions of law, the substance of which have been carried forward into Title 31, U.S.C., it is necessary to amend the Joint Regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

The Secretary of the Treasury has determined that this is not a major rule for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required. Because the amendments made by this rule are technical and do not make substantive changes, the Department of the Treasury and the General Accounting Office find that a general notice of proposed rulemaking and public procedure thereon, and a delayed effective date are unnecessary. Because no notice of proposed rulemaking is required, this rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 6001 et seq.)

PART 56—[AMENDED]

Accordingly, 4 CFR Part 56 is amended as follows:

§ 56.1 [Amended]

1. Section 56.1 is amended by removing the citation "section 3648 of the Revised Statutes, 31 U.S.C. 529" and inserting, in its place, the citation "31 U.S.C. 3324".

§ 56.2 [Amended]

2. Paragraph (a) of § 56.2 is amended by removing the citation "31 U.S.C. 203" and inserting in its place the citation "31 U.S.C. 3727".

Donald Regan,

Secretary of the Treasury.

Charles Bowsher,

Comptroller General of the United States.

[FR Doc. 83–2831 Filed 2–1–83; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 556

[No. 83–40]

Branch Office Approval

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its branch office regulations to eliminate the criterion of undue injury to simplify processing and to reduce unnecessary regulatory burdens currently imposed on institutions that apply for branch offices and relocations. Additionally, these regulations amend the delegation to the Principal Supervisory Agents to approve change of office location and redesignation of offices and to approve amendments to Section 2 of federal charters.

DATE: Effective January 26, 1983.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) 377–6961.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board ("Board") by Board Resolution No. 82–669 (October 7, 1982; 47 FR 44333) proposed to eliminate its "undue injury" criterion for branch approvals. The public-comment period on the proposal closed on December 8, 1982, with receipt of 26 comment letters. Having reviewed the comments and other available information, the Board has determined to adopt the amendments as proposed.

By Board Resolution Nos. 80–285 (May 5, 1980; 45 FR 31046) and 80–760 (December 4, 1980; 45 FR 83196), the Board had previously adopted final amendments which revised and consolidated its branching regulations (12 CFR 545.14) and had issued a policy statement on branching (12 CFR 556.5). Among other things, those revisions amended the regulatory criteria for branch approvals by eliminating the tests for "need" and "probability of success." The Board's action today in eliminating the undue-injury criterion for branch approvals is consistent with its general view that the market place is the best regulator of economic activity. This action comports with its policy favoring

deregulation initiatives, while continuing to require an assessment of the applicant's supervisory performance and its observation of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) ("CRA").

At present, § 545.14(e)(1) requires the Board to consider whether the proposed branch "[c]an be established without undue injury to properly conducted existing local thrift and home-financing institutions." Section 556.5 sets out the Board's policy statement on branching and gives guidance regarding the Board's evaluation of protests based on an allegation of undue injury. To support an allegation of undue injury, a protestant must currently demonstrate that the harm to an existing institution is adverse, economic in nature, substantial and harmful to the institution as a whole and not merely to a given branch office. Moreover, while older, established institutions may allege undue injury as a basis for protesting a proposed branch, section 556.5 currently expresses a Board policy which gives particular consideration to protests filed by newly-organized institutions, *i.e.* institutions in operation three years or less.

It is the Board's belief that, subject to certain fundmental regulatory concerns, the decision to open a new branch is a business decision for the management of an institution to make after considering the institution's options in its competitive environment. One of the principal reasons why the Board adopted the undue-injury test was to provide newly-organized institutions some degree of temporary insulation from the branching patterns of established institutions. The Board now finds that this policy, although rational when adopted in the 1960's, is no longer relevant. While prior experience might have supported the conclusion that newly-organized institutions needed special protection, today, newly-organized institutions may have a competitive advantage over older, established institutions. Many are more profitable than older institutions because their loan portfolios consist primarily of market-rate assets.

In addition, the realities of the market place and the deregulatory environment are such that no Board regulation can protect federal associations from the competitive pressures they already experience in the market as a result of the presence of commercial banks, savings banks, credit unions and non-depository competitors. Accordingly, it is both impractical and arbitrary to apply an undue-injury criterion only to one class of a protesting institution's potential competitors in the market, *i.e.*, other federal associations. The Board is of the view that maintaining the criteria of supervisory objection and an acceptable CRA performance record will provide adequate protection to the industry from indiscriminate branching.

An internal study of the Board's Office of Policy and Economic Analysis analyzed the profitability of newly-insured institutions (utilizing a five-year date of insurance) compared to the profitability of older institutions. Newer institutions, on the average, have higher income-and-expense ratios than older institutions. On the income side, they have significantly higher mortgage portfolio yields and a considerably higher gross operating income-to-average-assets ratio. On the expense side, the operating expense-to-average-assets ratio for newer institutions was also significantly higher while their cost of funds was only somewhat higher.

As a practical matter, the use of the undue-injury criterion as a basis for protesting proposed branch activity has substantially diminished, possibly because of changes in the basic structure of the thrift industry. As was stated in the proposal, since 1980 no branch application has been denied based on the likelihood of undue injury to another insured institution as a whole, nor, since the 1970's, has an application protested by a newly-organized federal institution ever been denied solely on the basis of the undue-injury criterion. Thus, whatever need there might have been previously to protect newly-organized federal institutions has been almost entirely diminished.

The Board believes that the public interest is served by a policy which allows branching patterns to satisfy an institution's corporate choices and business plans. The practical effect of this regulation will be to give the consumer a choice of alternative facilities which will serve to improve and maximize the delivery of competitive financial services. Considerable cost savings should also result from this deregulatory action because institutions would no longer be required to compile and analyze extensive amounts of data regarding competitive conditions in the relevant geographic area. Finally, it is logical, generally, to assume that if the management of an institution has made the business decision to expend the money, effort, and capital necessary to establish a branch in a particular market, that market has the potential to support the branch. Rather than causing a reduction, competition may be enhanced by the establishment of a new branch in the market.

This regulatory action taken by the Board today is consistent with recent actions taken by the Office of the Comptroller of the Currency. That agency has recently revised its branch regulations to eliminate a test analogous to the Board's undue-injury criterion. Agency involvement in the decision of a national bank to branch is now minimal, except where supervisory concerns or the CRA performance of an institution must be addressed. *See* 12 CFR 5.30; 47 FR 29823 (1982).

The Board is retaining the criteria which would allow an application to be denied where an applicant has an unacceptable CRA performance record or where there are bases for supervisory objection. In order to provide the Board with greater flexibility in considering branch applications, however, the Board is also amending § 556.5(b). The Board will consider whether the overall policies, condition, and operation of the applicant are satisfactory and, as a whole, afford no bases for supervisory objection. Where the overall condition of the applicant is satisfactory, the Board in its discretion may waive any specific supervisory objection and approve the branch application. In the absence of unacceptable supervisory or CRA concerns, however, institutions will be able to branch without further agency action.

Summary of Comments

Twenty-six public comment letters were submitted in response to the proposal. Eighteen favored the proposed Board action and eleven objected to eliminating the undue-injury criterion as a basis for one institution to protest a proposed branch office of another insured institution.

Those commenters who favored the Board's proposed action generally maintained that financial institutions have benefited from competition and strongly support deregulation in the financial community. In agreement with the Board, these commenters expressed the view that the marketplace is the best regulator of economic activity and that new branching is most properly a business decision to be decided by each institution's management. Branching has not harmed financial institutions; rather, it was argued, it was one way to stimulate healthy competition. When applications were protested on the ground of undue injury, the primary motivation was often, in reality, an attempt to limit legitimate future competition.

Those commenters opposing elimination of the undue-injury criterion based their protests on several grounds. One view was that by permitting a branch to be established without evaluating "need", "probability of success", or "undue injury", the Board was permitting institutions to circumvent the chartering requirements by enabling them to establish or increase their presence in a community without being newly chartered. Another argument was that some communities already are adequately served and that new branches should therefore be limited so profits of existing institutions will not be diminished. However, as was stated above, the Board, as a matter of policy, favors branching as a means of stimulating competition. The undue-injury requirement was never intended to ensure that individual institutions with a secure place in the community would be guaranteed against the threat of new business and competition in the area.

Another argument against eliminating the undue-injury criterion maintained that FSLIC-assisted "Phoenix" institutions would be able to branch only as a result of government assistance. Therefore, since the competitive effects of the market would not be operating anyway, this would work an unfair hardship on unassisted institutions. In response, it should be noted that unlike independently operated institutions, management decisions of "Phoenix" institutions are scrutinized on a number of levels. A "Phoenix" is required to reduce expenses, close inefficient branches and increase its profitability so that it may again operate without FSLIC assistance. Accordingly, the threat which such entities pose as potential branching competitors is relatively remote.

Technical Amendments

The Board is taking this opportunity to adopt two technical amendments to § 545.15, 12 CFR 545.15, pertaining to change of office location and redesignation of offices. In Board Resolution No. 82-785, dated December 8, 1982 (48 FR 178, 1983), the Board delegated authority to its Principal Supervisory Agents to approve the relocation or redesignation of a federal association's home office. Due to an oversight, correlative authority was not granted to approve an amendment to Section 2 of Federal charters which is required to accomplish such action. Paragraph (h) of that section has been amended accordingly. In addition, paragraph (d) has been renumbered as paragraph (c) to conform to changes made in that Resolution.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the amendments will not have a significant impact on a substantial number of small entities. The regulations eliminate the review for undue injury in the least burdensome and most efficient manner and generally gives subject institutions greater flexibility in their operations. The Board believes that the amendments will benefit small institutions by reducing paperwork and delay but will not have a significant economic impact.

The Board finds that delay of the effective date of the amendments for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unncessary because there is a present need to allow institutions to have the flexibility to be able to branch without being subject to protests based on undue injury, and because the amendment relieves a restriction.

Accordingly, the Board hereby amends Parts 545 and 556 of Subchapter C of Title 12, Code of Federal Regulations, as set forth below.

List of Subjects in 12 CFR Parts 545 and 556

Branching, Savings and Loan Associations, Undue Injury.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Paragraph (e) of § 545.14 is revised as follows:

§ 545.14 Branch offices.

* * * * *

(e) *Approval by the board or the Principal Supervisory Agent.*

(1) The Board shall approve an application only if, in its opinion, the overall policies, condition, and operation of the applicant afford no bases for supervisory objection and the proposed branch will open within 12 months of approval unless otherwise allowed by the Board or the Principal Supervisory Agent. In considering whether to approve an application, the Board will assess and take into account an institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, pursuant to Part 563e of this Chapter; assessment of an institution's record of performance may be the basis for denying an application. An application may also be denied on the basis of restrictions imposed by the Board pursuant to an existing agreement between the Board and a State agency that regulates State-chartered savings and loan associations.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on Part 563e of this Chapter has been filed. Such application shall be deemed to be approved by the Board 30 calendar days after notification that the application is complete, unless the applicant is otherwise notified by the Supervisory Agent that objection has been taken on grounds set forth in subparagraph (1) of this paragraph (e).

* * * * *

2. Amend § 545.15 by redesignating the text of paragraph (b) thereof as paragraph (b)(1) and adding a new paragraph (b)(2) thereto; and redesignating paragraph (d) thereof as paragraph (c) and revising the first sentence of paragraph (c)(2) thereof, as follows:

§ 545.15 Changes of office location and redesignation of offices.

* * * * *

(b) *Processing of application.*

* * * * *

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an amendment to Section 2 of an association's charter in connection with approval of a home office relocation or redesignation under this section.

(c) *Short-distance relocations.*

* * * * *

(2) An association shall notify the Supervisory Agent in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the Supervisory Agent notifies the association that the relocation does not satisfy the criteria in the first sentence of this paragraph (c), in which case the association must file an application and obtain Board approval in accordance with paragraph (b) of this section. * * *

PART 556—STATEMENTS OF POLICY

3. Amend § 556.5 by revising paragraph (b)(1), removing paragraph (d), and redesignating paragraphs (e), (f), (g), (h), (i) and (j) as new paragraphs (d), (e), (f), (g), (h) and (i), respectively, as follows:

§ 556.5 Establishment of branch offices.

* * * * *

(b) *Supervisory clearance.*—(1) *General.* The branching regulations recognize that the decision to branch is a management prerogative. However, in granting supervisory clearance to an

applicant, the Board will consider whether the overall policies, condition, and operation of the applicant are satisfactory and, as a whole, afford no bases for supervisory objection. Where the overall condition of the applicant is satisfactory, the Board in its discretion may waive any specific supervisory objection and approve the branch application.

* * * * *

(c) *Community reinvestment.* * * *
(d) *Protest and oral argument.* * * *
(e) *Basis for approval.* * * *
(f) *Branch openings.* * * *
(g) *Branch closings.* * * *
(h) *Name of branch office.* * * *
(i) *Drive-in and pedestrian offices.*
* * *

(Sec. 5 of the Home Owners' Loan Act, 48 Stat. 132 (12 U.S.C. 1464); secs. 402, 403, and 407 of the National Housing Act, 12 U.S.C 1725, 1726, and 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR Part 1071 (1943–48 Comp.))

Dated: January 20, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2879 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[Procedural Reg. Amdt. No. 69; Reg. PR-257]

Rules of Practice in Board Proceedings; Verification of Complaints in Enforcement Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB clarifies its provisions on the institution of formal enforcement proceedings by the Associate General Counsel, Enforcement Division, to reflect the prior elimination of a requirement that Enforcement Division attorneys must verify formal complaints and other pleadings.

DATES: Adopted: January 27, 1983. Effective: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Michael K. Nolan, Office of the General Counsel, Enforcement Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5943.

SUPPLEMENTARY INFORMATION: 14 CFR 302.206 (Rule 206 of the Board's Rules of Practice), authorizes the Associate General Counsel, Enforcement Division, to institute formal enforcement proceedings whenever that official believes there are reasonable grounds to believe that any provision of the Federal Aviation Act or its related rules, regulations, and orders have been violated or may be violated, and the investigation of the alleged violation(s) is in the public interest. Rule 206(a) requires the Associate General Counsel to institute formal enforcement proceedings by issuing a notice that incorporates by reference a formal complaint, or by issuing a notice accompanied by a complaint that is verified by the attorney in the enforcement Division who signs the complaint.

The requirement that Enforcement Division attorneys verify the complaint and other pleadings that they sign in formal enforcement proceedings was eliminated by the Board in PR–210, 44 FR 46446, August 8, 1979. PR–210 revoked Rule 202 of the Board's Rules of Practice, 14 CFR 302.202, and the Board stated at that time that the verification requirement was unnecessary and outmoded, that verification of such pleadings was not required by the Federal Rules of Civil Procedure or by the Federal Aviation Act, and that the elimination of this requirement would simplify Board procedures and reduce paperwork. Through an oversight, PR–210 did not delete the verification requirement from Rule 206(a) of the Board's Rules of Practice. The Board is now amending Rule 206(a) to reflect the prior elimination of the verification requirement.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and procedure are unnecessary and that the amendment may become effective upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 302

Administrative practice and procedures, Air rates and fares, Authority delegations, Postal service.

PART 302—[AMENDED]

Accordingly, the Civil Aeronautics Board revised 14 CFR Part 302, Rules of Practice in Board Proceedings, as follows.

1. The Authority for 14 CFR Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90, 42 U.S.C. 4321; 84 Stat. 772, 39 U.S.C. 5402.

2. Section 302.206(a) is revised to read:

§ 302.206 Commencement of enforcement proceeding.

(a) Whenever in the opinion of the Associate General Counsel, Enforcement Division, there are reasonable grounds to believe that any provision of the Act, or any rule, regulation, order, limitation, condition, or other requirement established pursuant thereto, has been or is being violated, that, in the case of third-party complaints, efforts to satisfy a complaint insofar as required by § 302.204 have failed, and that the investigation of any or all of the alleged violations is in the public interest, the Associate General Counsel, Enforcement Division may issue a notice instituting a formal enforcement proceeding. The notice shall incorporate by reference a formal complaint submitted pursuant to § 302.201 or shall be accompanied by a complaint by an attorney from the Enforcement Division of the Office of the General Counsel. The notice and accompanying complaint, if any, shall be formally served upon each respondent and each complainant. The proceedings thus instituted shall be processed in regular course in accordance with this part. However, nothing in this part shall be construed to limit the authority of the Board to institute or conduct any investigation or inquiry within its jurisdiction in any other manner or according to any other procedures which it may deem necessary or proper.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2863 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration; Commission Determination To Deny Certain Requests for Exemption

AGENCY: Commodity Futures Trading Commission.

ACTION: Commission determination.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has recently received numerous inquiries on behalf of (1) futures

commission merchants ("FCMs") which are either (i) not members of any contract market or (ii) not members of all the contract markets on which commodity options are currently traded and (2) agents of such FCMs who desire to enter into agency agreements with exchange-member FCMs for the purpose of offering and selling options to the public. (The term "non-member FCM" is used hereafter to encompass both FCMs which are not members of any contract market and FCMs which are not members of all the contract markets which have been designated to trade options.) The subject of these inquiries is the prohibition on dual and multiple associations by associated persons ("APs") contained in Rule 3.12(f) of the Commission's regulations, 17 CFR 3.12(f) (1982), which, absent an exemption, would generally prohibit APs associated with one FCM or agent of an FCM from also being associated with another exchange-member FCM to offer and sell options, and would thus preclude such persons and their employer FCMs or agents from soliciting or accepting option orders by forming an agency relationship with an exchange-member FCM. The Division of Trading and Markets ("Division") is hereby giving notice that upon consideration of this issue which was referred to the Commission, consistent with the Division's delegated authority, the Commission has instructed the Division in exercising such delegated authority to deny all requests for exemptions from Rule 3.12(f) on behalf of "non-member" FCMs and agents of such FCMs which seek dual or multiple associations for their APs for the purpose of offering and selling commodity options to the public.

DATE: Effective February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce A. Beatus, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On November 3, 1981, the Commission published in the **Federal Register** final regulations governing its domestic exchange-traded commodity option pilot program.[1] Rule 33.3(b)(1) of those regulations generally makes it unlawful for any person to solicit or accept orders for the purchase or sale of a commodity option unless that person is (1) a registered FCM which either is a member of (i) the contract market on which the option is traded or (ii) a registered futures association which provides for the regulation of the option-related activities of its members in a manner equivalent to that required of contract markets by the Commission's option regulations or (2) an individual registered as an AP of a specified FCM of the type described above.[2] In the preamble of the **Federal Register** release announcing the adoption of the final regulations governing the option pilot program, the Commission, however, interpreted Rule 33.3(b)(1)(ii) to permit an AP associated with an exchange-member FCM, through an agent, to offer and sell options.[3]

This interpretation was premised on the Commission's longstanding view that "an agent of an FCM [is] the functional equivalent of an associated person." *Id.* (Similarly, a person associated with an agent of an FCM as an AP is necessarily an AP of that FCM.) As such, the Commission emphasized that "[a]n FCM is fully responsible for the acts of its agents and, in particular, must supervise the option sales practices of its agents." *Id.* In this connection, the Commission made clear that the sales practice audits of member FCMs which a contract market designated to trade options (or the designated self-regulatory organization for such contract market) is required to conduct pursuant to Rule 33.4(c), 17 CFR 33.4(c) (1982), must include the activities of the agents of member FCMs and of their APs. *Id.* Consistent with this view, the Commission also indicated at that time that this interpretation was not intended to broaden the scope of the option pilot program by modifying the "members only" restriction which presently limits FCM participation in the offer and sale of commodity options to only those FCMs which are members of the exchange on which the option is traded.

The Commission has recently received numerous inquiries concerning the effect of this interpretation upon the prohibition on dual and multiple associations contained in § 3.12(f) of the Commission regulations, which, absent an exemption, would generally prohibit APs associated with a non-member FCM or agent of such an FCM from also being associated with another exchange-member FCM to offer and sell options and would thus preclude such persons and their employer FCMs or agents from soliciting or accepting option orders by forming an agency relationship with an exchange-member FCM. The Commission, of course, as indicated above, did not intend that persons otherwise precluded from participation in the pilot program by the "members only" restriction could solicit and accept option orders by becoming agents of member firms.

In reponse to the Division's referral of these recent inquiries to the Commission, which was done pursuant to delegated authority granted by Rule 3.12(g)(2)(ii), 17 CFR 3.12(g)(2)(ii)(1982), the Comission has directed its staff to deny generally requests for exemption from Rule 3.12(f) on behalf of non-member FCMs and agents of such FCMs which seek dual or multiple associations for their APs with exchange-member FCMs for the purpose of offering options to the public. Such requests will be denied because (1) the Commission specifically excluded non-member FCMs and agents of such non-member FCMs from soliciting or accepting option orders when the final regulations for the pilot program were adopted; (2) the Commission has represented to Congress on numerous occasions that the pilot program would be so limited and that its ability to regulate the program successfully depended on such a limitation; (3) the status of non-member FCMs as independent business entities may be construed to limit the extent of a member FCM's liability for the acts of an affiliated non-member FCM's sales personnel; (4) the granting of such an exemption would materially complicate the Commission's ability to keep accurate records as to the registration status of individual APs; and (5) obvious difficulties of supervision and inherent possibilities for conflicts of interest would arise if the APs of non-member FCMs or agents of such FCMs were to have more than one sponsor. The limitation on participation in the pilot program to member FCMs and their APs was intended as an integral component of the Commission's regulatory framework for options trading and has been designed to assure the public sufficient protection during the pilot program period.

The Commission believes that this disposition of requests for exemptions from Rule 3.12(f) is entirely consistent with its regulatory program for options trading as well as its previous interpretative positions. Although the

[1] 46 FR 54500. The Commission recently has published regulations in the **Federal Register** which would modify the pilot program to permit the trading of options on physical commodities and also would amend certain other rules which pertain to futures contracts and to options on futures contracts, for purposes of clarification as well as to include appropriate references to option transactions. *See* 47 FR 56996 (December 22, 1982.)

[2] 17 CFR 33.3(b)(1)(1982).

[3] 46 FR 54504 (November 3, 1981). The amendments which the Commission has adopted to govern the trading of options on physicals would not substantively affect this provision.

offer and sale of commodity options is currently limited to member FCMs and their APs, as already noted, Rule 33.3(b) expressly allows non-member FCMs and their APs to engage in the offer and sale of commodity options if they are members of a registered futures association which regulates the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules. In this connection, the National Futures Association ("NFA") has submitted, pursuant to Section 17(j) of the Commodity Exchange Act, as amended, 7 U.S.C. 21(j)(1976), proposed compliance rules governing the solicitation and handling of option accounts by NFA-member FCMs and their sales personnel and option sales practice audit procedures. The Division staff is currently reviewing NFA's submission and anticipates completion of the review process shortly.[4] At such time as NFA rules governing options and the requisite joint audit agreements are approved by the Commission, and NFA implements its program to regulate the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules, any person adversely affected by this decision will be able to solicit and accept option orders as an NFA member. Thus, the restrictions imposed by this determination may be expected to be mitigated in the near future.[5]

[4] The NFA proposal, however, also relies upon the execution of joint audit agreements between the NFA and those exchanges designated or applying for designation to trade options. Although those joint audit agreements must also be approved by the Commission before NFA's option program can become effective, NFA and the participant exchanges have not yet submitted the agreements for Commission review.

[5] Consistent with the Commission's prior interpretation of Rule 33.3, the Commission also notes that a member FCM may decide whether to accept option orders solicited and accepted by the APs of its agents (except by agents which are non-member FCMs or agents of such FCMs), so long as the rules of the relevant contract market permit. In this regard, the Commission wishes to reemphasize the obligations of a member FCM which makes an affirmative decision on this issue, as originally expressed at the time the final option rules were adopted. Specifically, an FCM must assume full responsibility for the acts of such agents and, in particular, must supervise the option sales practices of their APs. Further, a member FCM may not accept option orders from non-member FCMs or agents of non-member FCMs which were solicited and accepted in violation of Rule 33.3(b)(1), as interpreted by the Commission. Similarly, contract markets which have option sales practices audit programs are reminded that they have represented that they will carefully monitor participation by agents of member FCMs in the pilot program to ensure that their activities are conducted in conformity with the foregoing limitations and obligations.

Issued in Washington, D.C. on January 26, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2682 Filed 2-1-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7832]

Income Tax; Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Foreign Investment in United States Real Property

Correction

In FR Doc. 82-25829, beginning on page 41532, in the issue of Tuesday, September 21, 1982, on page 41536, in the first column, in the second line, "June 21, 1982." should read "June 21, 1983."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 65

National Historic Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: These regulations set forth the Secretary of the Interior's criteria for national significance and the process used to identify, designate, recognize and monitor the integrity of National Historic Landmarks. This final rule incorporates revisions required by the National Historic Preservation Act Amendments of 1980 Pub. L. 96-515 ("Amendments"), and updates and revises in other minor respects the National Historic Landmark procedures based in part on comments received in response to publication of prior regulations. The regulations make available to Federal agencies, State and local governments, private organizations, and individuals information necessary for understanding of and participation in the National Historic Landmarks Program.

DATES: Final rule effective February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Edwin C. Bearss, Chief, History Division (202) 523-0089. Address: Chief, History Division, National Park Service, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The National Historic Landmarks Program, administered by the National Park Service, is the program of the Department of the Interior for identifying, designating, recognizing, listing, and monitoring National Historic Landmarks. Two offices in the national Park Service cooperate in managing the program: the Office of the Associate Director, Cultural Resources Management, through the History Division, manages the functions of identifying, designating and recognizing landmarks; the Office of the Associate Director for National Register Programs lists landmarks on the National Register of Historic Places and monitors their condition. The program provides limited protection to historic properties and assists the planning needs of Federal, State and local agencies and private organizations and individuals because it is the primary Federal means of assessing the national level of significance of historic properties, including those proposed for inclusion in the National Park System and for addition to the World Heritage List. Authority for the National Historic Landmarks Program is derived from the historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 *et seq.*), which established a national policy to preserve "historic sites, buildings, and objects of national significance," and the National Historic Preservation Act Amendments of 1980 (Amendments).

Interim rules for the National Historic Landmarks Program were published in the **Federal Register** on December 18, 1979, 44 FR 74828, with a request for comments. The December 18, 1979 interim rules are replaced by the final rules published today. Responses to the publication of the December 18, 1979 interim rules indicate the wide range of parties participating in the Landmarks Program, including State Historic Preservation Officers, other State and Federal agencies, university faculties, business firms, private organizations and individuals. On December 12, 1980, the Amendments became law necessitating revisions in the National Historic Landmark designation process. The Amendments require the Secretary of the Interior to promulgate or revise regulations for the following:

(a) Establishing and revising criteria for National Historic Landmarks;

(b) Designating properties as National Historic Landmarks and removing such designations;

(c) Considering appeals from such nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(d) Notifying the owner of a property, appropriate local governments and the general public, when the property is being considered for designation as a National Historic Landmark;

(e) Notifying the owners of private property and providing them an opportunity (including a reasonable period of time) to concur in or object to the nomination of the property or district for designation;

(f) Reviewing the nomination of the property or district where any such objection has been made, determining whether or not the property or district is eligible for designation, and informing the Advisory Council on Historic Preservation, the appropriate State official, the appropriate chief elected local official and the owner or owners of such property of the Secretary's determination; and,

(g) In the case of National Historic Landmark districts for which no boundaries have been established, publishing proposed boundaries in the **Federal Register** and submitting them to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

The Amendments require the Secretary to send any proposed regulations published thereunder to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before publication in the **Federal Register** for comment, and to send final regulations to Congress before publication.

In addition to the changes required by the Amendments, these final regulations reflect comments made in response to the December 18, 1979 interim regulations. Since the issuance of the December 18, 1979 interim regulations, the Heritage Conservation and Recreation Service (HCRS) has been abolished and the National Historic Landmarks Program transferred to the National Park Service (NPS). Comments received often refer to the Consulting Committee which was a review board proposed to examine and make professional recommendations to the Director (HCRS) and the Secretary of the Interior regarding the qualifications of nominated National Historic Landmarks. With the transfer of the program to the National Park Service, these regulations substitute the National Park System Advisory Board for the Consulting Committee.

Summary of comments and response to comments on the December 18, 1979 interim regulations:

One State urged that a specific system be established for nominations by State Historic Preservation Officers. The National Park Service also emphasized that National Historic Landmarks should be selected primarily on the basis of theme studies because of the importance of comparative analysis. Both of these concerns are incorporated into the priorities for selecting studies established in these regulations.

Several comments were received concerning the composition of the Consulting Committee and the role of the Committee. One comment suggested that designation by the Secretary without Consulting Committee review should be provisional and should require Committee concurrence within a specified period of time. Another comment recommended that the Committee include expertise in both historic and prehistoric archeology. As a result, the regulations have been made more specific concerning when and how the Secretary may designate National Historic Landmarks without National Park System Advisory Board review.

Several private companies expressed concerns about the effects of designation. One company interpreted the Historic Sites Act to mean that the Department of the Interior must obtain an interest in a property before designation. The Department does not agree with this interpretation of the act. The same company expressed concern that the owners were giving up some right in their property. Under Federal law, National Historic Landmark designation of a private property does not prohibit any actions which may otherwise be taken by the owner with respect to the property.

Others suggested that the role of the Director in the designation process should be clarified. This has been done in the regulations. One comment also urged that NPS should assure that all National Historic Landmark studies, public meetings, etc., should be carried out by NPS or with an NPS representative present. While this concern is not addressed in the regulations, NPS will assure that there is adequate NPS oversight of all aspects of the program.

One comment expressed concern that some aspects of the National Historic Landmark criteria are too broad, for example, the references to movements, ideals, beliefs and phenomena. The regulations make clear that the criteria are the general standards for evaluation of national significance; however, NPS emphasizes that the significance of each property must be evaluated on the basis of a thorough and detailed scholarly study.

The notification procedures before designation were the subject of a number of comments. One State Historic Preservation Officer recommended that State Historic Preservation Officers always participate in public meetings. Although this is not addressed in the regulations, NPS always welcomes State Historic Preservation Officers' participation in public meetings as well as in other aspects of the program.

Other comments recommended that additional parties be notified, as well as those included in the interim regulations. Because notice is costly, NPS can routinely notify only a certain number of parties as part of the nomination process.

A number of comments recommended revising the registration section. Some comments recommended that certificates be presented to all National Historic Landmarks. This has been included. Others recommended that plaques not be presented unless the recipients are willing to publicly display them. This has been included. Another comment questioned getting owners to sign a preservation agreement which is not binding. Based on these comments the registration aspect of the program has been substantially revised.

To fulfill the requirements of the Amendments and on the basis of the comments received on the December 18, 1979 interim regulations, substantive revisions have been made in the sections of the regulations listed below:

Section 65.2. A new section on the effects of designation has been added.

Section 65.4. The National Historic Landmark Criteria, Section 1205.9 in the December 18, 1979 interim rules (reprinted as 36 CFR Part 65 in 1981 to reflect the reorganization of HCRS into NPS) have been moved to a new position to emphasize their importance as the basis for all decisions on landmark designation. These criteria were revised following consultation with historical and archeological associations, the History Areas Committee of the National Park System Advisory Board and the National Register. As a result, the revised criteria herein have been substituted for those of the 1979 rules. With some changes, these are the criteria used by the National Historic Landmarks Program before the 1979 rules. They are less cumbersome and more closely parallel with the criteria of the National Register (36 CFR Part 60).

Section 65.5. New language has been inserted to clarify the method and priorities used to identify prospective landmarks, to assure general understanding of how National Historic Landmark studies are scheduled, and to define the role of the appropriate State officials, Federal agencies and other parties in that process.

The Department receives numerous requests to designate properties as National Historic Landmarks from State officials, property owners and others. The requests to study and designate such properties far exceed the funds and staff available to the Department for the conduct of the program. National Historic Landmarks will, with rare exceptions, be identified on the basis of theme studies which provide the contextual framework to evaluate the relative significance of properties. The theme studies, which organize the study of American history, and special studies for properties not in active theme studies will be conducted according to priorities established herein.

State and Federal agencies evaluate, document, and nominate significant historic properties to the National Register of Historic Places, under the authorities of the National Historic Preservation Act of 1966, as amended, and Executive Order 11593. Their efforts are one basis for establishing National Historic Landmark Program priorities and assist in avoiding duplication of effort.

Section 65.5(c)(2). This paragraph has been modified to state that onsite visits will be required unless NPS determines such a visit is not necessary and to indicate that NPS may conduct a public information meeting for properties with more than 50 owners and will do so for such a property upon request by the chief elected official of the local, county or municipal political jurisdiction in which the property is located. This section also provides that properties on which the onsite visit was conducted before the effective date of these regulations are not subject to the notice provisions announcing that a study is being conducted.

Section 65.5(c)(4). New language has been added to identify minimum requirements for the study report or nomination for each prospective landmark.

Section 65.5(d)(5). This paragraph has been modified to provide owners an opportunity to concur in or object to designation and to specify how a statement of objection shall be transmitted to NPS.

Section 65.5(e)(2). New language has been added to provide that studies submitted to the Consulting Committee or National Park System Advisory Board before the effective date of these regulations need not be resubmitted to the National Park System Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide at least 30 days notice, a copy of the study report, and an opportunity to comment, and, for owners, an opportunity to concur in or object to the designation as specified in § 65.5(d) (2) and (3), before submitting a property to the Secretary for designation.

Section 65.5(e)(3). New language has been added to clarify the role of the Director in the evaluation and designation of landmarks.

Section 65.5(f). New language has been added to provide that if the owners of private property or for a district the majority of such owners have objected to the designation, the Secretary shall make a determination of a property's eligibility for National Historic Landmark designation, as required by the Amendments. The paragraph also establishes that the Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but do meet the National Register criteria for State or local significance or determine such properties eligible for listing if the private owners or a majority of such owners object to listing.

Section 65.5(g). This paragraph describes the notices which NPS will provide concerning designations, determinations of eligibility for designation or other actions taken by the Secretary.

Section 65.5(h). New language has been added to clarify when the Secretary may designate National Historic Landmarks without review by the National Park System Advisory Board and to identify notification procedures and other procedural steps to be followed in the designation of landmarks without Advisory Board review.

Section 65.6. Landmark Registration has been redefined as Landmark Recognition; this change will eliminate potential confusion between "Registered" Landmarks and National Register properties.

Section 65.8(d)(1). A new provision is added that in the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the **Federal Register** for comment and submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives to allow not less than 30 nor more than 60 days to comment on the proposed boundaries.

Section 65.9(a). New language expands the potential justification for withdrawals of landmark designation from three to four, including alternation of kind or degree of significance because of previously undiscovered information and reevaluation of the theme under which the designation was originally granted.

Section 65.9(b). This section specifies that properties designated as National Historic Landmarks before enactment of the Amendments, December 13, 1980, can only be designated if they have ceased to meet the criteria for designation because the qualities which caused them to be originally designated have been lost or destroyed. This provision is consistent with the Amendments' "grandfathering" all historic properties listed as National Historic Landmarks in the **Federal Register** of February 8, 1979 or thereafter prior to the effective date of the Amendments, and with the Congressional committee reports on the Amendments which recognize that the Secretary may dedesignate properties which have lost the historic qualities for which they were designated.

Section 65.9(c). A process is established for appeals for dedesignation.

Section 65.9(e). New language provides for possible continued National Register listing when a landmark designation is withdrawn and automatic National Register eligibility when designation is withdrawn because of procedural error.

Section 65.10. A new section has been added which establishes a formal process for appealing decisions not to designate a property a National Historic Landmark.

These substantive revisions are accompanied by minor changes in language throughout the regulations for purposes of clarity and consistency. The Department of the Interior emphasizes that the National Historic Landmark criteria constitute the standards against which all prospective landmarks are measured. These criteria do not contain a specific definition of significance. Instead, they are purposely worded to create a qualitative framework that can be applied to the wide variety of properties of national significance. The basis for designation of properties as landmarks is a scholarly, professional analysis of the historical documentation for each property and of the property's

relative significance within a major field or theme of American history or prehistory.

The Department of the Interior has given particular attention to the need for expanded public participation in the National Historic Landmark designation process. Notification requirements have been set which will insure that property owners, appropriate State officials, local governments, Members of Congress, and other interested parties will have ample opportunity to participate in the National Historic Landmarks Program.

Authority: This rulemaking is developed under the authority of the Historic Sites Act of 1935, 16 U.S.C. 461 *et seq.*, and the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.).* These revisions are procedural, not substantive. They tell the public how properties are nominated for designation as National Historic Landmarks and because they are procedural only they have no significant economic effect on small entities.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C 3501 *et seq.*

Since this rule has to do only with the procedural aspects of the National Historic Landmarks Program and does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 an environmental impact statement is not required.

List of Subjects in 36 CFR Part 65

Historic preservation.

The originator of these procedures is Benjamin Levy, History Division, National Park Service.

Dated: October 19, 1982.

Ric Davidge,

Acting Assistant Secretary, Fish and Wildlife and Parks.

(16 U.S.C. 461 *et seq.*; 16 U.S.C. 470 *et seq.*)

Accordingly 36 CFR Part 65 is revised to read as follows:

PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

Sec.

Authority: 16 U.S.C. 461 et seq., 16 U.S.C. 470 et seq.

§ 65.1 Purpose and authority.

The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States. These regulations set forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Program.

(a) In the Historic Sites Act of 1935 (45 Stat. 666, 16 U.S.C. 461 *et seq.*) the Congress declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States and

(b) To implement the policy, the Act authorizes the Secretary of the Interior to perform the following duties and functions, among others:

(1) To make a survey of historic and archeological sites, buildings and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States;

(2) To make necessary investigations and researches in the United States relating to particular sites, buildings or objects to obtain true and accurate historical and archeological facts and information concerning the same; and

(3) To erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archeological significance.

(c) The National Park Service (NPS) administers the National Historic Landmarks Program on behalf of the Secretary.

§ 65.2 Effects of designation.

(a) The purpose of the National Historic Landmarks Program is to focus attention on properties of exceptional value to the nation as a whole rather than to a particular State or locality. The program recognizes and promotes the preservation efforts of Federal, State and local agencies, as well as of private organizations and individuals and encourages the owners of landmark properties to observe preservation precepts.

(b) Properties designated as National Historic Landmarks are listed in the National Register of Historic Places upon designation as National Historic Landmarks. Listing of private property on the National Register does not prohbit under Federal law or regulations any actions which may otherwise be taken by the property owner with respect to the property.

(c) Specific effects of designation are:

(1) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended. The Advisory Council has adopted procedures concerning, *inter alia,* their commenting responsibility in 36 CFR Part 800.

(2) Section 110(f) of the National Historic Preservation Act of 1966, as amended, requires that before approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council a reasonable opportunity to comment on the undertaking.

(3) Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid and loan guarantees (when implemented) for historic preservation.

(4) If a property is listed in the National Register, certain special Federal income tax provisions may apply to the owners of the property pursuant to Section 2124 of the Tax Reform Act of 1976, the Economic Recovery Tax Act of 1981 and the Tax Treatment Extension Act of 1980.

(5) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining and Control Act of 1977 require consideration of a property's historic values in determining issuance of a surface coal mining permit.

(6) Section 8 of the National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1–5), directs the Secretary to prepare an

annual report to Congress which identifies all National Historic Landmarks that exhibit known or anticipated damage or threats to the integrity of their resources. In addition, National Historic Landmarks may be studied by NPS for possible recommendation to Congress for inclusion in the National Park System.

(7) Section 9 of the Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980) directs the Secretary of the Interior to submit to the Advisory Council a report on any surface mining activity which the Secretary has determined may destroy a National Historic Landmark in whole or in part, and to request the advisory Council's advice on alternative measures to mitigate or abate such activity.

§ 65.3 Definitions.

As used in this rule:

(a) "Advisory Council" means the Advisory Council on Historic Preservation, established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*). Address: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

(b) "Chief elected local official" means the mayor, county judge or otherwise titled chief elected administrative official who is the elected head of the local political jurisdiction in which the property is located.

(c) "Advisory Board" means the National Park System Advisory Board which is a body of authorities in several fields of knowledge appointed by the Secretary under authority of the Historic Sites Act of 1935, as amended.

(d) "Director" means Director, National Park Service.

(e) "District" means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(f) "Endangered property" means a historic property which is or is about to be subjected to a major impact that will destroy or seriously damage the resources which make it eligible for National Historic Landmark designation.

(g) "Federal Preservation Officer" means the official designated by the head of each Federal agency responsible for coordinating that agency's activities under the National Historic Preservation Act of 1966, as amended, including nominating properties under that agency's ownership or control to the National Register.

(h) "Keeper" means the Keeper of the National Register of Historic Places.

(i) "Landmark" means National Historic Landmark and is a district, site, building, structure or object, in public or private ownership, judged by the Secretary to possess national significance in American history, archeology, architecture, engineering and culture, and so designated by him.

(j) "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture, maintained by the Secretary. (Section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and Section 101(a)(1) of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470), as amended.) (Address: Chief, Interagency Resource Management Division, 440 G Street NW, Washington, DC 20243.)

(k) "National Historic Landmarks Program" means the program which identifies, designates, recognizes, lists, and monitors National Historic Landmarks conducted by the Secretary through the National Park Service. (Address: Chief, History Division, National Park Service, Washington, DC 20240; addresses of other participating divisions found throughout these regulations.)

(l) "Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(m) "Owner" or "owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. "Owner" or "owners" does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

(n) "Property" means a site, building, object, structure or a collection of the above which form a district.

(o) "Secretary" means the Secretary of the Interior.

(p) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

(q) "State official" means the person who has been designated in each State to administer the State Historic Preservation Program.

(r) "Structure" means a work made by human beings and composed of interdependent and interrelated parts in a definite pattern of organization.

§ 65.4 National Historic Landmark criteria.

The criteria applied to evaluate properties for possible designation as National Historic Landmarks or possible determination of eligibility for National Historic Landmark designation are listed below. These criteria shall be used by NPS in the preparation, review and evaluation of National Historic Landmark studies. They shall be used by the Advisory Board in reviewing National Historic Landmark studies and preparing recommendations to the Secretary. Properties shall be designated National Historic Landmarks only if they are nationally significant. Although assessments of national significance should reflect both public perceptions and professional judgments, the evaluations of properties being considered for landmark designation are undertaken by professionals, including historians, architectural historians, archeologists and anthropologists familiar with the broad range of the nation's resources and historical themes The criteria applied by these specialists to potential landmarks do not define significance nor set a rigid standard for quality. Rather, the criteria establish the qualitative framework in which a comparative professional analysis of national significance can occur. The final decision on whether a property possesses national significance is made by the Secretary on the basis of documentation including the comments and recommendations of the public who participate in the designation process.

(a) Specific Criteria of National Significance: The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling and association, and:

(1) That are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

(2) That are associated importantly with the lives of persons nationally significant in the history of the United States; or

(3) That represent some great idea or ideal of the American people; or

(4) That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or

(5) That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

(6) That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.

(b) Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties that have achieved significance within the past 50 years are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

(1) A religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or

(2) A building or structure removed from its original location but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or

(3) A site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or

(4) A birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or

(5) A cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or

(6) A reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or

(7) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or

(8) A property achieving national significance within the past 50 years if it is of extraordinary national importance.

§ 65.5 Designation of National Historic Landmarks.

Potential National Historic Landmarks are identified primarily by means of theme studies and in some instances by special studies. Nominations and recommendations made by the appropriate State officials, Federal Preservation Officers and other interested parties will be considered in scheduling and conducting studies.

(a) *Theme studies.* NPS defines and systematically conducts organized theme studies which encompass the major aspects of American history. The theme studies provide a contextual framework to evaluate the relative significance of historic properties and determine which properties meet National Historic Landmark criteria. Theme studies will be announced in advance through direct notice to appropriate State officials, Federal Preservation Officers and other interested parties and by notice in the **Federal Register.** Within the established thematic framework, NPS will schedule and conduct National Historic Landmark theme studies according to the following priorities. Themes which meet more of these priorities ordinarily will be studied before those which meet fewer of the priorities:

(1) Theme studies not yet begun as identified in "History and Prehistory in the National Park System," 1982.

(2) Theme studies in serious need of revision.

(3) Theme studies which relate to a significant number of properties listed in the National Register bearing opinions of State Historic Preservation Officers and Federal Preservation Officers that such properties are of potential national significance. (Only those recommendations which NPS determines are likely to meet the landmarks criteria will be enumerated in determining whether a significant number exists in a theme study.)

(4) Themes which reflect the broad planning needs of NPS and other Federal agencies and for which the funds to conduct the study are made available from sources other than the regularly programmed funds of the National Historic Landmarks Program.

(b) *Special Studies.* NPS will conduct special studies for historic properties outside of active theme studies according to the following priorities:

(1) Studies authorized by Congress or mandated by Executive Order will receive the highest priority.

(2) Properties which NPS determines are endangered and potentially meet the National Historic Landmarks criteria, whether or not the theme in which they are significant has been studied.

(3) Properties listed in the National Register bearing State or Federal agency recommendations of potential national significance where NPS concurs in the evaluation and the property is significant in a theme already studied.

(c)(1) When a property is selected for study to determine its potential for designation as a National Historic Landmark, NPS will notify in writing, except as provided below, (i) the owner(s), (ii) the chief elected local official, (iii) the appropriate State official, (iv) the Members of Congress who represent the district and State in which the property is located, and, (v) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, that it will be studied to determine its potential for designation as a National Historic Landmark. This notice will provide information on the National Historic Landmarks Program, the designation process and the effects of designation.

(2) When the property has more than 50 owners, NPS will notify in writing (i) the chief elected local official, (ii) the appropriate State official, (iii) the Members of Congress who represent the district and State in which the property is located, and, (iv) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, and (v) provide general notice to the property owners. This general notice will be published in one or more local newspapers of general circulation in the area in which the potential National Historic Landmark is located and will provide information on the National Historic Landmarks Program, the designation process and the effects of designation. The researcher will visit each property selected for study unless it is determined that an onsite investigation is not necessary. In the case of districts with more than 50 owners NPS may conduct a public information meeting if widespread

public interest so warrants or on request by the chief elected local official.

(3) Properties for which a study was conducted before the effective date of these regulations are not subject to the requirements of paragraph (c) (1) and (2) of this section.

(4) The results of each study will be incorporated into a report which will contain at least (i) a precise description of the property studied; and (ii) an analysis of the significance of the property and its relationship to the National Historic Landmark criteria.

(d)(1) Properties appearing to qualify for designation as National Historic Landmarks will be presented to the Advisory Board for evaluation except as specified in subsection (h) of this section.

(2) Before the Advisory Board's review of a property, NPS will provide written notice of this review, except as provided below, and a copy of the study report to (i) the owner(s) of record; (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the property is located; and, (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe. The list of owners shall be obtained from official land or tax record, whichever is most appropriate, within 90 days prior to the notification of intent to submit to the Advisory Board. If in any State the land or tax record is not the appropriate list an alternative source of owners may be used. NPS is responsible for notifying only those owners whose names appear on the list. Where there is more than one owner on the list each separate owner shall be notified.

(3) In the case of a property with more than 50 owners, NPS will notify, in writing, (i) the appropriate State official; (ii) the chief elected local official; (iii) the Members of Congress who represent the district and State in which the property is located; (iv) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe; and, (v) will provide general notice to the property owners. The general notice will be published in one or more local newspapers of general circulation in the area in which the property is located. A copy of the study report will be made available on request. Notice of Advisory Board review will also be published in the **Federal Register.**

(4) Notice of Advisory Board review will be given at least 60 days in advance of the Advisory Board meeting. The notice will state date, time and location of the meeting; solicit written comments and recommendations on the study report; provide information on the National Historic Landmarks Program, the designation process and the effects of designation and provide the owners of private property not more than 60 days in which to concur in or object in writing to the designation. Notice of Advisory Board meetings and the agenda will also be published in the **Federal Register.** Interested parties are encouraged to submit written comments and recommendations which will be presented to the Advisory Board. Interested parties may also attend the Advisory Board meeting and upon request will be given an opportunity to address the Board concerning a property's significance, integrity and proposed boundaries.

(5) Upon notification, any owner of private property who wishes to object shall submit to the Chief, History Division, a notarized statement that the party is the sole or partial owner of record of the property, as appropriate, and objects to the designations. Such notice shall be submitted during the 60-day commenting period. Upon receipt of notarized objections respecting a district or an individual property with multiple ownership it is the responsibility of NPS to ascertain whether a majority of owners have so objected. If an owner whose name did not appear on the list certifies in a written notarized statement that the party is the sole or partial owner of a nominated private property such owner shall be counted by NPS in determining whether a majority of owners has objected. Each owner of private property in a district has one vote regardless of how many properties or what part of one property that party owns and regardless of whether the property contributes to the significance of the district.

(6) The commenting period following notification can be waived only when all property owners and the chief elected local official have agreed in writing to the waiver.

(e)(1) The Advisory Board evalutes such factors as a property's significance, integrity, proposed boundaries and the professional adequancy of the study. If the Board finds that these conditions are met, it may recommend to the Secretary that a property be designated or declared eligible for designation as a National Historic Landmark. If one or more of the conditions are not met, the Board may recommend that the property not be designated a landmark or that consideration of it be deferred for further study, as appropriate. In making its recommendation, the Board shall state, if possible, whether or not it finds that the criteria of the landmarks program have been met. A simple majority is required to make a recommendation of designation. The Board's recommendations are advisory.

(2) Studies submitted to the Advisory Board (or the Consulting Committee previously under the Heritage Conservation and Recreation Service) before the effective date of these regulations need not be resubmitted to the Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide notice and a copy of the study report to the parties as specified in subsections (d)(2) and (3) of this section and will provide at least 30 days in which to submit written comments and to provide an opportunity for owners to concur in or object to the designation.

(3) The Director reviews the study report and the Advisory Board recommendations, certifies that the procedural requirements set forth in this section have been met and transmits the study reports, the recommendations of the Advisory Board, his recommendations and any other recommendations and comments received pertaining to the properties to the Secretary.

(f) The Secretary reviews the nominations, recommendations and any comments and, based on the criteria set forth herein, makes a decision on National Historic Landmark designation. Properties that are designated National Historic Landmarks are entered in the National Register of Historic Places, if not already so listed.

(1) If the private owner or, with respect to districts or individual properties with multiple ownership, the majority of such owners have objected to the designation by notarized statements, the Secretary shall not make a National Historic Landmark designation but shall review the nomination and make a determination of its eligibility for National Historic Landmark designation.

(2) The Secretary may thereafter designate such properties as National Historic Landmarks only upon receipt of notarized statements from the private owner (or majority of private owners in the event of a district or a single property with multiple ownership) that they do not object to the designation.

(3) The Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but which do meet the National Register criteria for evaluation in 36 CFR Part 60 or determine such properties eligible for the National Register if the private owners or majority of such owners in

the case of districts object to designation. A property determined eligible for National Historic Landmark designation is determined eligible for the National Register.

(g) Notice of National Historic Landmark designation, National Register listing, or a determination of eligibility will be sent in the same manner as specified in subsections (d)(2) and (3) of this section. For properties which are determined eligible the Advisory Council will also be notified. Notice will be published in the **Federal Register.**

(h)(1) The Secretary may designate a National Historic Landmark without Advisory Board review through accelerated procedures described in this section when necessary to assist in the preservation of a nationally significant property endangered by a threat of imminent damage or destruction.

(2) NPS will conduct the study and prepare a study report as described in subsection (c)(4) of this section.

(3) If a property appears to qualify for designation, the National Park Service will provide notice and a copy of the study report to the parties specified in subsections (d)(2) and (3) and will allow at least 30 days for the submittal of written comments and to provide owners of private property an opportunity to concur in or object to designation as provided in subsection (d)(5) of this section except that the commenting period may be less than 60 days.

(4) The Director will review the study report and any comments, will certify that procedural requirements have been met, and will transmit the study report, his and any other recommendations and comments pertaining to the property to the Secretary.

(5) The Secretary will review the nomination and recommendations and any comments and, based on the criteria set forth herein, make a decision on National Historic Landmark designation or a determination of eligibility for designation if the private owners or a majority of such owners of historic districts object.

(6) Notice of National Historic Landmark designation or a determination of eligibility will be sent to the same parties specified in subsections (d)(2) and (3) of this section.

§ 65.6 Recognition of National Historic Landmarks.

(a) Following designation of a property by the Secretary as a National Historic Landmark, the owner(s) will receive a certificate of designation. In the case of a district, the certificate will be delivered to the chief elected local official or other local official, or to the chief officer of a private organization involved with the preservation of the district, or the chief officer of an organization representing the owners of the district, as appropriate.

(b) NPS will invite the owner of each designated National Historic Landmark to accept, free of charge, a landmark plaque. In the case of a district, the chief elected local official or other local official, or the chief officer of an organization involved in the preservation of the district, or chief officer of an organization representing the owners of the district, as appropriate, may accept the plaque on behalf of the owners. A plaque will be presented to properties where the appropriate recipient(s) (from those listed above) agrees to display it publicly and appropriately.

(c) The appropriate recipient(s) may accept the plaque at any time after designation of the National Historic Landmark. In so doing owners give up none of the rights and privileges of ownership or use of the landmark property nor does the Department of the Interior acquire any interest in property so designated.

(d) NPS will provide one standard certificate and plaque for each designated National Historic Landmark. The certificate and plaque remain the property of NPS. Should the National Historic Landmark designation at any time be withdrawn, in accordance with the procedures specified in § 65.9 of these rules, or should the certificate and plaque not be publicly or appropriately displayed, the certificate and the plaque, if issued, will be reclaimed by NPS.

(e) Upon request, and if feasible, NPS will help arrange and participate in a presentation ceremony.

§ 65.7 Monitoring National Historic Landmarks.

(a) NPS maintains a continuing relationship with the owners of National Historic Landmarks. Periodic visits, contacts with State Historic Preservation Officers, and other appropriate means will be used to determine whether landmarks retain their integrity, to advise owners concerning accepted preservation standards and techniques and to update administrative records on the properties.

(b) Reports of monitoring activities form the basis for the annual report submitted to Congress by the Secretary of the Interior, as mandated by Section 8, National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1a–5). The Secretary's annual report will identify those National Historic Landmarks which exhibit known or anticipated damage or threats to their integrity. In evaluating National Historic Landmarks for listing in the report, the seriousness and imminence of the damage or threat are considered, as well as the integrity of the landmark at the time of designation taking into account the criteria in Section 65.4.

(c) As mandated in Section 9, Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980), whenever the Secretary of the Interior finds that a National Historic Landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for, removal or production of minerals or materials, the Secretary shall (1) notify the person conducting such activity of that finding; (2) submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a National Historic Landmark, to the Advisory Council; and (3) request from the Council advice as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(d) Monitoring activities described in this section, including the preparation of the mandated reports to Congress and the Advisory Council are carried out by NPS regional offices under the direction of the Preservation Assistance Division, NPS [Address: Chief, Resource Assistance Division, National Park Service, 440 G Street NW, Washington, DC 20243] in consultation with the History Division, NPS.

§ 65.8 Alteration of National Historic Landmark boundaries.

(a) *Two justifications exist for enlarging the boundary of a National Historic Landmark:* Documentation of previously unrecognized significance or professional error in the original designation. Enlargement of a boundary will be approved only when the area proposed for addition to the National Historic Landmark possesses or contributes directly to the characteristics for which the landmark was designated.

(b) *Two justifications exist for reducing the boundary of a National Historic Landmark:* Loss of integrity or professional error in the original designation. Reduction of a boundary will be approved only when the area to be deleted from the National Historic Landmark does not possess or has lost the characteristics for which the landmark was designated.

(c) A proposal for enlargement or reduction of a National Historic Landmark boundary may be submitted

to or can originate with the History Division, NPS. NPS may restudy the National Historic Landmark and subsequently make a proposal, if appropriate, in the same manner as specified in § 65.5 (c) through (h). In the case of boundary enlargements only those owners in the newly nominated but as yet undesignated area will be notified and will be counted in determining whether a majority of private owners object to listing.

(d)(1) When a boundary is proposed for a National Historic Landmark for which no specific boundary was identified at the time of designation, NPS shall provide notice, in writing, of the proposed boundary to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located, and (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe, and shall allow not less than 30 nor more than 60 days for submitting written comments on the proposal. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used. In the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the **Federal Register** for comment and be submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives and not less than 30 nor more than 60 days shall be provided for the submittal of written comments on the proposed boundaries.

(2) The proposed boundary and any comments received thereon shall be submitted to the Associated Director for National Register Programs, NPS, who may approve the boundary without reference to the Advisory Board or the Secretary.

(3) NPS will provide written notice of the approved boundary to the same parties specified in subsection (d)(1) of this section and by publication in the **Federal Register.**

(4) Management of the activities described in (d)(1), (2), and (3) is handled by the National Register of Historic Places, NPS, [Address: National Register of Historic Places, National Park Service, Department of the Interior, Washington, DC 20240].

(e) A technical correction to a boundary may be approved by the Chief, History Division, without Advisory Board review or Secretarial approval. NPS will provide notice, in writing, of any technical correction in a boundary to the same parties specified in (d)(1).

§ 65.9 Withdrawal of National Landmark designation.

(a) National Historic Landmarks will be considered for withdrawal of designation only at the request of the owner or upon the initiative of the Secretary.

(b) Four justifications exist for the withdrawal of National Historic Landmark designation:

(1) The property has ceased to meet the criteria for designation because the qualities which caused it to be originally designated have been lost or destroyed, or such qualities were lost subsequent to nomination, but before designation;

(2) Additional information shows conclusively that the property does not possess sufficient significance to meet the National Historic Landmark criteria;

(3) Professional error in the designation; and

(4) Prejudicial procedural error in the designation process.

(c) Properties designated as National Historic Landmarks before December 13, 1980, can be dedesignated only on the grounds established in subsection (a)(1) of this section.

(d) The owner may appeal to have a property dedesignated by submitting a request for dedesignation and stating the grounds for the appeal as established in subsection (a) to the Chief, History Division, National Park Service, Department of the Interior, Washington, DC 20240. An appellant will receive a response within 60 days as to whether NPS considers the documentation sufficient to initiate a restudy of the landmark.

(e) The Secretary may initiate a restudy of a National Historic Landmark and subsequently a proposal for withdrawal of the landmark designation as appropriate in the same manner as a new designation as specified in § 65.5 (c) through (h). Proposals will not be submitted to the Advisory Board if the grounds for removal are procedural, although the Board will be informed of such proposals.

(f)(1) The property will remain listed in the National Register if the Keeper determines that it meets the National Register criteria for evalution in 36 CFR 60.4, except if the property is redesignated on procedural grounds.

(2) Any property from which designation is withdrawn because of a procedural error in the designation process shall automatically be considered eligible for inclusion in the National Register as a National Historic Landmark without further action and will be published as such in the **Federal Register.**

(g)(1) The National Park Service will provide written notice of the withdrawal of a National Historic Landmark designation and the status of the National Register listing, and a copy of the report on which those actions are based to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located; and (v) if the landmark is located on an Indian reservation, the chief executive officer of the Indian tribe. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used.

(2) Notice of withdrawal of designation and related National Register listing and determinations of eligibility will be published periodically in the **Federal Register.**

(h) Upon withdrawal of a National Historic Landmark designation, NPS will reclaim the certificate and plaque, if any, issued for that landmark.

(i) An owner shall not be considered as having exhausted administrative remedies with respect to dedesignation of a National Historic Landmark until after submitting an appeal and receiving a response from NPS in accord with these procedures.

§ 65.10 Appeals for designation.

(a) Any applicant seeking to have a property designated a National Historic Landmark may appeal, stating the grounds for appeal, directly to the Director, National Park Service, Department of the Interior, Washington, DC 20240, under the following circumstances.

Where the applicant—

(1) Disagrees with the initial decision of NPS that the property is not likely to meet the criteria of the National Historic Landmarks Program and will not be submitted to the Advisory Board; or

(2) Disagrees with the decision of the Secretary that the property does not meet the criteria of the National Historic Landmarks Program.

(b) The Director will respond to the appellant within 60 days. After reviewing the appeal the Director may: (1) deny the appeal; (2) direct that a National Historic Landmark nomination be prepared and processed according to the regulations if this has not yet occurred; or (3) resubmit the nomination to the Secretary for reconsideration and final decision.

(c) Any person or organization which supports or opposes the consideration of a property for National Historic

Landmark designation may submit an appeal to the Director, NPS, during the designation process either supporting or opposing the designation. Such appeals received by the Director before the study of the property or before its submission to the National Park System Advisory Board will be considered by the Director, the Advisory Board and the Secretary, as appropriate, in the designation process.

(d) No person shall be considered to have exhausted administrative remedies with respect to failure to designate a property a National Historic Landmark until he or she has complied with the procedures set forth in this section.

[FR Doc. 83-2724 Filed 2-1-83; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-2-FRL 2295-6]

Hazardous Waste Management Program; Phase I Interim Authorization

AGENCY: Environmental Protection Agency (EPA), Region II.

ACTION: Granting of phase I interim authorization to State hazardous waste program.

SUMMARY: The State of New Jersey has applied for Interim Authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 123, Subpart F). EPA has reviewed New Jersey's hazardous waste program and has determined that the program is substantially equivalent to the Federal program. EPA is hereby granting Phase I Interim Authorization to New Jersey to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah Craig, Solid Waste Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, 212/264-5166.

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle C of RCRA, requires EPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, EPA is authorized under Section 3006 of RCRA to approve State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions. Two types of State programs approvals are authorized under RCRA: "Final Authorization" is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement; "Interim Authorization" is a temporary approval for States which might not meet the requirements of Final Authorization but whose programs are at least "substantially equivalent" to the Federal program. RCRA contemplates that States receiving Interim Authorization will use the Interim Authorization period to make the changes in their regulations and statutes necessary to qualify for Final Authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program regulations (40 CFR Parts 260-263 and 265) including guidelines for authorizing State hazardous waste program under Section 3006 (40 CFR Part 123). These guidelines set forth the requirements for Interim Authorization and the procedures which EPA will follow in acting on State applications for Interim Authorization. They also provide that EPA will grant Interim Authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal program.

On January 11, 1982, the State of New Jersey submitted to EPA its complete application for Phase I Interim Authorization (IA application). In the February 11, 1982 **Federal Register** (47 FR 6298), EPA announced the availability for public review of the New Jersey application. EPA also indicated that a public hearing would be held on March 24, 1982, with the public record open until March 31, 1982. At the public hearing, the New Jersey Department of Environmental Protection (DEP) made available copies of draft amendments to its hazardous waste regulations which were subsequently proposed in the October 18, 1982 State Register. These and other amendments were initially requested by EPA when it commented on an earlier draft version of the State's IA application. On May 10, 1982, DEP requested that EPA delay making a final determination on the State's IA application until after the State had an opportunity to solicit public comment on the regulatory amendments requested by EPA. EPA granted DEP's request. Presented below in Section II of this notice is a synopsis of the public comments on the State's IA application and EPA's responses.

After detailed review of the final New Jersey IA application, EPA transmitted comments to DEP on June 1, 1982. These comments requested additions and revisions to the Program Description, Attorney General's Statement, Memorandum of Agreement and Authorization Plan portions of the IA application, including the State's hazardous waste regulations. On December 17, 1982, the State submitted amendments to the above mentioned portions of the IA application.

The major issue raised by EPA concerned the confidentiality of information obtained by inspection. New Jersey law may restrict the State's ability to use confidential information collected during inspections in enforcement proceedings or in court, and to share such information with EPA. DEP satisfied this area of concern by amending the Attorney General's Statement so as to commit the State to rely upon RCRA Section 3007(a) to support its inspection authority. As a result of such reliance on Section 3007(a), Section 3007(b) of RCRA would govern the use of information gained through inspections. Thus, there would be no unacceptable restrictions upon the use of information obtained through inspections.

The minor comments in EPA's June 1, 1982 letter were also addressed by DEP in its December 17, 1982 submission. The following summarizes the most significant of these comments and the State's responses:

(1) A Deputy Attorney General signed the Attorney General's Statement in lieu of the Attorney General. Under 40 CFR 123.125, this certification must be made by the Attorney General. In a letter dated August 18, 1982, the Assistant Attorney General demonstrated that the Deputy had the authority to perform this duty for the Attorney General.

(2) New Jersey's statutory definition of "solid waste" excludes from regulation, industrial sewage treated at publicly-owned treatment works (POTWs) devoted exclusively to the treatment of industrial wastes. This exclusion is not provided for under the RCRA definition. DEP satisfied this area of concern by amending the Program Description to include a demonstration that no existing POTWs in the State treated exclusively industrial wastes. Therefore, the statutory exemption could not be utilized by any existing POTWs.

(3) Pursuant to 40 CFR 123.127, the State must identify those statutory and regulatory changes needed to make the State program equivalent to the Federal

program. DEP amended its Authorization Plan so as to identify two statutory amendments (i.e., the POTW exclusion and the confidentiality provision) and two minor regulatory amendments needed for final authorization. The State promised to pursue the adoption of these amendments in 1983.

(4) EPA requested that the State adopt a number of amendments to its hazardous waste regulations so that the State program would be substantially equivalent to the Federal program. The State adopted amendments to address EPA's concerns on August 17, September 8, and November 18, 1982. These amendments included, in part, modifications to certain exemptions and variance provisions so that they would not render the State program less stringent than the Federal program. In addition, the State clarified that, independent of having received a permit, hazardous waste land disposal facilities must comply with groundwater monitoring requirements analogous to the Federal interim status provisions. Prior to amending this regulation, it appeared that State groundwater monitoring provisions were implemented only through New Jersey Pollution Discharge Elimination System (NJPDES) permits. Other amendments included modifications to the State's regulatory definitions.

DEP's submission and EPA's comments are available at EPA Region II and DEP offices.

II. Responses to Public Comments

Seven commenters (two of which represented trade associations) presented oral and/or written testimony, on the New Jersey IA application. Three commenters supported the granting of interim authorization to New Jersey and two commenters requested EPA to withhold its decision until certain deficiencies were corrected. Two commenters opposed authorization of New Jersey's hazardous waste program. The significant issues raised by these commenters and EPA's responses are summarized below.

Issue—The State regulates a broader universe of hazardous waste and hazardous waste handlers than would otherwise be regulated under RCRA. EPA should deny Phase I interim authorization to New Jersey since the State regulations are inconsistent with and more stringent than the Federal regulations.

Response—EPA is required to grant Phase I interim authorization to any State hazardous waste management program which meets the minimum requirements of EPA regulations. Regulations specifically outlining requirements for Phase I interim authorization are contained in 40 CFR Part 123, Subpart F. Subpart F does not preclude a State from adopting or enforcing requirements which are more stringent or more extensive than those required under this subpart (see 40 CFR 123.121(i)).

Issue—There is no guarantee that the State will effectively manage its hazardous waste program or enforce its regulations (particularly those regulations that are more stringent than their Federal counterparts).

Response—EPA has reviewed the New Jersey IA application and has concluded that the State's Phase I hazardous waste program is substantially equivalent to the Phase I Federal program. New Jersey presently has sufficient authority and resources to implement its Phase I hazardous waste regulations. EPA will, on a regular basis, evaluate DEP's administration and enforcement of its hazardous waste program to ensure that the authorized program is being implemented consistent with RCRA, the State's regulations and the Memorandum of Agreement.

Issue—There are no provisions in the State rules for incorporating modifications that EPA makes to its hazardous waste regulations, as required by 40 CFR 123.13, to ensure that the State program will be substantially equivalent to the Federal program.

Response—Requirements under 40 CFR 123.13 apply to States seeking final, not interim authorization. However, even under 40 CFR 123.13, a State is not required to have rule provisions in place which would incorporate by reference, regulatory amendments adopted by EPA. EPA recognizes DEP's commitment in its Phase I IA application to operate a substantially equivalent program and to keep EPA fully informed of any proposed modifications to its statutory or regulatory authority, along with any other factors that affect the State's program. EPA will periodically evaluate the administration and enforcement of the New Jersey hazardous waste program as outlined in the previous response.

Issue—The State regulations were enacted in a piecemeal fashion, without adequate opportunity for public comment. Significant changes were made in the hazardous waste regulations between when they were originally proposed on September 4, 1980 and when they were adopted in two groups on August 6, 1981 and October 8, 1981.

Response—Absent a contrary decision by a court of competent jurisdiction, EPA must assume that regulations which the appropriate governmental body adopts and which the Deputy Attorney General has certified as lawfully adopted are indeed valid under New Jersey law. Pursuant to Section 125(a), Part 123 of Title 40 of the Code of Federal Regulations (40 CFR 123.125(a)), the State submitted, as part of its IA application, a document from the New Jersey Deputy Attorney General. In that document, the Deputy Attorney General stated that, among other things, the statutes and regulations adopted as of the time of the statement were lawfully adopted and would be fully effective at the time the program is approved. Furthermore, at EPA's request, DEP submitted a letter on August 18, 1982, to EPA which provided a review of the procedures used to adopt the 1981 regulations that demonstrates that the procedures satisfy State requirements.

Issue—State regulations governing permitting, design and operating standards for the treatment and storage of hazardous waste in incinerators, tanks and containers are not substantially equivalent to the Federal regulations. Furthermore, EPA should extend the comment period on the State's IA application for a period of 30 days after the State adopts its facility design and operating standards in final form.

Response—State demonstrations of substantial equivalency with Federal permitting procedures and facility design and operating standards are required for Phase II, not Phase I, interim authorization applications. Therefore, EPA did not extend the public comment period on the State's Phase I IA application.

III. Decision

EPA has reviewed the complete application for Phase I interim authorization from the State of New Jersey and has determined that the State program is "substantially equivalent" as defined in 40 CFR Part 123, Subpart F, to the Phase I Federal program. In accordance with Section 3006(c) of RCRA, the State of New Jersey is hereby granted interim authorization to operate its hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this

decision is that generators, transporters, and owners and operators of hazardous waste management facilities in New Jersey will be subject to the State of New Jersey hazardous waste program in lieu of the Federal hazardous waste program (40 CFR Part 260–263 and 265) and will not again be subject to Phase I of the Federal program unless: (1) The State fails to amend its Phase I submission to include all of the components of Phase II interim authorization by the deadline specified in 40 CFR 123.137, or (2) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations, or (3) authorization is withdrawn for good cause by EPA pursuant to Section 3006(e) of RCRA.

IV. Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

V. Compliance With Executive Order 12291

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

VI. Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 23, 1982.

Jacqueline E. Schafer,

Regional Administrator, Region II.

[FR Doc. 83-2680 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6487]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists 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 fifth 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 sixth column of the table. 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 and identified for more than a year on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). 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 procedure 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.

§ 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 [1]
Louisiana: Tangipahoa Parish.	Unincorporated areas	220206B	Apr. 18, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Jan. 17, 1975, Nov. 29, 1977	Feb. 2, 1983.
Maryland: Kent	Betterton, town of	240095A	May 15, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Jan. 24, 1975	Do.
Michigan:					
Calhoun	Bedford, township of	260052B	May 30, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Aug. 16, 1974, Aug. 6, 1976	Do.
LeeLanau	Elmwood, township of	260113C	July 2, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Mar. 5, 1976, Sept. 28, 1979, Sept. 20, 1974.	Do.
Antrim	Milton, township of	260637B	Sept. 10, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	July 8, 1977	Do.
Oakland	Charter township of Waterford	260284B	Aug. 16, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Aug. 16, 1974, June 4, 1976	Do.
Mississippi: Rankin	Richland, city of	260299B	Nov. 9, 1976, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Apr. 28, 1978	Do.
Missouri: Charlton	Brunswick, city of	290074B	Nov. 12, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Mar. 29, 1974, Jan. 16, 1976	Do.
New Jersey:					
Cape May	Lower, township of	340153B	Aug. 9, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	July 19, 1974	Do
Sussex	Sussex, borough of	340457B	July 15, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	June 14, 1974, Mar. 5, 1976	Do
Ohio:					
Jefferson	Brilliant, village of	390297B	June 13, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Jan. 9, 1974, May 28, 1976	Do.
Licking	Pataskala, village of	390336A	Mar. 6, 1978, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Oct. 8, 1976	Do.
Oklahoma: Grady	Alex, town of	400063A	Aug. 20, 1976, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Nov. 8, 1976	Do.
Pennsylvania: Blair	Snyder, township of	421393B	June 10, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Jan. 10, 1975, Dec. 23, 1977	Do.
Rhode Island: Newport.	Newport, city of	445403C	June 19, 1970, emergency; Dec. 4, 1970, regular; Feb. 2, 1983, suspended.	July 1, 1974, Nov. 21, 1975, June 17, 1970.	Do
Virginia: Northampton	Cape Charles, town of	510106B	June 3, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	May 31, 1974, June 4, 1976	Do
New York: Allegany	Alfred, town of	360019A	Mar. 14, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	June 18, 1976	Do
New Jersey:					
Camden	Clementon, borough of	340130A	Jan. 30, 1975, emergency; Feb. 2,1983, suspended	Feb. 6, 1976	Do.
Salem	Pittsgrove, township of	340421A	Sept. 8, 1981, emergency; Feb. 2,1983, suspended	Dec. 3, 1976	Do.

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

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

Issued: January 24, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2805 Filed 2-1-83; 8:45 am]

BILLING CODE 6718-03-M

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

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-556; RM-4152]

FM Broadcast Station in Ocean View, Delaware; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 269A to Ocean View, Delaware, in response to a petition filed by Dragon Communications, Inc. The assignment could provide a first local broadcast service to Ocean View.

DATE: Effective March 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau. (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 21, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ocean View, Delaware); BC Docket No. 82–556, RM–4152; Report and Order; Proceeding Terminated.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 35258, published August 13, 1982, proposing the assignment of Channel 269A to Ocean View, Delaware, as its first FM assignment. The Notice was issued in response to a petition filed by Dragon Communications, Inc. ("petitioner"). Supporting comments were filed by the petitioner stating its intention to apply for the channel, if assigned. Coastal Telecommunications, licensee of Station WWTR (FM), Bethany Beach, Delaware, submitted opposing comments to which petitioner responded. Reply comments and a counterproposal to assign Channel 269A to Laurel, Delaware, were submitted by

Stuart D. Frankel.[1] Since this counterproposal was submitted late, we have not accepted it for consideration in this proceeding.

2. The opposing comments of Coastal focused on community size, preclusion and service received from other communities as factors for us to consider in assessing the need for the Ocean View assignment. Since the adoption of the *Second Report and Order*, BC Docket No. 80–130, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), consideration of these issues are no longer relevant in non-conflicting FM proceedings. We also note that Coastal (as an alternative) proposed assigning Channel 269A to Snow Hill, Delaware. As a general policy we refrain from assigning channels for which we have had no commitment from any interested party that the channel, if assigned, will be put to use. See *Williams, Arizona*, 47 FR 20827, published May 14, 1982, and paragraph 2 of the Appendix to the Notice of Proposed Rule Making.

3. As for the Laurel proposal, we note that alternative channels (Channel 221A and Channel 265A) are available for which Frankel could submit a petition.[2]

4. In response to the Notice petitioner states that a transmitter site is available for Channel 269A, which fully meets the spacing requirements for that channel.

5. After consideration of the proposal and comments, the Commission is persuaded that the public interest would be served by granting the requested assignment in order to provide Ocean View with a first FM assignment. The transmitter site is restricted to 2.5 miles southeast of the city to meet spacing requirements to Station WNNN(FM), Canton, New Jersey.

6. Accordingly, pursuant to Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective March 22, 1983, the FM Table of Assignments (Section 73.202(b) of the Rules) is amended with respect to the following community:

City	Channel No.
Ocean View, Delaware	269A

7. It is further ordered, That this proceeding is terminated.

[1] The Frankel counterproposal was submitted after the deadline for filing counterproposals (September 24, 1982). This deadline was set forth in Section 1.420(d) of the Commission's Rules and paragraph 3(a) of the Appendix to the Notice.

[2] Channel 265A would require a site restriction of approximately 8.3 miles southwest of Laurel.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2845 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–539; RM–4126]

FM Broadcast Station in Calexico, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first noncommercial educational FM channel to Calexico, California, in response to a petition filed by the State of California, San Diego State University.

DATE: Effective March 21, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 12, 1983.

Released: January 18, 1983.

In the matter of: Amendment of § 73.504(a), Table of Assignments, Noncommercial Educational FM Broadcast Stations; (Calexico, California); BC Docket 82–539; RM–4126; Report and order; Proceeding Terminated.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 47 FR 36248, published August 19, 1982, inviting comments on a proposal to assign Channel 204A to Calexico, California, for noncommercial educational use. The *Notice* was issued in response to a petition filed by the State of California, San Diego State University ("petitioner").[1] Supporting comments were filed by the petitioner, reaffirming its intention to apply for the channel, if assigned. No oppositions were received.

[1] San Diego University is the licensee on noncommercial educational Station KPBS-FM (Channel 208) at San Diego, California.

2. Since the assignment of Channel 204A would satisfy the needs of Calexico for a first noncommercial educational broadcast service, it appears that the public interest would be served by assigning Channel 204A to that community. The transmitter site is restricted to 8 miles[2] northeast of the city to meet spacing requirements to unused Channels 202A and 206A at Esperanza, Mexico.

3. The Mexican Government has given its concurrence in the proposed assignment of Channel 204A at Calexico, California.

4. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective March 21, 1983, § 73.504(a) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Calexico, California	204A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2847 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–489; RM–4147]

FM Broadcast Station in San Angelo, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 298 to San Angelo, Texas, in response to a petition filed by Gary Hess and Karl Calhoun. The assignment could provide a fifth FM service to San Angelo.

DATE: Effective March 22, 1983.

[2] The *Notice* proposed a 7 mile site restriction, however, the restriction is actually 8 miles.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Released: January 21, 1983.

Adopted: January 14, 1983.

In the matter of; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; (San Angelo, Texas) BC Docket No. 82-489; Rm-4147; Report and Order; Proceeding Terminated.

1. Before the Commission is the Notice of Proposed Rule Making, 47 FR 34597, published August 10, 1982, proposing the assignment of Class C Channel 298 to San Angelo, Texas, in response to a petition filed by Gary Hess and Karl Calhoun. The petitioners did file comments indicating a continuing interest in the channel assignment.

2. In view of the fact that the assignment could provide a fifth FM service to San Angelo, the Commission believes the assignment is warranted. Accordingly, pursuant to the authority contained in Sections 4(1), 5(d) (1) 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, That effective March 22, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended for the following city:

City	Channel No.
San Angelo, Texas	225, 230, 234, 248, and 298.

3. It is further ordered, That this proceeding is terminated.

4. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-2844 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5 (Sub-4)]

Passenger Broker Surety Bonds or Insurance; Removal of Rules

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The "Bus Regulatory Reform Act of 1982" exempts brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, the discretion to impose insurance and/or bond requirements on passenger brokers if deemed necessary to protect passengers and carriers dealing with brokers.

On November 19, 1982, the passenger broker bond requirements under 49 CFR 1043.4(b) became void as a matter of law and have no legal effect. Accordingly, § 1043.4(b) is being removed from the Code of Federal Regulations. The Commission has decided not to reinstitute any bond or insurance requirement for passenger brokers at this time, and thus discontinues the rulemaking proceeding in a notice published elsewhere in this issuance.

EFFECTIVE DATE: This decision is effective on March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Alice K. Ramsay, (202) 275-0854

or

Margaret Richards, (202) 275-1538.

SUPPLEMENTARY INFORMATION: Because of the exemption from Commission regulation granted to passenger brokers by the "Bus Regulatory Reform Act of 1982," which is discussed in a Notice of Discontinued Rulemaking published in the Proposed Rules section of this issue, § 1043.4(b) is inoperative and is being removed from Title 49 of the Code of Federal Regulations.

This decision will not significantly affect the quality of the human environment of the conservation of energy resources.

We certify that this action will not have a significant impact upon a substantial number of small entities. As stated in this notice, abuses by brokers are rare, and federal regulation is not warranted in this area.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

(49 U.S.C. 10321 and 10924, 5 U.S.C. 553, and Sec. 14, Bus Regulatory Reform Act of 1982)

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Simmons concurred with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Simmons, concurring:

I believe that the public interest dictates that the Commission should require brokers of passengers to maintain insurance and/or bonds. In determining whether to impose such a requirement, the Commission has to weigh what I consider to be a minimum regulatory burden on brokers against that of protecting the public. If the requirement is not a significant barrier to entry (which I do not believe it is), then we must consider whether the public needs this protection. I am convinced that there is such a need.

Against my better judgement, I reluctantly concur with the decision, however, because the majority has left open the option to adopt bonding and/or insurance requirements if the need should arise in the future. OCCA should diligently monitor all complaints received regarding brokers and report their findings to the Commission in its regular report to the Commission.

Appendix

Part 1043 Subtitle B, Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1043—[AMENDED]

§ 1043.4 [Amended]

In § 1043.4, paragraph (b) is removed.

[FR Doc. 83-2756 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Doc. R-0449]

Electronics Fund Transfers; Technical Amendments and Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed technical amendments and proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed technical amendments to Regulation E (Electronic fund transfer) to correct certain provisions that refer to Regulation Z. These changes are necessary to reflect redesignated sections in revised Regulation Z. This notice also contains proposed changes to the official staff commentary, which applies and interprets the requirements of Regulation E as a substitute for individual staff interpretations of the regulation. Some of the changes reflect regulatory revisions adopted in October 1982.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments should include a reference to Doc. No. R-0449. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: John C. Wood or Jesse B. Filkins, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412 or (202) 452-3867.

SUPPLEMENTARY INFORMATION: 1. *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). The Board's staff has also issued an official commentary that takes the place of individual staff letters interpreting the regulation (EFT-2).

2. *Proposed revisions. Regulation.* Regulation E contains certain provisions that describe the relationship between the rules governing electronic fund transfers and Regulation Z (Truth in Lending). These provisions cover issuance of access devices, § 205.5(c)(1)(ii) and § 205.5(c)(2)(i); liability for unauthorized transfers, § 205.6(d)(1)(i); documentation of transfers, § 205.9(b)(3), and procedures for resolving errors, § 205.11(i). The proposed changes set forth below relate to the updating of Regulation Z sectional references. These changes are needed because Regulation Z sections were redesignated when the Board revised Regulation Z, pursuant to the Truth in Lending Simplification and Reform Act of 1980.

Commentary. This is the first periodic update to the Official Staff Commentary on Regulation E, which was published on September 23, 1981 (46 FR 46876). Some of the proposed revisions to the commentary relate to the amendments to the regulation published on October 12, 1982 (47 FR 44708). These include questions 3-22, 7-18.5, 9-10.5, 9-50, and 9-51, which are new; questions 9-9 and 9-16, which have been revised; and question 9-22, which has been removed. The other changes respond to various questions that have arisen concerning Regulation E since the commentary was originally published: questions 2-5.5, 2-12.5, 2-25.5, 2-27, and 3-19.5 are new, and question 9-26 has been revised. Questions that are being added between existing questions are designated "'.5"—for example, proposed question 2-5.5 belongs after question 2-5.

Certain conventions have been used to highlight the revised language in the commentary. New language is highlighted by bold-faced arrows, while language that has been deleted is set off with brackets.

List of Subjects in 12 CFR Part 205

Banks, banking, Consumer protection, Electronic fund transfers, Federal Reserve System.

PART 205—[AMENDED]

3. *Text of proposed regulatory revisions.* Pursuant to the authority granted in Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b), the Board proposes to amend Regulation E, 12 CFR Part 205, by revising §§ 20.5 (c)(1)(ii), 205.5(c)(2)(i), 205.6(d)(1)(i), 205.9(b)(3), and 205.11(i) to refer to the revised sections of Regulation Z, to read as follows:

§ 205.5 Issuance of access devices.

* * * * *

(c) *Relation to Truth in Lending*

(1) * * *

(ii) Addition to an accepted credit card, as defined in 12 CFR 226.12(A)(2), foot note 21 (Regulation Z), of the capability to initiate electronic fund transfers; and

* * * * *

(2) * * *

(i) Issuance of credit cards as defined in 12 CFR 226.2(a)(15);

* * * * *

§ 205.6 Liability of consumer for unauthorized transfers.

* * * * *

(d) *Relation to Truth in Lending.*

(1) * * *

(i) Was initiated by use of an access device that is also a credit card as defined in 12 CFR 226.2(a)(15), or

* * * * *

§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statements.* * * *

(3) The total amount of any fees or charges, other than a finance charge under 12 CFR 226.7(f), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

§ 205.11 Procedures for resolving errors.

* * * * *

(i) *Relation to Truth in Lending.* Where an electronic fund transfer also involves an extension of credit under an agreement between a consumer and a financial institution to extend credit

when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the financial institution shall comply with the requirements of this section rather than those of 12 CFR 226.13 (a), (b), (c), (e), (f), and (h).

* * * * *

4. *Text of proposed commentary revisions.* The proposed revisions to the Official Staff Commentary to Regulation E (EFT-2) read as follows:

* * * * *

Supplement II—Official Staff Commentary

[Reg. E; EFT-2]

* * * * *

Section 205.2 Definitions and rules of construction.

* * * * *

►Q2-5.5: *Retail repurchase agreements.* A retail repurchase agreement (repo) is essentially a loan made to a financial institution by a consumer that is collateralized by government or government-insured securities. Is a repo an account for purposes of Regulation E?

A: While repos may not be deposits for purposes of some other banking regulations, repos are accounts as defined in Regulation E. (§ 205.2(b))◄

* * * * *

►Q2-12.5: *Deductions for income tax withholding purposes.* A financial institution deducts a portion of the interest payable on a consumer account and sends it to the Internal Revenue Service to comply with withholding requirements. If the account is not already subject to Regulation E, will the electronic transfer of the interest withholding result in coverage?

A: No, in the absence of an agreement between the consumer and the financial institution or other person regarding EFT service. But if an account is subject to the regulation for other reasons, then transfers to IRS will be covered if they are carried out electronically and if they involve debits to the account. (§ 205.2 (b) and (g))◄

* * * * *

►Q2-25.5: *Card-activated telephones.* Does the regulation cover transfers to pay for calls made from a telephone that is activated when the consumer inserts a card into a magnetic strip or card reader, and does the terminal receipt requirement apply?

A: The regulation applies to transfers initiated electronically. As a result the electronic transfers from a consumer's account to pay for telephone calls are covered by the regulation as electronic fund transfers. A receipt is not required provided the only transfer of funds occurring as a result of the use of the card at the combination telephone/reader is to pay for the charges incurred by use of the telephone. (§ 205.2(h))◄

* * * * *

►Q2-27: *Unauthorized transfers—access device obtained from the consumer.* A consumer is conned or forced to furnish another person with an access device for use in an ATM. Are transfers initiated by the person who has obtained the access device from the consumer authorized or unauthorized?

A: They are unauthorized. The definition of "unauthorized electronic fund transfer" states that the term does not include any electronic fund transfer "initated by a person who was furnished with the access device to the consumer's account by the consumer, unless the consumer has notified the financial institution involved that transfers by that person are no longer authorized." This exception only applies when the consumer has furnished an access device to a person intending that the person be authorized to initiate transfers. In the case of a con or a robbery, the consumer did not intend to authorize the use of the access device to make electronic fund transfers and, as a result, the transfers are unauthorized. (§ 205.2(l))◄

* * * * *

Section 205.3 Exemptions.

* * * * *

►Q 3-19.5: *Telephone transfers—money market deposit accounts, retail repurchase agreements.* Are telephone transfers between a money market deposit account (or a retail repo account) and another account within the institution subject to the regulation?

A: The answer will depend on whether the transfers are made pursuant to a written plan or agreement in which periodic or recurring transfers are contemplated. An agreement that merely permits the consumer to telephone institutions for the rollover of all or a portion of the funds at maturity does not meet this test (§ 205.3(e))◄

* * * * *

►Q 3-22: *Small institution exemption—grace period.* If the assets of a previously exempt financial institution exceed $25 million on December 31, when must the institution begin complying with the regulation?

A: Such an institution would have a one-year grace period. For example, if the assets exceed $25 million on December 31, 1983, compliance is not required until January 1, 1985. On the other hand, a previously covered institution whose assets fall below $25 million on December 31, 1983, may take advantage of the exemption beginning on January 1, 1984. (§ 205.3(g))◄

* * * * *

Section 205.7 Initial disclosure of terms and conditions.

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►Q 7-18.5: *Error-resolution disclosure—foreign-inititated transfers.* The regulation expands the time periods for resolving errors that involve transfers initiated outside the United States, from 10 to 20 business days and from 45 to 90 calendar days. Must the error-resolution disclosure reflect the longer time periods with respect to accounts on which transfers may be initiated outside the United States?

A: The financial institution may but need not refer to the longer time periods in the error-resolution disclosure. (§§ 205.7(a)(10) and 205.11(c)(4))◄

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Section 205.9 Documentation of transfers.

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►Q 9-9: *Receipts—type of account [in POS transfer].* A footnote states that the type of account need not be identified if the access device used to initiate the transfer can access only one account [of any type in a point-of-sale transfer] ►at a given terminal. When◄ does this exception apply [when that device is used at an ATM]?

A: The exception [is generally not available for ATM transfers, even if the access device is capable of accessing only one account at an ATM. (There is a limited exception for certain cash-dispensing machines under section 205.9(f), but only if the machines were purchased or ordered before February 6, 1989.)] ►applies to point-of-sale terminals, ATMs, and any other electronic terminals. It◄ [The exception for POS transfers] is available even if the access device can access more than one account when used [at] ►in◄ a different [type of facility, such as an ATM.] ►system, for example, if an access device can access only a single account in a shared ATM system, but can access more than one account in a proprietary system.◄ Morever, account refers only to asset accounts. If a consumer can use an access device at a [POS] terminal to debit an asset account and also to access a credit line, for example, the [exemption] ►exception◄ is still available. (§ 205.9(a)(3), footnote 3)

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►Q 9-10.5: *Receipts—type of account, interchange system.* What about an

interchange system in which consumers can access multiple accounts of the same type at their account-holding institution's terminals, but only a primary account of each type at other terminals in the system—may the receipt at such other terminals describe the account in terms of "checking" or "savings," without unique identification?

A: Yes. (§ 205.9(a)(3), footnote 3)◄

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►Q 9–16: *Periodic statements—frequency.* How often must periodic statements be sent for accounts that are subject to the regulation?

A: A monthly statement is required for any account to or from which an EFT has occurred during the month, if the account is one that can be debited electronically (by use of an access device, telephone, bill-payment service, or preauthorized transfers from the consumer's account, for example) or if the account can be credited electronically by other than preauthorized deposits. If no transfers occur during some months, the statement must be provided at least quarterly.

There are [special] ►certain◄ exceptions for accounts on which the only EFT service relates to preauthorized credits. The institution may send quarterly statements or, if the account is a passbook account, the institution may simply update the passbook when it is presented for updating (with the amount and date of each EFT since the last update).

►Also, to eliminate duplicative statements, the regulation provides an exception from the periodic statement requirement for certain intrainstitutional transfers between a consumer's accounts (§ 205.9(h)). This exception does not alter the statement provisions, however, with respect to accounts that receive preauthorized credits; such accounts continue to require quarterly statements or passbook updates.◄ (§ 205.9(b), (c), [and] (d) ►, and (h)◄)

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Q 9–22: (Reserved.)

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Q 9–26: *Periodic statements—terminal location omitted; error.* When a consumer makes a deposit at an ATM, the institution need not identify the ATM location on the periodic statement. Does the consumer's request for the terminal location (or any other information about the deposit) constitute notification of an error under the regulation?

A: Yes, if the request for the location is made in accordance with the requirements of the error-resolution section. ►However, in responding to the error notification, the institution need not provide the consumer with the ATM location, since it is not required to capture that information with regard to deposits. If ◄[On the other hand, if] the consumer merely calls to ascertain whether or not a deposit (ATM, preauthorized, or any other type of electronic transfer) was credited to the account, the error-resolution procedures do not apply. (§§ 205.9(b)(1)(iv), footnote 4a, and 205.11(a)(7))

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►Q 9–50: *Periodic statements—transfers between accounts.* The regulation provides that an account is excepted from the periodic statement requirements for transfers to or from another account of the consumer within the institution, if these transfers are described on a complying statement for the other account. What effect does this have on the periodic statement requirements for accounts that are also accessed by other electronic transfer activity?

A: The exception applies only to the transfers between accounts. The financial institution must comply with the applicable periodic statement requirements for any other electronic transfers to or from the account. For example, a quarterly Regulation E statement must be sent for an account that also receives payroll deposits electronically; and a Regulation E statement must be sent for any month in which an account is also accessed by a withdrawal at an ATM. (§§ 205.9(c), (d), and (h))

Q 9–51: *Periodic statements—foreign-initiated transfers.* Failure to provide terminal receipts and periodic statements for transfers initiated outside the United States is deemed not to be a failure to comply with the regulation if an inquiry or request for documentation is treated as a notice of an error. What does this mean?

A: The relaxation in documentation requirements takes account of the fact that some foreign-based terminals do not capture all of the information required by the regulation. However, it is expected that the institution would make a good faith attempt to provide on the periodic statement the information required by the regulation to identify the transfer. For example, even though the institution may not be able to provide the location of the specific terminal, it should, if possible, identify the country and city in which the transfer was initiated. (§ 205.9(i))◄

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By order of the Board of Governors of the Federal Reserve System, January 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-2751 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z.; Doc. No. R-0450]

Truth in Lending; Definition of Arranger of Credit; Exemption of Certain Student Loans; Treatment of Certain Disclosure Errors; and Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed amendments to revised Regulation Z, (Truth in Lending), to implement Truth in Lending amendments made in the Garn-St Germain Depository Institutions Act of 1982. The proposal would amend 12 CFR Part 226 to delete from coverage arrangers of credit and exempt certain student loans. For purposes of administrative enforcement, the proposal would also amend two footnotes relating to disclosure errors caused by the use of faulty calculation tools. This notice also contains proposed changes to the official staff commentary, which applies and interprets the requirements of the revised Regulation Z as a substitute for individual staff interpretations of the regulation. Some of the changes reflect the statutory amendments while others update the current commentary.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. To aid in their consideration, comments should include a reference to Doc. No. R–0450, and discussion of each section should begin on a separate page. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–3667 or (202) 452–3867:

Regulatory amendments—Claudia Yarus.
Commentary:
Subpart A—Gerald Hurst
Subpart B—Ruth Amberg, Jesse Filkins, Richard Garabedian, Lynn Goldfaden, Gerald Hurst, John Wood
Subpart C and Appendices—Clarence Cain, Lucy Griffin, Rugenia Silver, Susan Werthan, Claudia Yarus, Steven Zeisel
Subpart D—Rugenia Silver

SUPPLEMENTARY INFORMATION: 1. *Introduction.* This notice contains three types of changes to the Board's Regulation Z and the accompanying official staff commentary. First, the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, October 15, 1982) (DIA) made two amendments to the Truth in Lending Simplification and Reform Act of 1980. Section 103(f) of the Truth in Lending Act was amended by deleting "arrangers of credit" from the definition of "creditor," effective October 1, 1982. Section 104 was amended by exempting from coverage (both prospectively and retroactively) loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). To implement these statutory amendments, the Board proposes to amend § 226.2 of Regulation Z by removing the definition of "arranger of credit" and removing "arrangers of credit" from the "creditor" definition, and to amend § 226.3 by adding a new paragraph that exempts loan programs under Title IV of the Higher Education Act of 1965. These changes are being made pursuant to clear congressional guidance and it is expected that there will be little further revision in the final document.

Second, proposed amendments to footnote 31a (§ 226.14(a)) and footnote 45a (§ 226.22(a)) are being made. These footnotes protected creditors from liability for use of faulty calculation tools. The footnotes provided that an error in the disclosure of the annual percentage rate or finance charge was not considered a violation if: (1) The error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor discontinued use of the tool and notified the Board in writing of the error in the calculation tool. Thus, errors that met these criteria were not violations and creditors found to have such errors were protected from both civil and administrative actions, particularly restitution. These provisions were in the original regulation because the Board believed that the vast majority of creditors did not possess the specialized technical knowledge necessary to evaluate calculation tools internally and needed to rely on the producers of those tools to provide that knowledge.

The Board eliminated the protection provided by the footnotes as of October 1, 1982, the effective date of the amended act, in the belief that the act's expansion of the bona fide error defense to civil liability made the footnotes unnecessary.

Upon further review, however, the Board believes that the elimination of the protection provided by the footnotes has the effect, without the intent, of exposing creditors to restitution. The amended act protects creditors from civil liability for violations resulting from bona fide errors, even in the absence of the footnotes. However, without the protection of the footnotes creditors could be subject to administrative enforcement, including restitution, for the same errors. If the proposal is adopted, the Board anticipates that it would be retroactive to October 1, 1982.

Finally, proposed changes to the Regulation Z official staff commentary (Supplement I to Part 226) are being made. Some of the proposed changes correspond to the regulatory amendments implementing the DIA and serve to conform the regulation and commentary. The other proposed commentary changes update the document.

This is a periodic update to the commentary, as amended effective September 17, 1982 (47 FR 41338, September 20, 1982) and responds to significant questions that have arisen since the last update. The types of changes being proposed generally give creditors more flexibility in making disclosures, while preserving basic consumer protections.

Certain conventions have been used to highlight the revised language in the commentary. New language is highlighted by bold-faced arrows, while language that has been deleted is set off with brackets.

All the proposed regulatory and commentary changes are being published for comment at the same time to minimize the burden on potential commenters and on the credit industry. Staff believes that this document, although comprehensive, will insure uniform compliance and ease the complexity of compliance by prescribing only one effective date.

Comments must be received by March 3, 1983 and it is essential that they be timely in order to assure final action by April 1. To expedite analysis of the comments, commenters are requested to identify comments by section and paragraph numbers and to begin discussion of each section on a separate page. If comments are received on issues not raised by the proposed commentary revisions, these comments would most likely be considered for possible inclusion in the next commentary update.

Final revisions will be published in the **Federal Register**; it is anticipated that final publication will be at the end of March. Although creditors will be able to rely on the revisions at that time, the applicability of the revisions will be optional until October 1, 1983. The later date will be provided to minimize any difficulties that creditors may experience in adjusting to the revisions.

2. *Proposed revisions. Regulation.* Following is a brief description of the proposed regulatory revisions:

Subpart A—General

Section 226.2 Definitions and rules of construction.

(a)(3) "Arranger of credit"

This definition would be removed to implement the Truth in Lending Act amendment to the definition of "creditor" made in the DIA. The paragraph number will be reserved for future use in order to avoid the need for renumbering all subsequent definitions.

(a)(17) "Creditor"

This definition would be amended by removing paragraph (a)(17)(ii). The amendment would conform the regulatory definition to the statutory definition as amended by the DIA. Paragraphs (a)(17)(iii), (iv), and (v) of the current definition would be redesignated as paragraphs (a)(17)(ii), (iii), and (iv), respectively.

Section 226.3 Exempt transactions.

Paragraph (f) would be added to exempt loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965. The DIA Truth in Lending amendments expressly exempted these loans from coverage.

Sections 226.14 and 226.22 Determination of annual percentage rate.

The last sentence of both footnote 31a and footnote 45a would be removed. This amendment would reinstate the protections provided by the two footnotes.

Commentary. Following is a brief description of the proposed revisions to the commentary:

Subpart A—General

Section 226.2 Definitions and rules of construction.

2(a)(3) "Arranger of Credit"

Comments 2(a)(3)–1 through 6 would be removed to correspond to the regulatory amendments that remove "arrangers of credit" from the "creditor" definition.

2(a)(4) "Billing Cycle" or "Cycle"

Comment 2(a)(4)–1 would be revised to eliminate possible confusion over whether the periodic statement must in fact be *sent* within the 4-day interval.

2(a)(17) "Creditor"

Comment 2(a)(17)(ii)–1 would be removed to conform the commentary to the regulatory amendments that implement the DIA Truth in Lending amendments.

The comment designations—*Paragraph 2(a)(17)(iv)* and *Paragraph 2(a)(17)(v)*—would be redesignated *Paragraph 2(a)(17)(iii)* and *Paragraph 2(a)(17)(iv)*, respectively.

2(a)(18) "Downpayment"

Comment 2(a)(18)–1 would be revised to include a cross-reference to the commentary to § 226.2(a)(23). Material that would be added to the commentary to § 226.2(a)(23) discusses the allocation of lump-sum payments between the downpayment and the prepaid finance charge.

2(a)(23) "Prepaid Finance Charge"

A new comment 2(a)(23)–4 would be added to clarify the treatment to be given discounts that are finance charges under § 226.4(b)(9) in transactions involving lump-sum payments by a consumer. This comment discusses the allocation of a lump-sum payment between the downpayment and the prepaid finance charge.

2(a)(24) "Residential Mortgage Transaction"

A new comment 2(a)(24)–5 would be added to clarify whether certain transactions are "to finance the acquisition" of the consumer's principal dwelling and are therefore residential mortgage transactions.

References

A sentence would be added to the paragraph under *1981 Changes* discussing "arranger of credit" indicating that the definition has been removed from the statute. This would reflect the DIA Truth in Lending amendment.

Section 226.3 Exempt transactions.

Comment 3(f)–1 would be added to clarify which loan programs are administered under Title IV of the Higher Education Act of 1965. This comment corresponds to the regulatory amendment implementing the DIA Truth in Lending amendments that exempt these loan programs from the regulation.

Section 226.4 Finance charge.

4(d) Insurance

Comment 4(d)–10 would be revised to provide an exception to the requirement that creditors allocate a portion of the premium for coverages that are not VSI or other property insurance when the amount of the premium attributable to the non-VSI coverages is less than $1.00 (or in the case of multi-year policies, $5.00). Comment is specifically requested on the necessity and desirabiltiy of such an exception, as well as the dollar amount that should be provided.

Subpart B—Open-End Credit

Section 226.5 General disclosure requirements.

Comment 5(a)(2)–3 would be added to provide that the rule that the terms "finance charge" and "annual percentage rate" should be more conspicuous than other required disclosures does not apply to numerical amounts or percentages shown as part of the disclosures.

Comment 5(b)(1)–3 would be expanded to clarify that no new initial disclosures need be given when the consumer's account is closed simply to provide the consumer with a new account number, such as when the credit card is reported lost or stolen and a new account number is assigned for security reasons.

Section 226.8 Identification of transactions.

Comment 8–7 would be added to give the creditor the option of two means of identifying credit insurance premiums on the periodic statement when the insurance is offered through the creditor but actually provided by another company. In such a case, the creditor could identify the premium using either the rule in § 226.8(a)(2) for "related" sellers and creditors, or the rule in § 226.8(a)(3) for "non-related" sellers and creditors.

Section 226.9 Subsequent disclosure requirements.

9(c) Change in Terms

The first sentence of comment 9(c)(1)–3 would be revised to clarify that the change-in-terms notice must be provided to the consumer (not merely mailed) no later than the time the change is effective, even when the 15-day advance-notice requirement is inapplicable.

Comment 9(c)(1)–3 would also be revised to add an example of an occurrence that would not be considered an "agreement" for purposes of relieving the creditor of its responsibility to provide an *advance* change-in-terms notice. If the change is the type that has been unilaterally made by the creditor and is of general applicability, advance notice must be given. Thus, the "agreed-to" rule would not apply in the following example: A creditor has decided to change a term in its open-end plan. Instead of providing change-in-terms notices to its customers 15 days in advance of the term change, the creditor decides to wait until each consumer comes to the creditor's office to request a cash advance. At that time, the consumer is given a change-in-terms notice, and, if the consumer agrees to the term change, the advance is made.

The first sentence of comment 9(c)(2)–2 would be revised to add the words "or payments", which is merely an editorial change.

Comment 9(c)(2)–2 would also be revised to give additional guidance on how the change-in-terms requirement may be satisfied when skip features are involved. Some creditors have indicated that to require a change-in-terms notice about resumption of the original terms may inhibit skip-payment programs. Comment is solicited on whether the proposal alleviates these concerns, and, if not, what specific operational problems remain.

Section 226.15 Right of rescission.

15(a) Consumer's Right to Rescind

Comment 15(a)(3)–4 would be revised to clarify that this example is intended to provide that the sale of the consumer's interest in the property will terminate the right to rescind even though the consumer is financing the transaction. Thus, a sale will terminate the right to rescind even though, for example, the consumer takes back a purchase money note and mortgage or retains legal title through a financing device such as an installment sale.

Subpart C—Closed-End Credit

Section 226.17 General disclosure requirements.

17(a) Form of Disclosures

Comment 17(a)(1)–5 would be expanded to add one example of

"directly related" information. This example, relating to § 226.18(q), responds to inquiries about an appropriate assumption policy disclosure when a transaction involves a due-on-sale clause. The example would make clear that the creditor may disclose the existence of a due-on-sale clause.

Comment 17(a)(2)–3 would be added to provide that the rule that the terms "finance charge" and "annual percentage rate" should be more conspicuous than other required disclosures does not apply to numercial amounts or percentages shown as part of the disclosures.

17(i) Interim Student Credit Extensions

Comment 17(i)–1 would be amended to remove references to the Guaranteed Student Loan Program and the PLUS program. These loan programs are administered under Title IV of the Higher Education Act of 1965 and are thus no longer covered, pursuant to the statutory amendments exempting these loan programs.

Comment 17(i)–4 would be deleted. This comment addresses loan programs that are now exempt under the DIA Truth in Lending amendments.

Comment 17(i)–5 would be redesignated comment 17(i)–4.

Section 226.18 Content of disclosures.

18(f) Variable Rate

Comment 18(f)–1 would be revised to indicate that the variable-rate disclosure applies not only to an increase in the interest component of the rate but also to increases in other portions of the rate, such as the rate of required credit life insurance. For example, veterans' loan programs in some states require credit life insurance. If a contract allows increases in the rate of the required credit life insurance, the transaction is considered a variable-rate transaction subject to § 226.18(f).

Comment 18(f)–5 would be revised to explain the circumstances under which footnote 43 is available to institutions authorized by recent federal legislation to make alternative mortgage loans. Footnote 43 permits institutions to omit the § 226.18(f) disclosures if variable-rate disclosures are made in accordance with certain variable-rate regulations of other federal agencies. Title VIII of the Depository Institutions Act of 1982 allows non-federally-chartered housing creditors to offer creative financing in accordance with certain federal regulations, even where applicable state law prohibits such financing by state lenders. The revision to the comment would permit those lenders to take advantage of footnote 43, even though they are not subject to examination by the agencies issuing the regulations. Comment is particularly solicited on whether the availability of the footnote should be contingent on whether the institution is subject to routine examination for compliance with these regulations.

Comment 18(f)–5 and the references to other regulations would also be revised to reflect the citation to the Federal Home Loan Bank Board's amended adjustable mortgage loan regulation.

18(q) Assumption Policy

Comment 18(q)–1 would be revised to include a cross-reference to comment 17(a)(1)–5, which permits creditors to state in the Trust in Lending disclosures that a due-on-sale clause is contained in the loan document.

Section 226.19 Certain residential mortgage transactions.

Comment 19(a)–3 would be amended to clarify when a creditor receives an application that is transmitted by an agent or broker.

Section 226.20 Subsequent disclosure requirements.

20(b) Assumptions

Comment 20(b)–1 would be revised to make clear that assumptions other than those defined in § 226.20(b) do not require disclosures.

Comment 20(b)–7 would be added to specify the time of consummation of an assumption.

Comment 20(b)–8 would be added to explain the relationship between the abbreviated disclosures of § 226.20(b)(1) through (5) and the general disclosure requirements of §§ 226.17 and 226.18.

Section 226.23 Right of rescission.

23(a) Consumer's Right to Rescind

Comment 23(a)(3)–3 would be revised to clarify that this example is intended to provide that the sale of the consumer's interest in the property will terminate the right to rescind even though the consumer is financing the transaction. Thus, a sale will terminate the right to rescind even though, for example, the consumer takes back a purchase money note and mortgage or retains legal title through a financing device such as an installment sale.

Subpart D—Miscellaneous

Section 226.28 Effect on State Laws.

28(a) Inconsistent Disclosure Requirements

The commentary to § 226.28 would be expanded by the addition of three new comments, reflecting recent Board determinations on the effect of the Truth in Lending Act on the consumer credit laws of Arizona, Florida and Missouri.

Section 226.29 State exemptions.

29(a) General Rule

Comment 29(a)–4 would be revised to reflect three state exemptions from the Truth in Lending Act granted by the Board to Massachusetts, Oklahoma and Wyoming.

Appendix D—Multiple-Advance Construction Loans

The commentary and references to Appendix D would be revised to reflect the fact that multiple-advance transactions other than construction loans may also use the appendix.

Appendix H—Closed-End Model Forms and Clauses

Current comments H–17 through 20 as they reflect the approval under section 113 of the act of student loan disclosure forms issued by the Department of Education would be removed. The loan programs to which the forms apply have been exempted from the regulation in the recent DIA amendments to the Truth in Lending Act. New comments H–17 through 20 would be added to reflect the approval under § 113 of the act of four student loan disclosure forms issued by the Department of Health and Human Services in conjunction with the Health Education Assistance Loan (HEAL) program.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Truth in lending, Penalties.

3. *Text of Proposed Regulatory Revisions.* Pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board proposes to amend Regulation Z, 12 CFR Part 226, by removing the definition of "arranger of credit" and reserving paragraph (a)(3) of § 226.2; removing paragraph (a)(17)(ii) of § 226.2 and redesignating paragraphs (a)(17)(iii), (iv), and (v) as paragraphs (a)(17)(ii), (iii), and (iv), respectively; adding a new paragraph (f) to § 226.3; and removing the last sentence of both

footnote 31a to § 226.14 and footnote 45a to § 226.22, to read as follows:

§ 226.2—Definitions and rules of construction.

(a) *Definitions.* * * *

(3) [Reserved]

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§ 226.3— Exempt transactions.

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(f) *Student loan programs.* Loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

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4. *Text of Proposed Commentary Revisions.* The proposed revisions to the commentary (Supplement I to Part 226) read as follows:

Supplement I—Official Staff Commentary—TIL–1

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Subpart A—General

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Section 226.2 Definition and rules of construction.

2(a) Definitions.

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2(a)(3) "Arranger of credit"

Comments 2(a)(3)–1 through 6 are deleted in their entiretly.

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2(a)(4) "Billing Cycle" or "Cycle"

1. *Intervals.* In open-end credit plans, the billing cycle determines the intervals [at which periodic disclosure statements must be sent;] ►for which periodic disclosure statements are required;◄ these intervals are also used as measuring points for other duties of the creditor. Typically, billing cycles are monthly, but they may be more frequent or less frequent (but not less frequent than quarterly).

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2(a)(17) "Creditor"

Comment 2(a)(17)(ii)–1 is deleted. Comment designations *Paragraph 2(a)(17)(iv)* and *Paragraph (2)(a)(17)(v)* are redesignated *Paragraph 2(a)(17)(iii)* and *Paragraph 2(a)(17)(iv).* The reference to § 226.2(a)(17)(iv) in new comment 2(a)(17)(iii)–1 is being changed to § 226.2(a)(17)(iii). The reference to § 226.2(a)(17)(v) in new comment 2(a)(17)(iv)–1 is being changed to § 226.2(a)(17)(iv).

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2(a)(18) "Downpayment"

1. *Allocation.* * * * ►(See the commentary to § 226.2(a)(23).)◄

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2(a)(23) "Prepaid Finance Charge"

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►4. *Allocation of lump-sum payments.* In a transaction involving a lump-sum payment by the consumer and a discount that is a finance charge under § 226.4(b)(9), the discount is a prepaid finance charge to the extent the lump-sum payment is not applied to the cash price. For example, a creditor sells property to a consumer for $10,000 and requires the consumer to pay $3,000 at the time of the purchase. The cash price of the property is $9,000. Under § 226.4(b)(9), the $1,000 difference between the credit and cash prices is a finance charge. If the creditor applies the entire $3,000 to the cash price and adds the $1,000 finance charge to the interest on the $6,000 to arrive at the total finance charge, all of the $3,000 lump-sum payment is a downpayment and the discount is not a prepaid finance charge. However, if the creditor only applies $2,000 of the lump-sum payment to the cash price, then $2,000 of the $3,000 is a downpayment and the $1,000 discount is a prepaid finance charge.◄

2(a)(24) "Residential Mortgage Transaction"

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►5. *Acquisition.* A transaction is not "to finance the acquisition of the consumer's principal dwelling (and therefore is not a residential mortgage transaction) if the consumer had previously purchased the dwelling and acquired some type of title to the dwelling, even though the consumer has not acquired full legal title. Thus, the following types of transactions are not residential mortgage transactions:

- The financing of a balloon payment due under a land sale contract.
- A formal agreement between a creditor holding a seller's mortgage and the buyer of the property which allows the buyer to assume the mortgage, where the buyer previsouly purchased the property and agreed with the seller to make the mortgage payments.
- A loan made to a joint owner of property to buy out the other joint owner's interest.◄

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Reference

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1981 changes:

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"Arranger of Credit" * * * ►This definition was deleted effective October 1, 1982.

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Section 226.3 Exempt transactions.

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3(f) Student Loan Programs

►1. *Coverage.* This exemption applies to the Guaranteed student Loan program, the Auxiliary loans to Assist the Students (also known as PLUS) program, and the National Direct Student Loan program.◄

Section 226.4 Finance charge.

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4(d) Insurance

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10. *Single-interest insurance defined.* The term "single-interest insurance" as used in the regulation refers only to the types of coverage traditionally included in the term "vendor's single-interest insurance" (or "VSI"), that is, protection of tangible property against normal property damage, concealment, confiscation, conversion, embezzlement, and skip. Some comprehensive insurance policies may include a variety of additional coverages, such as repossession insurance and holder-in-due-course insurance. These types of coverage do not constitute single-interest insurance for purposes of the regulation, and premiums for them do not qualifiy for exclusion from the finance charge under § 226.4(d). If a policy that is primarily VSI also provides coverages that are not VSI or other property insurance, a portion of the premiums must be allocated to the nonexcludable coverages and included in the finance charge. ►However, such allocation is not required if the premium attributable to the other coverages included in the policy is less than $1.00 (or $5.00 in the case of a multi-year policy).◄

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Subpart B—Open-end Credit

Section 226.5 General disclosure requirements.

5(a) Form of Disclosures

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Paragraph 5(a)(2)

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►3. *Disclosure of figures—exception to "more conspicuous" rule.* The rule that the terms "annual percentage rate" and "finance charge" must be disclosed more conspicuously than other required

disclosures is not applicable to the disclosure of figures (including, for example, the disclosure of amounts, percentages, and dollar signs).◄

5(b) Time of Disclosures

5(b)(1) Initial disclosures

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3. *Reopening closed account.* If an account has been closed (for example, due to inactivity, cancellation, or expiration) and then is reopened, new initial disclosures are required. ►No new initial disclosures are required, however, when the account is closed merely to assign it a new number (for example, when a credit card is reported lost or stolen) and the "new" account then continues on the same terms.◄

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Section 226.8 Identification of transactions.

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►*7. Credit insurance offered through the creditor.* When credit insurance that is not part of the finance charge (for example, volunary credit life insurance) is offered to the consumer through the creditor, but is actually provided by another company, the creditor has the option of identifying the premiums in one of two ways on the periodic statement. The creditor may describe the premiums using either the rule in § 226.8(a)(2) for "related" sellers and creditors, or the rule in § 226.8(a)(3) for "non-related" sellers and creditors. This means, therefore, that the creditor may identify the insurance either by providing, under § 226.8(a)(2), a brief identification of the services provided (for example, "credit life insurance"), or by disclosing, under § 226.8(a)(3), the name and address of the company providing the insurance (for example, ABC Insurance Company, New York, New York). In either event, the creditor would, of course, also provide the amount and the date of the transaction.◄

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Section 226.9 Subsequent disclosure requirements.

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9(c) Change in Terms

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9(c)(1) Written Notice Required

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3. *Timing-advance notice not required.* Advance notice of 15 days is not necessary—that is, a notice of change in terms is required, but it may be [sent] ►given◄ as late as the effective date of the change—in two circumstances:

- If there is an increased periodic rate or any other finance charge attributable to the consumer's delinquency or default
- If the consumer agrees to the particular change [(for example, an agreed-upon addition or substitution of collateral)]. ►This provision is intended for use in the unusual instance when a consumer substitutes collateral or when the creditor can advance additional credit only if a change relatively unique to that consumer is made, such as the consumer's providing additional security or paying an increased minimum payment amount.◄ [But] ►Therefore, the following are not "agreements" between the consumer and the creditor for purposes of § 226.9(c)(1):◄ the consumer's general acceptance of the creditor's contract reservation of the right to change terms [,or] ►;◄ the consumer's use of the account (which might imply acceptance of its terms under state law) [,] ►; and the consumer's acceptance of a unilateral term change that is not particular to that consumer, but rather is of general applicability to consumers with that type of account.◄ [is not an "agreement" between the the consumer and the creditor for purposes of § 226.9(c)(1).]

* * * * *

9(c)(2) Notice Not Required

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2. *Skip features.* If a credit program allows consumers to skip or reduce one or more payments during the year, or involves temporary reductions in finance charges, no notice of the change in terms is required either prior to the reduction or upon resumption of the higher rates ►or payment◄ if these features are explained on the initial disclosure statement (including an explanation of the terms upon resumption). For example, a merchant may allow consumers to skip the December payment to encourage holiday shopping, or a teachers' credit union may not require payments during summer vacation. Otherwise, the creditor must give notice prior to resuming the original schedule or rate, even though no notice is required prior to the reduction. ►The change-in-term notice may be combined with the notice offering the reduction. For Example, the periodic statement reflecting the reduction or skip feature may also be used to notify the consumer of the resumption of the original schedule or rate either by stating explicitly when the higher payment or charges resume, or by indicating the duration of the skip option. Language such as "You may skip your October payment, " or "We will waive your finance charges for January," may serve as the change-in-terms notice.◄

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Section 226.15 Right of rescision.

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Paragraph 15(a)(3)

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4. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the three-day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following three events:

- The expiration of three years after the occurrence giving rise to the right of rescission
- Transfer of all the consumer's interest in the property
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and [takes back] ►retains◄ legal title ►or takes back◄ [through] a purchase money note and mortgage.

Transfer of all the consumer's interest includes such transfers as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in section 125 of the act, the three-year limit may be extended by an administrative proceeding to enforce the provisions of § 226.15. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

* * * * *

Subpart C—Closed-End Credit

Section 226.17 General disclosure requirements.

17(a) Form of Disclosures

Paragraph 17(a)(1)

* * * * *

5. *Directly related.* The segregated disclosures may, at the creditor's option, include any information that is directly related to those disclosures. Directly related information includes, for example, the following:

* * * * *

- A statement that a due-on-sale clause is contained in the loan document. For example, the disclosure given under § 226.18(q) may state, "Someone

buying your home may, subject to conditions in the due-on-sale clause contained in the loan document, assume the remainder of the mortgage on the original terms."◄

* * * * *

Paragraph 17(a)(2)

* * * * *

►3. *Disclosure of figures—exception to "more conspicuous" rule.* The rule that the terms "annual percentage rate" and "finance charge" must be disclosed more conspicuously than other required disclosures is not applicable to the disclosure of figures (including, for example, the disclosure of amounts, percentages, and dollar signs).◄

* * * * *

17(i) Interim Student Credit Extensions

1. *Definition.* Student credit plans involve extensions of credit for education purposes where the repayment amount and schedule are not known at the time credit is advanced. These plans include [, for example,] loans made under [the Guaranteed Student Loan program, the PLUS program or] and [other] student credit plan, whether government or private, where the repayment period does not begin immediately. Creditors in interim student credit extensions need not disclose the terms set forth in this paragraph at the time the credit is actually extended but must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under § 226.18.

* * * * *

Comment 17(i)–4 is removed. Comment 17(i)–5 is redesignated comment 17(i)–4.

* * * * *

Section 226.18 Content of disclosures

* * * * *

18(f) Variable Rate

1. *Coverage.* The requirements of § 226.18(f) apply to all transactions in which the terms of the legal obligation allow the creditor to increase ►any portion of◄ the rate originally disclosed to the consumer. The provisions, however, do not apply to increases resulting from delinquency (including late payment), default, assumption, acceleration or transfer of the collateral.

* * * * *

5. *Other variable-rate regulations.* Transactions in which the creditor is required to comply with and has complied with variable-rate regulations of other federal agencies are exempt from the requirements of [this section,] ►section 226.18(f),◄ by virtue of footnote 43. Those variable-rate regulations include the adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6–[4] ►2◄ (a)) [, the graduated payment adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6–4(b)),] the adjustable-rate mortgage regulation issued by the Comptroller of the Currency (12 CFR 29). The exception in footnote 43 is also available to institutions that are required by state law to comply with the federal variable-rate regulations noted above ►or are authorized by Title VIII of the Depository Institutions Act of 1982 (Pub. L. 97–320) to make loans in accordance with those regulations◄.

* * * * *

18(q) Assumption Policy

1. *Policy statement.* Because a creditor's assumption policy may be based on a variety of circumstances not determinable at the time the disclosure is made, the creditor may use phrases such as "subject to conditions" or "under certain circumstances" in complying with §226.18(q). ►The creditor may state that a due-on-sale clause is contained in the loan document. (See comment 17(a)(1)–5 regarding directly related information.)◄ The provision requires only that the consumer be told whether or not a subsequent purchaser might be allowed to assume the obligation on its original terms and does not contemplate any explanation of the criteria or conditions for assumability.

* * * * *

References

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Other regulations: 12 CFR 545.6–[4] ►2◄ (a) [and (b)], and 12 CFR 29.

* * * * *

Section 226.19 Certain residential mortgage transactions.

19(a) Time of Disclosure

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3. *Written application.* Creditors may rely on RESPA and Regulation X (including any interpretations issued by HUD) in deciding whether a "written application" has been received. In general, Regulation X requires disclosures "To every person from whom the Lender receives or for whom it prepares a written application an application form or forms normally used by the Lender for a Federally Related Mortgage Loan" (24 CFR 3500.6(a)). An application is received when it reaches the creditor in any of the ways applications are normally transmitted—by mail, hand delivery, or through an intermediary agent or broker. ►If an application reaches the creditor through an intermediary agent or broker, the application is received when it reaches the creditor, rather than when it reaches the agent or broker.◄

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Section 226.20 Subsequent disclosure requirements.

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20(b) Assumptions

1. *General definition.* An assumption as defined in § 226.20(b) is a new transaction and new disclosures must be made to the subsequent consumer. An assumption under the regulation requires the following three elements:

- A residential mortgage transaction
- An express acceptance of the subsequent consumer by the creditor
- A written agreement

The assumption of a non-exempt consumer credit obligation requires no disclosures unless all three elements are present. ►Thus, the creditor of an existing personal property transaction on which a new customer becomes a primary obligor need not provide disclosures. For example, and automobile dealer need not provide Truth in Lending disclosures to a customer who assumes an existing obligation secured by an automobile. However, a residential mortgage transaction with the elements described in § 226.20(b) is an assumption that calls for new disclosures: the disclosures must be given whether or not the assumption is accompanied by changes in the terms of the obligation.◄

* * * * *

►7. *Time of disclosures.* Assumption disclosures must be provided to the new consumer before consummation of the transaction, that is, before the new consumer has been accepted as a primary obligor on the transaction.

8. *Abbreviated disclosures.* The abbreviated disclosures permitted for assumptions of transactions involving add-on or discount finance charges must be made clearly and conspicuously in writing in a form that the consumer may keep. However, the creditor need not comply with the segregation requirement of §226.17(a)(1). The terms "annual percentage rate" and "total of payments," when disclosed according to § 266.20(b)(4) and (5), are not subject to the description requirements of

§ 226.18(e) and (h). The "annual percentage rate" disclosed under § 226.20(b)(4) need not be more conspicuous than other disclosures.◄

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Section 226.23 Right of rescission.

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23(a) Consumer's Right to Rescind

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Paragraph 23(a)(3)

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3. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the three-business day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following three events:

- The expiration of three years after consummation of the transaction
- Transfer of all the consumer's interest in the property
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and [takes back] ► retains◄ legal title ►or takes back◄ [through] a purchase money note and mortgage

Transfer of all the consumer's interest includes such transfers as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in section 125 of the act, the three-year limit may be extended by an administrative proceeding to enforce the provisions of this section. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

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Subpart D—Miscellaneous

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Section 226.28 Effect on State laws.

28(a) Inconsistent Disclosure Requirements

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►8. *Preemption determination—Arizona.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Arizona are preempted by the federal law:

- Section 44–287 B.5—Disclosure of final cash price balance. This provision is preempted in those transactions in which the amount of the final cash price balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.
- Section 44–287 B.6—Disclosure of finance charge. This provision is preempted in those transactions in which the amount of the finance charge is different from the amount of the federal finance charge, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.
- Section 44–287 B.7—Disclosure of the time balance. The time balance disclosure provision is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

9. *Preemption determination—Florida.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Florida are preempted by the federal law:

- Sections 520.07(2)(f) and 520.34(2)(f)—Disclosure of amount financed. This disclosure is preempted in those transactions in which the amount is different from the federal amount financed, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.
- Sections 520.07(2)(g), 520.34(2)(g), and 520.34(2)(d)—Disclosure of finance charge and a description of its components. The finance charge disclosure is preempted in those transactions in which the amount of the finance charge is different from the federal amount, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount. The requirement to describe or itemize the components of the finance charge, which is also included in these provisions, is not preempted.
- Sections 520.07(2)(h) and 520.34(2)(h)—Disclosure of total of payments. The total of payments disclosure is preempted in those transactions in which the amount differs from the amount of the federal total of payments, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount than the federal law.
- Sections 520.07(2)(i) and 520.34(2)(i)—Disclosure of deferred payment price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount as the federal law.

10. *Preemption determination—Missouri.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Missouri are preempted by the federal law:

- Sections 365.070–6(9) and 408.260–5(6)—Disclosure of principal balance. This disclosure is preempted in those transactions in which the amount of the principal balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.
- Sections 365.070–6(10) and 408.260–5(7)—Disclosure of time price differential and time charge, respectively. These disclosures are preempted in those transactions in which the amount is the same as the federal finance charge, since in such transactions, the state law requires the use of a term different from the federal law to represent the same amount.
- Sections 365.070–2 and 408.260–2—Use of the terms "time price differential" and "time charge" in certain notices to the buyer. In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the terms in this notice also is preempted. The notice itself is not preempted.
- Sections 365.070–6(11) and 408.260–5(8)—Disclosure of time balance. The time balance disclosure is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount.
- Sections 365.070–6(12) and 408.260–5(9)—Disclosure of time sale price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term from the federal law to represent the same amount.◄

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Section 226.29 State exemptions.

29(a) General Rule

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4. *Exemptions granted.* Effective October 1, 1982, the Board has granted

the following exemptions from portions of the revised Truth in Lending Act:

- *Maine.* Credit or lease transactions subject to the Maine Consumer Credit Code and its implementing regulations are exempt from chapters 2, 4 and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor of lessor.)
- *Connecticut.* Credit transactions subject to the Connecticut Truth in Lending Act are exempt from chapters 2 and 4 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)
- ►• *Massachusetts.* Credit transactions subject to the Massachusetts Truth in Lending Act are exempt from chapters 2 and 4 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)
- *Oklahoma.* Credit or lease transactions subject to the Oklahoma Consumer Credit Code are exempt from chapters 2 and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor or lessor.)
- *Wyoming.* Credit transactions subject to the Wyoming Consumer Credit Code are exempt from chapter 2 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)◄

* * * * *

Appendix D—Multiple-Advance Construction Loans

1. *General rule.* Appendix D provides a special procedure that creditors may use, at their option, to estimate and disclose the terms of multiple-advance construction loans when the amounts [and] ►or◄ timing of advances are unknown at consummation of the transaction. This appendix reflects the approach taken in § 226.17(c)(6)(ii), which permits creditors to provide separate or combined disclosures for the construction period and for the permanent financing, if any; i.e., the construction phase and the permanent phase may be treated as one transaction or more than one transaction.

►Appendix D may also be used in multiple-advance transactions other than construction loans, when the amounts or time of advances are unknown at consummation.◄

2. *Variable-rate* [*construction*] ►*multiple-advance*◄ *loans.* The hypothetical disclosure required in most variable-rate transactions by § 226.18(f)(4) is not required for multiple-advance [construction] loans disclosed pursuant to Appendix D, Part I.

* * * * *

References

1981 changes: The use of Appendix D is limited to multiple-advance loans for construction purposes ► or analogous types of transactions◄.

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Appendix H—Closed-End Model Forms and Clauses

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►17. *HRSA–500–1 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–500–1 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all Health Education Assistance Loans (HEAL) with a variable interest rate that are interim student credit extensions as defined in Regulation Z.

18. *HRSA–500–2 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–500–2 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a fixed interest rate that are interim student credit extensions as defined in Regulation Z.

19. *HRSA–502–1 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–502–1 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a variable interest rate in which the borrower has reached repayment status and is making payments of both interest and principal.

20. *HRSA–502–2 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–502–2 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a fixed interest rate in which the borrower has reached repayment status and is making payments of both interest and principal.◄

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-2750 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF EDUCATION

34 CFR Parts 201, 202, 203, 204, and 302

Chapter 1, Education Consolidation and Improvement Act of 1981; Financial Assistance to State Educational Agencies To Meet Special Educational Needs of Migratory Children, Handicapped, and Neglected or Delinquent Children in Institutions, and General Definitions and Administrative, Fiscal, and Due Processes Requirements

AGENCY: Office of Elementary and Secondary Education and the office of Special Education and Rehabilitation Services, ED.

ACTION: Notice of extended comment period.

SUMMARY: A Notice of Proposed Rulemaking was published on December 3, 1982 in **Federal Register** vol. 47, No. 233, pp. 54718–54733. The programs affected by the Notice of Proposed Rulemaking provide financial assistance to (1) State educational agencies for programs designed to meet the special educational needs of migratory children; (2) State agencies for programs to meet the special educational needs of handicapped children; and (3) State agencies for programs to meet the special educational needs of neglected or delinquent children in institutions. In addition, the Notice of Proposed Rulemaking included general definitions and requirements applicable to all three programs.

The comment period on the proposed rules was scheduled to end on February 1, 1983. In order to provide the public with additional time to prepare and submit their views, the comment period is extended to March 18, 1983.

DATE: Comments are due March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Part 201: Dr. Vidal Rivera. Telephone: (202) 245–2222. Part 202: Ms. Shirley A. Jones. Telephone: (202) 426–6114. Parts 203 and 204: Dr. Thomas W. Fagan. Telephone: (202) 245–9877.

Dated: January 27, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-2830 Filed 1-28-83; 4:10 p.m.]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2576/P265; PH-FRL 2293-8]

Ametryn; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the herbicide ametryn in or on the raw agricultural commodities taniers and yams. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 4, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 1E2576 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide ametryn (2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-*s*-triazine) in or on the raw agricultural commodities taniers and yams at 0.1 part per million (ppm). The petition was late amended increasing the tolerance level for the commodities to 0.25 ppm.

The data submitted in the petition and othe relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances included an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1,405 milligrams(mg)/kilogram(kg) of body weight(bw), an acute oral mouse toxicity study with an LD_{50} of 945 mg/kg; a sub-acute 90-day dog feeding study with a NOEL of 1,000 ppm (25 mg/kg/day); a sub-acute 90-day rat feeding study with a NOEL of 1,000 ppm (50 mg/kg/day); a sub-acute 90-day rat incubation study with a NOEL of 100 ppm (5 mg/kg/day); a rat teratology study with a NOEL of 5 mg/kg/day; mutagenicity studies were negative for mutagenic potential using microbial reverse mutation and rec-assay techniques. Studies considered desirable but currently lacking include oncongenicity studies on two species, a second tertology study, and a mammalian mutagenicity study.

The provisional acceptable daily intake (PADI), based on the 90-day dog feeding study (NOEL of 25.0 mg/kg or 1,000 ppm/day and using a 2000-fold safety factor, is calculated to be 0.0125 mg/kg/bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.75 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0543 mg/day; the current action will increase the TMRC by 0.00022 mg/day (0.41 percent). Published tolerances utilize 7.24 percent of the PADI; the current action will utilize an additional 0.03 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. The product contains a nitrosoamine at levels less than 1 ppm. Based on an Agency policy that was pubished in the **Federal Register** of June 15, 1980 (45 FR 42854), this level of nitrosoamine falls below the currently acceptable risk criteria.

Based on the above information considered by the Agency and the fact that there is no reasonsable expectation of secondary residues in meat, milk, poultry or eggs, the tolerances established by amending 40 CFR 180.258 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request with 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 1E2576/P265). 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).

List of Subjects in 40 CFR Part 180

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

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

Dated: January 19, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.258 be amended by adding and alphabetically inserting the raw agricultural commodities taniers and yams to read as follows:

§ 180.258 Ametryn; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Taniers	0.25
Yams	0.25

[FR Doc. 83-2527 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1819/P270; PH-FRL 2296-6]

Dinoseb; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the pesticide dinoseb in or on the raw agricultural commodity lentils. The proposed regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before Feburary 17, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716 B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1819 to EPA of behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide dinoseb (2-*sec*-butyl-4, 6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on the raw agricultural commodity lentils at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological date considered in support of the proposed tolerance were a 6-month rat feeding study with a no-observed-effect-level (NOEL) of 5.0 milligrams (mg)/kilogram (kg)/day (100 ppm); a 3-month dog feeding study with a NOEL of 7.5 mg/kg/day (300 ppm); a second 3-month dog feeding study with a NOEL of 2.5 mg/kg/day (100 ppm); and teratology studies with NOEL's greater than 15 mg/kg/day for teratogenic effects and 5.0 mg/kg/day for fetotoxic effects in rats and a NOEL of 32 mg/kg/day (highest level tested) for teratogenic effects in mice. Studies considered desirable but currently lacking include chronic feeding studies in at least two species, including one non-rodent species; oncogenic potential evaluation; a multigeneration reproduction study; and a mutagenicity assay.

The provisional acceptable daily intake (PADI), based on the 3-month dog feeding study (NOEL of 2.5 mg/kg/day) and using a 2000-fold safety factor, is calculated to be 0.0013 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.075 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0534 mg/day; the current action will increase the TMRC by 0.0006 mg/day (0.11 percent). Published tolerances utilize 71.22 percent of the ADI; the current action will utilize an additional 0.08 percent. Thus the tolerance that will be established by this proposed rule is considered to pose a negligible increment in dietary risk since dietary exposure will not be significantly increased.

The nature of the residues is adequately understood and an adequate analytical procedure, gas chromatography, is available for enforcement purposes. A prohibition against feeding of either treated lentil forage or hay will preclude any problem with secondary residues in meat, milk, poultry or eggs resulting from the proposed use.

Although there are presently no actions pending against the continued registration of this chemical, concern was expressed about the presence of *N*-nitrosamine impurities in dinoseb formulations. *N*-Nitrosodiethanolamine (DENA/NDELA), a suspect carcinogen, has been detected in a product containing dinoseb, as the alkanolamine salts of the ethanol series, at levels of 180–270 ppm. The Nitrosamine Panel has reported that a related product containing dinoseb, as the alkanolamine salts of the ethanol and isopropanol series, is expected to contain a similar level of nitrosamine impurities.

Although no data are available to determine the possible level of DENA in lentils, if all the applied DENA were taken up by lentils and translocated to the harvested beans, the calculated maximum DENA residue level would be approximately 2 ppm. Actual residues of DENA, if any, are expected to be several orders of magnitude less than this amount.

For the purpose of this petition, a carcinogenic risk analysis shows that the theoretical risk associated with the dietary intake of 2 ppm of DENA in/on lentils, based on a lentil consumption of 0.04 percent of the diet is 2.18×10^{-7}. This risk value falls well below the 1×10^{-6} risk criteria for nitroso compounds, as defined in the **Federal Register** of June 25, 1980 (45 FR 42856).

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.281 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 15 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. As provided for in the Administrative Procedure Act [5 U.S.C. 553(d)(3)], the comment period time is shortened to less than 30 days because of the necessity to make the pesticide available before the spring planting season. Comments must bear a notation indicating the document control number, [PP 6E1819/P270]. 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: January 25, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.281 be revised to read as follows:

§ 180.281 Dinoseb; tolerances for residues.

Tolerances are established for residues of the herbicide, insecticide, and fungicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	0.1(N).
Alfalfa, hay	0.1(N).
Almonds	0.1(N).
Almonds, hulls	0.1(N).
Apples	0.1(N).
Apricots	0.1(N).
Barley, forage	0.1(N).
Barley, grain	0.1(N).
Barley, straw	0.1(N).
Beans	0.1(N).
Beans, forage	0.1(N).
Beans, hay	0.1(N).
Birdsfoot trefoil	0.1(N).
Birdsfoot trefoil, hay	0.1(N).
Blackberries	0.1(N).
Blueberries	0.1(N).
Boysenberries	0.1(N).
Cherries	0.1(N).
Citrus	0.1(N).
Clover	0.1(N).
Clover, hay	0.1(N).
Corn, fodder	0.1(N).
Corn, forage	0.1(N).
Corn, fresh (inc. sweet K + CWHR)	0.1(N).
Corn, grain (inc. popcorn)	0.1(N).
Cotton, forage	0.1(N).
Cottonseed	0.1(N).
Cottonseed, hulls	0.1(N).
Cucurbits	0.1(N).
Currants	0.1(N).
Dates	0.1(N).
Figs	0.1(N).
Filberts	0.1(N).
Garlic	0.1(N).
Gooseberries	0.1(N).
Grapes	0.1(N).
Hops	0.1(N).
Lentils	0.1(N).
Loganberries	0.1(N).
Nectarines	0.1(N).
Oats, forage	0.1(N).
Oats, grain	0.1(N).
Oats, straw	0.1(N).
Olives	0.1(N).
Onions	0.1(N).
Peaches	0.1(N).
Peanuts	0.1(N).
Peanuts, forage	0.1(N).
Peanuts, hay	0.1(N).
Peanuts, hulls	0.1(N).
Pears	0.1(N).
Peas	0.1(N).
Peas, forage	0.1(N).
Peas, hay	0.1(N).
Pecans	0.1(N).
Plums (prunes)	0.1(N).
Potatoes	0.1(N).
Raspberries	0.1(N).
Rye, forage	0.1(N).
Rye, grain	0.1(N).
Rye, straw	0.1(N).
Soybeans	0.1(N).
Soybeans, forage	1.0.
Soybeans, hay	1.0.
Strawberries	0.1(N).
Vetch	0.1(N).
Vetch, hay	0.1(N).
Walnuts	0.1(N).
Wheat, forage	0.1(N).
Wheat, grain	0.1(N).
Wheat, straw	0.1(N).

[FR Doc. 83-2971 Filed 2-1-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP OE2408/P266; PH-FRL 2294-1]

5-Ethoxy-3-Trichloromethyl-1,2,4-Thiadiazole; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4,-thiadiazole and its metabolite in or on the raw agricultural commodity tomatoes. The proposed regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 4, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B,CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition OE2408 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Georgia.

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 the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole in or on the raw agricultural commodity tomatoes at 0.15 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 a 2-year rat feeding study with a no-observed-effect level (NOEL) of 80 ppm (4.0 milligrams (mg)/kilogram (kg)/day); a 2-year dog feeding study with a NOEL of 100 ppm (2.5 mg./kg/day); a rabbit teratology study with no observed teratogenic or fetotoxic effects at 15 mg/kg/day; an *in vitro* gene mutation assay in cultured chinese hamster ovary cells with no mutagenic effects; and a 3-generation reproduction study in rats with a NOEL of 80 (4.0 mg/kg/day). Toxicological data currently lacking include teratogenicity and oncogenicity in a second species.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 100 ppm or 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0540 mg/day; the current action will increase the TMRC by 0.0065 mg/day (12 percent). Published tolerances utilize 3.59 percent of the ADI; the current action will utilize an additional 0.58 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture 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 and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from tomato pomace used as animal feed, the tolerance established by amending 40 CFR 180.370 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, (PPOE 2408/P266). 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 Exceutive Order 12291.

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

List of Subjects in 40 CFR Part 180

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

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

Dated: January 18, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.370 be amended by adding and alphabetically inserting the raw agricultural commodity tomatoes to read as follows:

§ 180.370 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole, tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Tomatoes	0.15
* * * * *	

[FR Doc. 83-2528 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6485]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determination of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Phoenix, (city), Maricopa County	Cave Creek	Upstream corporate limits	*1,518
			7th Street (upstream side)	*1,464

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Beardsley Road (upstream side)	*1,432
			Union Hills Drive (upstream side)	*1,400
			West Bell Road (upstream side)	*1,365
			19th Avenue (upstream side)	*1,323
			Thunderbird Road (upstream side)	*1,298
			Cactus Road (upstream side)	*1,273
			Peoria Avenue (upstream side)	*1,251
			Dunlap Avenue (upstream side)	*1,223
			Northern Avenue (upstream side)	*1,199
			Glendale Avenue (upstream side)	*1,176
			Bethany Home Road (upstream side)	*1,153
			Indian School Road (upstream side)	*1,114
			Van Buren Street (upstream side)	*1,007
			Durango Street (upstream side)	*1,049
		East Fork Cave Creek	Upstream corporate limits	*1,452
			7th Street (upstream side)	*1,378
			Confluence with Cave Creek	*1,329
		Moon Valley Wash	Thunderbird Road	*1,319
			Confluence with Cave Creek	*1,283
		Scatter Wash	7th Avenue (downstream side)	*1,471
			19th Avenue (upstream side)	*1,435
			Deer Valley Road (upstream side)	*1,375
			Confluence with Skunk Creek	*1,323
		East Branch Scatter Wash	27th Avenue (upstream side)	*1,390
			Confluence with Scatter Wash	*1,364
		Skunk Creek	Upstream corporate limits	*1,461
			Happy Valley Road (upstream side)	*1,432
			Deer Valley Road (upstream side)	*1,362
			Downstream corporate limits	*1,300
		Tenth Street Wash	Desert Cove Avenue (upstream side)	*1,345
			Arizona Canal	*1,242
		Indian Bend Wash	Acoma Road (downstream side)	*1,418
			Sweetwater Avenue (upstream side)	*1,398
			40th Street (downstream side)	*1,365
		Myrtle Avenue Wash	19th Street	*1,290
			Confluence with Dreamy Draw	*1,242
		Flynn Lane Wash	Lincoln Drive	*1,310
			Arizone Canal	*1,242
		Dreamy Draw Wash East	Frier Drive (upstream side)	*1,286
			Confluence with Myrthe Avenue Wash	*1,242
		Salt River	Upstream corporate limits	*1,143
			7th Street (upstream side)	*1,076
			51st Avenue (upstream side)	*1,016
			Downstream corporate limits	*951
		Agua Fria River	Downstream corporate limits	*1,031
			Upstream corporate limits	*1,033
		New River	Downstream corporate limits	*1,032
			Upstream corporate limits	*1,040
		Echo Canyon Wash	Arizona Canal	*1,251
			44th Street (upstream side)	*1,294

Maps available for inspection at the City Hall, 251 West Washington Street, Phoenix, Arizona.
Send comments to Honorable Margaret T. Hance, Mayor of Phoenix, 251 West Washington Street, Phoenix, Arizona 85003.

California	Carlsbad (city), San Diego County	Buena Vista Creek	30 feet upstream from center of Haymar Drive	*39
		Pacific Ocean	Area approximately 450 feet west of intersection of Cannon Road and Carlsbad Bouleavrd.	*10
			Area approximately 500 feet west of intersection of Cannon Road and Carlsbad Boulevard.	*6

Maps available for inspection at the Engineering Department, 1200 Elm Street, Carlsbad, California 92008.
Send comments to Honroable Mary Casler, 1200 Elm Street, Carlsbad, California 92008.

California	Chula Vista (city), San Diego County	Sweetwater River	At the intersection of river and San Diego and Arizona Eastern Railroad.	*11
			At the inersection of Willow Street and North Grover Avenue.	*21
		Telegraph Canyon Creek	40 feet upsteam from center of Second Avenue	*109
			At the intersection of K Street and Colorado Avenue	#1
		Otay River	Area within the corporate limits, approximately 200 feet east from center of Interstate Highway 805 and approximately 1,300 feet south of its intersection with Otay Valley Road.	*88
		San Diego Bay	Area along the coastline, 1,800 feet west on G Street from its intersection with Tidelands Avenue.	*5

Maps available for inspection at the Department of Engineering, 276 4th Avenue, Chula Vista, California.
Send Comments to Honorable George R. Cox, 276 4th Avenue, Chula Vista, California 92010.

California	Del Mar (city), San Diego County	Pacific Ocean	400 feet west of the intersection of 18th Street and Coast Boulevard.	*9
			450 feet west of the intersection of 24th Street and Camino Del Mar.	*6
		Soledad Canyon	The area within the extreme south corporate limits approximately 1,000 feet southeast of the intersection of U.S. Highway 101 and Carmel Valley Road.	*11

Maps available for inspection at the Department of Engineering, 1050 Camino Del Mar, Del Mar, California.
Send Comments to Honorable Harvey Shapiro, 1050 Camino Del Mar, Del Mar, California 92014.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	El Dorado County (unincorporated areas)	Upper Truckee River	150 feet upstream from center of U.S. Highway 50	*6,270
			100 feet upstream from center of Upper Truckee Road (Alpine Camp Bridge).	*6,503
		Angora Creek Tributary	50 feet downstream of center of Sawmill Road	*6,326
		Angora Creek	60 feet upstream of center of Tahoe Boulevard	*6,339
		Trout Creek	20 feet upstream from center of Martin Avenue	*6,257
		Cold Creek	50 feet upstream from center of Pioneer Trail	*6,297
		Heavenly Valley Creek	65 feet upstream from center of Johnson Road	*6,256
	Maps available for inspection at the Department of Public Works, Headington Road, Placerville, California. Send Comments to Honorable W. P. Walker, 330 Fair Lane, Placerville, California 95660.			
California	Escondido (city), San Diego County	Escondido Creek	50 feet south of intersection of Harmony Grove Road and Howard Avenue.	*620
		Reidy Creek	100 feet upstream from center of Nutmeg Street	*679
			At the intersection of Broadway and Stanley Avenue	*706
		Kit Carson Park Creek	20 feet upstream from center of Via Rancho Parkway	*338
			50 feet upstream from center of Encino Drive	*417
	Maps available for inspection at the Department of Engineering, 100 Valley Boulevard, Escondido, California. Send Comments to Honorable Jim Rady, 100 Valley Boulevard, Escondido, California 92025.			
California	Oceanside (city), San Diego County	Buena Vista Creek	50 feet upstream from Center of College Boulevard	*174
		Loma Alta Creek	Intersection of Beachwood Lane and Hillside Street	*16
		Pacific Ocean	150 feet southwest from the intersection of Pacific Street and Forster Street.	*11
	Maps available for inspection at the Department of Engineering, 321 N. Nevada Street, Oceanside, California. Send comments to Honorable Lawrence Bagley, 321 N. Nevada Street, Oceanside, California 92054.			
California	Placerville (city), El Dorado County	Hangtown Creek Tributary	18 feet upstream from center line of Airport Road	*2,145
		Cedar Ravine	21 feet upstream from center line of Darlington Avenue.	*1,914
		Randolph Canyon	100 feet upstream from center of Camino, Placerville and Lake Tahoe Railroad.	*1,926
		Hangtown Creek	At the intersection of Canal Street and Main Street	*1,822
			At the intersection of Lucky Street and Broadway	*1,911
	Maps available for inspection at the Department of Community Development, 487 Main Street, Placerville, California. Send comments to Honorable Karen Tustin, 487 Main Street, Placerville, California 95667.			
California	Pleasant Hill (city), Contra Costa County	Mangini Creek	25 feet upstream of the centerline of Apollo Way	*73
		East Fork Grayson Creek	Intersection of Leslie Drive and Margie Drive	#2
	Maps available for inspection at the Department of Community Planning, 3300 N. Main Street, Pleasant Hill, California. Send comments to Honorable Oliver L. Holmes, 3300 N. Main Street, Pleasant Hill, California 94523.			
California	San Diego (city)	Las Chollas Creek	50 feet upstream from the center of Federal Boulevard.	*110
			Flow over the culvert at Interstate Highway 805	#1
		Wabash Branch	50 feet upstream from center of Pickwick Street	*62
		Homes Avenue Branch	50 feet upstream from center of Fairmont Avenue	*158
		South Las Chollas Creek	Intersection of Euclid Avenue and Guymon Street	*121
		Encanto Branch	30 feet upstream from center of 54th Street	*129
		Switzer Creek	At the confluence with Florida Drive Branch	*85
		Florida Drive Branch	At the intersection of Florida Drive and Florida Place	*120
		Las Puleta Creek	At the intersection of Cottonwood and Osborn Streets	*19
		Nestor Creek	At the intersection of Grove Avenue and Frontage Road.	*32
		Tijuana River	At the intersection of Dairy Mart Road and Tijuana Street.	*43
		Sunrise Overflow	At the intersection of Iris Avenue and Tocayo Avenue	*27
		Carmel Valley Creek	At the intersection of Creek and Shaw Valley Road	*83
		Carroll Canyon Creek	At the intersection of Carroll Canyon Drive and El Camino Drive.	*150
		Kit Carson Park Creek	At the upstream (northern) corporate limits	*332
		Los Penasquitos Creek	At the intersection of Frontage Road and Sorrento Valley Boulevard.	*37
			75 feet downstream from the center of the east lanes of Interstate Highway 15.	*312
		Murray Canyon Creek	At the intersection of Frazee Road and Murray Canyon Road.	*52
		Otay River	At the intersection of State Highway 75 and 19th Street.	*14
		Rose Canyon Creek	50 feet upstream from center of Balboa Avenue	*15
			75 feet upstream from center of Genesee Avenue	*205
		San Clemente Canyon Creek	150 feet upstream from center of Genesee Avenue	*178
		San Diego River	At the intersection of Harney Street and Hotel Circle Place.	*19
			At the intersection of Stadium Way and Conrock Drive	*50
			At the intersection of Camino de la Reina and Mission Center Road.	*#3
		Soledad Canyon	At the intersection of Dunhill and Roselle Streets	*34
		Soledad Canyon	At the intersection of Dunhill and Roselle Streets	*34
		Tecolote Creek	50 feet upstream from center of Mt. Acadia Boulevard	*146

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At the intersection of Tonopah Street and Knoxville Street.	#1
		Telegraph Canyon Creek	Area approximately 1,800 feet southwest from the intersection of L Street and Bay Boulevard (located in the City of Chula Vista).	*18
		Mission Bay	At Mission Point	*4
		San Diego Bay	At Shelter Island	*5
		Pacific Ocean	At the intersection of Avandida de la Playa and LaVerde Grande.	*6
			Along the shoreline west of Pacific Beach Drive	*7
Maps available for inspection at the Department of Engineering, 202 C Street, San Diego, California. Send comments to Honorable Pete Wilson, 202 C Street, San Diego, California.				
California	Scotts Valley (city), Santa Cruz County	Carbonera Creek	90 feet upstream from center of Bob Jones Lane	*548
Maps available for inspection at the Department of Community Development, 370 Kings Village Road, Scotts Valley, California. Send comments to Honorable Reynold Retzlaff, 370 Kings Village Road, Scotts Valley, California 95066.				
California	Vista (city), San Diego County	Buena Vista Creek	East side of the intersection of Melrose Drive and Hacienda Drive.	*306
		Agua Hedionda Creek	40 feet upstream from center of Sycamore Avenue Extension.	*375
		Buena Creek	At the intersection of creek and center of Sycamore Avenue.	*358
Maps available for inspection at the Department of Public Works, 600 Eucalyptus Avenue, Vista, California. Send comments to Honorable R. Mike Flick, P.O. Box 1988, Vista, California 92083.				
Connecticut	Easton, town, Fairfield County	Aspetuck River	Downstream corporate limits	*190
			Upstream Old Redding Road	*220
			Upstream State Route 58	*230
		Ballwall Brook	Confluence with Aspetuck River	*235
			Upstream Staples Road	*271
		Mill River	Downstream corporate limits	*118
			Upstream first crossing South Park Avenue	*142
			Upstream second crossing South Park Avenue	*164
		Morehouse Brook	Confluence with Mill River	*120
			Upstream Dogwood Drive	*155
			Approximately 800 feet upstream of Dogwood Drive	*209
			Upstream Second Dam	*259
			Upstream Delaware Road	*274
			Upstream corporate limits	*298
Maps available for inspection at the TownHall, 274 Center Road, Easton, Connecticut. Send comments to Honorable Lois Stueck, First Selectman, Town Hall, 274 Center Road, Easton, Connecticut 06612.				
Florida	Charlotte County (unincorporated areas)	Gulf of Mexico	At the center of intersection of Annapolis Lane and Oakland Hills Road.	*10
			At the center of intersection of Griggs Road and Short Street.	*13
		Charlotte Harbor	At the center of intersection of Woodside Street and Ester Avenue.	*8
			At the center of intersection of 4th Street and Larsen Street.	*10
			At the center of intersection of Bayshore Road and Larsen Street.	*12
Maps available for inspection at the Zoning Office, 18500 Murdock Circle, Port Charlotte, Florida. Send comments to Honorable Robert H. Shedd, M.D., 18500 Murdock Circle, Port Charlotte, Florida 33952.				
Florida	Naples (city), Collier County	Gulf of Mexico	At the intersection of Pine Grove Lane and Belair Lane.	*12
			At the intersection of Harbour Drive and Crayton Road.	*13
Maps available for inspection at Community Development Office, 735 8th Street, South. Send comments to Honorable Stanley R. Billick, 735 8th Street, South, Naples, Florida 33940.				
Florida	Punta Gorda (city), Charlotte County	Charlotte Harbor	At the intersection of Ann Street and Narranja Street	*8
			At the center of intersection of Bastia Court and Macedonia Drive.	*10
			At the center of intersection of Maud Street and West Marion Avenue.	*11
Maps available for inspection at the Building Department, 326 W. Marion Avenue, Punta Gorda, Florida. Send comments to Bernard W. Senkel, City Manager, 326 W. Marion Avenue, Punta Gorda, Florida 33950.				
Illinois	(C) Dallas City, Hancock and Henderson Counties	Mississippi River	About 2.4 miles downstream of confluence of Camp Creek.	*528
			Just downstream of confluence of Camp Creek	*530
Maps available for inspection at City Clerk's Office, City Hall, Dallas City, Illinois. Send comments to the Honorable Donald E. Anguish, Mayor, City of Dallas City, City Hall, Dallas City, Illinois 62330.				
Illinois	(C) East Dubuque, Jo Daviess County	Mississippi River	About 1.5 miles downstream of U.S. Highway 20	*610
			About 0.4 mile upstream of Illinois Central Gulf Railroad.	*611
Maps available for inspection at the Zoning Administrator's Office, City Hall, 193 Sinsinawa Avenue, East Dubuque, Illinois. Send comments to Honorable George Harrison, Mayor, City of East Dubuque, City Hall, 193 Sinsinawa Avenue, East Dubuque, Illinois 61025.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) Hamilton, Hancock County	Mississippi River	About 1,000 feet downstream of confluence of the Des Moines River.	*500
			Just downstream of Lock and Dam No. 19	*501
			Just upstream of Lock and Dam No. 19	*518
			About 0.6 mile upstream of Lock and Dam No. 19	*518
Maps available for inspection at the Clerk's Office, City Hall, Hamilton, Illinois.				
Send comments to Honorable Francis Barber, Mayor, City of Hamilton, City Hall, Hamilton, Illinois 62341.				
Illinois	(C) Havana, Mason County	Illinois River	Within the community	*453
Maps available for inspection at City Hall, 227 West Main Street, Havana, Illinois.				
Send comments to Honorable W. Colleen Curless, Mayor, City of Havana, City Hall, 227 West Main Street, Havana, Illinois 62644.				
Illinois	(V) Liverpool, Fulton County	Illinois River	Within the corporate limits	*454
Maps available for inspection at the Village Hall, Liverpool, Illinois.				
Send comments to Honorable J. K. Westerfield, Village President, Village of Liverpool, Village Hall, Liverpool, Illinois 61543.				
Illinois	(V) Mahomet, Champaign County	Sangamon River	Just upstream of State Route 47	*684
			About 0.4 mile upstream of Interstate 74	*687
Maps available for inspection at the Clerk's Office, Village Hall, Mahomet, Illinois.				
Send comments to Honorable Dwayne Rogers, Village President, Village of Mahomet, Village Hall, Mahomet, Illinois 61853.				
Illinois	(C) Metropolis, Massac County	Ohio River	At downstream corporate limits	*337
			At upstream corporate limits	*338
Maps available for inspection at the City Clerk's Office, 106 West Fifth Street, Metropolis, Illinois.				
Send comments to Honorable Joseph Sanders, Mayor, City of Metropolis, 106 West Fifth Street, Metropolis, Illinois 62960.				
Illinois	(V) North Barrington, Lake County	North Flint Creek	About 3,800 feet downstream of confluence of Honey Lake Drain.	*756
			Just upstream of Woodland Drive	*766
			Just upstream of Eton Drive	*789
			About 2,600 feet upstream of Kimberly Road	*808
		Flint Creek	Within community	*757
		East Tributary Flint Creek	Within corporate limits	*755
		Honey Lake Drain	At confluence with North Flint Creek	*756
			Just upstream of Golf View Drive	*774
			Just downstream of Honey Lake Dam	*777
			Just upstream of Honey Lake Dam	*785
			Just downstream of Signal Hill Road	*803
			Just upstream of Signal Hill Road	*813
			About 700 feet upstream of Pinewood Drive	*831
		Signal Hill Tributary	At confluence with Honey Lake Drain	*786
			About 650 feet upstream of Signal Hill Road	*825
Maps available for inspection at the Village Clerk's Office, North Barrington, Illinois.				
Send comments to Honorable Charles E. Hinds, Acting Village President, Village of North Barrington, Village Hall, 563 Miller Road, Barrington, Illinois, 60010, Attention: Norma Behrend.				
Illinois	(V) Oquawka, Henderson County	Mississippi River	About 4.2 miles upstream of Dam No. 18	*539
			About 6.5 miles upstream of Dam No. 18	*540
Maps available for inspection at the Village Hall, Oquawka, Illinois.				
Send comments to Honorable Barbara Lumbeck, Village President, Village of Oquawka, Village Hall, Box 454, Oquawka, Illinois 61469.				
Illinois	(V) Pontoosuc, Handcock County	Mississippi River	About 0.77 mile downstream of confluence of Spillman Creek.	*527
			About 0.74 mile upstream of confluence of Spillman Creek.	*528
Maps available for inspection at the Village Hall, R.R. #1, Dallas City, Illinois.				
Send comments to Honorable Francis Miller, Village President, Village of Pontoosuc, Village Hall, R.R. #1, Dallas City, Illinois 62330.				
Indiana	(C) Rising Sun, Ohio County	Ohio River	Within the community	*484
		Dry Branch (Ohio River backwater)	Within the community	*483
Maps available for inspection at City Hall, Walnut Street, Rising Sun, Indiana.				
Send comments to Honorable John Mattingly, Mayor, City of Rising Sun, City Hall, Walnut Street, Rising Sun, Indiana 47040.				
Indiana	(T) Vernon, Jennings County	Vernon Fork Muscatatuck River	About 1.95 miles downstream of State Route 7 (near downstream corporate limits).	*624
			About 0.8 mile upstream of Conrail (near upstream corporate limits).	*638
Maps available for inspection at City Hall, Vernon, Indiana.				
Send comments to Honorable Robert Rockey, Mayor, Town of Vernon, City Hall, P.O. Box 382, Vernon, Indiana 47282.				
Iowa	(C) New Vienna, Dubuque County	North Fork Maquoketa River	At downstream corporate limits	*992
			About 2,300 feet upstream of State Highway 136	*1,001
Maps available for inspection at City Hall, New Vienna, Iowa.				
Send comments to Honorable Bob Mischer, Mayor, City of New Vienna, City Hall, New Vienna, Iowa 62065.				
Iowa	(C) Worthington, Dubuque County	Durion Creek	At downstream corporate limits	*899

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At upstream corporate limits	*913

Maps available for inspection at City Hall, Worthington, Iowa.
Send comments to Honorable Gilbert Fortmann, Mayor, City of Worthington, City Hall, Worthington, Iowa 52078.

Massachusetts	Otis, town, Berkshire County	West Branch Farmington River	Downstream corporate limits	*1,110
			Upstream Reservoir Road	*1,155
			Upstream State Route 23	*1,221
			Upstream Covered Bridge	*1,223
			Upstream corporate limits	*1,255

Maps available for inspection at the Otis Town Hall, Otis, Massachusetts 01253.
Send comments to Honorable William S. Crittendon, Chairman of the Board of Selectmen, Town Hall, Otis, Massachusetts 01253.

Michigan	(Twp) Coloma, Berrien County	Pawpaw River	About 3.6 miles downstream of Park Street (at downstream corporate limits).	*604
			About 1.4 miles upstream of Pawpaw Lake Road (at upstream corporate limits).	*616
		Pawpaw Lake	Shoreline	*629

Maps available for inspection at the Township Hall, 4919 Pawpaw Lake Road, Coloma, Michigan.
Send comments to Honorable Rodney S. Krieger, Jr., Supervisor, Township of Coloma, Township Hall, 4919 Pawpaw Lake Road, Coloma, Michigan 49038.

Michigan	(C) Midland, Midland and Bay Counties	Tittabawassee River	About 900 feet downstream of Consumers Power Railroad.	*610
			At upstream corporate limits	*617
		Chippewa River	Mouth at Tittabawassee River	*616
			At upstream corporate limits	*617
		Sturgeon Creek	At confluence with Tittabawassee River	*617
			At upstream corporate limits	*617
		Inman Drain	At confluence with Sturgeon Creek	*617
			At upstream corporate limits	*617
		Snake Creek	At confluence with Tittabawassee River	*617
			About 150 feet downstream of Crescent Drive	*618
			Just upstream of Saginaw Road	*626
			Just upstream of Wheeler Road	*630
			At East Wackerly Road	*637

Maps available for inspection at the City Hall, 202 Ashman Street, Midland, Michigan.
Send comments to Honorable Joseph Mann, Mayor, City of Midland, City Hall, 202 Ashman Street, Midland, Michigan 48640.

Michigan	(C) Watervliet, Berrien County	Paw Paw River	About 0.73 mile downstream of Main Street (at downstream corporate limits).	*618
			About 0.29 mile upstream of Dam	*624

Maps available for inspection at City Hall, 158 West Pleasant, Watervliet, Michigan.
Send comments to Honorable Albert Steffens, Mayor, City of Watervliet, City Hall, 158 West Pleasant, Watervliet, Michigan 49098.

Michigan	(Twp) Watervliet, Berrien County	Paw Paw River	About 2.3 miles downstream of Dam (at downstream corporate limits).	*616
			About 0.2 mile upstream of Dam	*624
			Just downstream of County Line Road	*632
		Paw Paw Lake	Shoreline	*629

Maps available for inspection at the Township Offices, Watervliet, Michigan.
Send comments to Honorable William Gaines, Supervisor, Township of Watervliet, Township Offices, P.O. Box 384, Watervliet, Michigan 49098.

Montana	Flathead County (unincorporated areas)	West Spring Creek	90 feet upstream from center of Meridian Road	*2,954
		Whitefish River at Whitefish	At the intersection of river and center of Burlington Northern Railroad.	*3,000
		Whitefish River near Kalispell	100 feet upstream from center of Birch Grove Road	*2,948
		Whitefish Lake	At the intersection of Lazy Creek and center of Delrey Road.	*3,000
		Ashley Creek	At the intersection of creek and center of Burlington Northern Railroad.	*2,939
		Bear Creek	At the intersection of creek and center of U.S. Highway 2.	*4,418
		Flathead River	At the intersection of Robocher Lane and Montford Road.	*2,899
			At the intersection of Steel Bridge Road and Kinshella Road.	*2,909
		Lazy Creek	1,740 feet upstream from center of Delrey Road	*3,000
		Middle Fork Flathead River At Nyack.	600 feet North of intersection of U.S. Highway 2 and Burlington Northern Railroad.	*3,359
		Middle Fork Flathead River at West Glacier.	At the intersection of McDonald Creek and center of Quarter Circle Bridge.	*3,152
		Stillwater River near Falispell	50 feet upstream from center of 7th Avenue	*2,935
		Stillwater River near Olney	100 feet downstream from Chute at Lower Stillwater Lake.	*3,036
		Swift Creek	10 feet upstream from center of Delrey Raod	*3,017

Maps available for inspection at the County Clerk's Office, 800 S. Main Street, Kalispell, Montana.
Send comments to Honorable Joan Deist, Box 1076, Kalispell, Montana 59901.

Nevada	Reno (city), Washoe County	Truckee River	150 feet upstream from centerline of South Rock Boulevard.	*4,414
			50 feet upstream from centerline of Kietzke Lane	*4,449
			50 feet upstream from centerline of Booth Street	*4,512

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			100 feet upstream from centerline of Diversion Dam	*4,553
			210 feet upstream from centerline of Mayberry Drive	*4,615
		Steamboat Creek	25 feet South of upstream Corporate Limit	*4,414
		Dry Creek	125 feet downstream from centerline of Panorama Drive.	*4,508
		Boynton South	200 feet upstream from centerline of McCarren Boulevard.	*4,393

Maps available for inspection at City Clerk's Office, City Hall, 490 South Center, Room 209, Reno, Nevada.
Send comments to Honorable Barbara Bennett, P.O. Box 1900, Reno, Nevada 89505.

Nevada	Sparks (city), Washoe County	Truckee River	600 feet upstream from from centerline of South McCarran Boulevard.	*4,396
			70 feet upstream from centerline of Glendale Avenue	*4,439
		North Truckee Drain	Centerline of West Road	*4,391
			150 feet upstream from centerline of Baring Boulevard	*4,403

Maps available for inspection at Public Works Department, 431 Prater, Sparks, Nevada.
Send comments to Honorable Ronald Player, P.O. Box 857, Sparks, Nevada 89432-0857.

New York	Centre Island, village, Nassau County	Long Island Sound	Entire shoreline within community	*17
		Cold Spring Harbor	Shoreline at Beach Road extended	*16
			Shoreline at Roosevelt Road extended	*15
		Oyster Bay Harbor	Shoreline at South Island Road extended	*12
			Shoreline at Cedar Avenue extended	*15

Maps available for inspection at the Village Hall, Centre Island Road, New York.
Send comments to Honorable Carl Schmidlapp, II, Mayor, Centre Island Road,Oyster Bay, New York 11771.

New York	Farmington, town, Ontario County	Ganargua Creek	Downstream corporate limits	*511
			Brownsville Road (upstream)	*538
		Mud Creek	Downstream corporate limits	598
			Conrail (upstream)	*641
			Boughton Hill Road (upstream)	*655
			Upstream corporate limits	*679

Maps available for inspection at the Town Hall, 1000 County Road #18, Victor, New York.
Send comments to Honorable Wesley Tayne, Supervisor of Farmington, Town Hall, 1000 County Road #8, Victor, New York 10564.

New York	Macedon, village, Wayne County	Ganargua Creek	Downstream corporate limits	*457
			Upstream South Erie Street	*464
			Confluence of Trap Brook	*466
			Upstream corporate limits	*469
		New York State Barge Canal	Upstream State Route 350	*448
			Upstream Lock E-30	*464
		New York State Barge Canal Bypass Channel.	Downstream corporate limits	*448
			Upstream State Route 350	*462
			Upstream Railroad Avenue	*464

Maps available for inspection at the Village Hall, 106 Main Street, Macedon, New York.
Send comments to Honorable Donald Kemp, Mayor, Village Hall, 106 Main Street, Macedon, New York 14502

New York	Oneida, city, Madison County	Oneida Creek	Downstream corporate limits	*398
			Upstream Swallows Bridge Road	*400
			Upstream Old Erie Canal bridge	*417
			Upstream State Route 90	*424
			Upstream Abandoned Railroad	*428
			Upstream Lenox Avenue	*429
			Upstream of Genesee Street	*447
			Upstream Middle Road	*451
			Upstream pipe crossing	*457
			Upstream second crossing Kenwood Avenue	*484
			Approximately 1,300 feet upstream of dam	*494
			Upstream Peterboro Road	*509
			Upstream corporate limits	*520
		Higinbotham Brook	Confluence with Oneida Creek	*429
			Upstream Sylvan Street	*444
			Upstream Conrail	*461
			Upstream State Route 5	*479
		Cowasselon Creek	Downstream Conrail	*428
			Downstream Elm Street	*444
			Upstream Abandoned Railroad	*452
			Upstream State Route 5	*475
			Downstream of 1st upstream corporate limits	*497
			Downstream of most upstream corporate limits	*513

Maps available for inspection at the City Engineer's Office, City Hall, 109 Norht Main Street, Oneida, New York.
Send comments to Honorable Herbert Brewer, Mayor, City Hall, 109 North Main Street, Oneida, New York 13421.

New York	Oyster Bay Cove, village, Nassau County	Oyster Bay Harbor	Entire shoreline within community	*15
		Oyster Bay Cove	Entire shoreline within community and area south of the Village of Oyster Bay Cove-Village of Cove Neck corporate limits, near Tiffany Road and Tiffany Creek.	*12

Maps available for inspection at 6 Birch Street, Locust Valley, New York.
Send comments to Honorable Herman C. Schwarb, Mayor, Route 25A, Oyster Bay, New York 11771.

New York	Victor, town, Ontario County	Ganargua Creek	New York State Thruway (upstream side)	*544

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Plaster Mill Road (upstream side)	*549
			CONRAIL bridge (upstream side)	*554
		Mud Creek	State Route 96 (upstream side)	*564
			Most downstream corporate limits	*598
			Upstream corporate limits	*682
		Irondequoit Creek	New York State Thruway (upstream side)	*489
			Abandoned railroad (upstream side)	*500
			Norris Street (upstream side)	*514
		Tributary to Irondequoit Creek	Wangum Road (upstream side)	*500
			Approximately .53 mile upstream Wangum road	*525

Map available for inspection at the Town Hall, 85 East Main Street, Victor, New York.
Send comments to Honorable Kenneth Wilson, Supervisor, Town Hall, 85, East Main Street, Victor, New Your 14564.

North Carolina	Unincorporated areas of Johnston County	Neuse River	Approximately 2,200 feet upstream of Secondary Road 1201.	*87
			Approximately 1,500 feet upstream of Southern Railway.	*135
			Approximately 1,200 feet upstream of State Highway	*42
		Moccasin Creek	Approximately 600 feet upstream of Secondary Road 2541.	*86
			Approximately 500 feet upstream of Secondary Road 1007.	*90
			Approximately 400 feet downstream of Mill Dam (washed out).	*93
		Mill Creek	Approximately 300 feet upstream of Secondary Road 1009.	*99
			Just upstream of Secondary Road 1185	*105
		Mill branch	Approximately 150 feet downstream of Secondary Road 1008.	*91
			Just upstream of Secondary Road 1008	*93
		Stone Creek	Approximately 350 feet downstream of State Highway 701.	*108
		Hannah Creek	Approximately 1,200 feet upstream of Secondary Road 1185.	*109
			Just upstream of State Highway 701	*113
			Just downstream of Interstate Highway 95	*131
		Stony Fork	Just upstream of U.S. Highway 301	* 140
			Just upstream of Seaboard Coastline Railroad	* 149
		Black Creek	Approximately 200 feet upstream of Interstate Highway 95.	* 119
			Just upstream of Secondary Road 1162	* 127
			Secondary Road 1309	* 169
		Swift Creek	Just upstream of Secondary Road 1501	* 135
			Just upstream of Secondary Road 1562	* 163
			Just upstream of Secondary Road 1525	* 190
		Middle Creek	Just upstream of Secondary Road 1504	* 148
			Just upstream of Secondary Road 1330	* 181
			Just upstream of Secondary Road 1531	* 211
		Buffalo Creek (west)	Approximately 200 feet downstream of State Highway 42.	* 216
			Approximately 800 feet upstream of State Highway 42	* 222
			Approximately 100 feet downstream of State Highway 50.	* 235
		Little Creek	Approximately 150 feet downstream of Secondary Road 1560.	* 198
			Approximately 200 feet upstream of Secondary Road 1560.	* 200
		Litter River	Just upstream of Secondary Road 2320	* 126
			Just upstream of Secondary Road 1001	* 137
			Just upstream of Secondary Road 1934	* 151
			Just upstream of Secondary Road 2133	* 168
			Just upstream of State Highway 39	* 179
		Buffalo Creek (east)	Just upstream of State Highway 39	* 171
			Just upstream of State Highway 96	* 183
			Just upstream of State Highway 42	* 205

Maps available for inspection at County Planner's Office, 127 South Second Street, Smithfield, North Carolina 27577.
Sent comments to: Mr. Kramer Jackson, County Manager or Mr. Harold Blizzard, Assistant County Manager, County Courthouse, P.O. 1049, Smithfield, North Carolina 27577.

North Carolina	Village of Walnut Creek, Wayne County	Walnut Creek	Just upstream of Mill Road	* 72
			Just upstream of Dam located approximately 20,800 feet above mouth.	* 88
		Walnut Creek tributary B	Just upstream of Dam located approximately 2,450 feet above mouth.	* 97

Maps available for inspection at the home of the Village Clerk, 612 Lake Shore Drive, Goldsboro, North Carolina 27532.
Sent comments to Mayor Roy Lane or Ms. Margaret Teel, Village Clerk, P.O. Box 10911, Goldsboro, North Carolina 27532.

North Carolina	Unincorporated areas of Wayne County	Bear Creek	Just downstream of County Road 1715	*62
			Just downstream of County Road 1136	*93
			Just upstream of County Road 1136	*98
		Beaverdam Creek (backwater from Neuse River).	Just upstream of County Road 1007	*83
		Brooks Swamp	Just downstream of County Road 1120	*105
			Just downstream of U.S. Highway 117	*117
		Brooks Swamp tributary	Approximately 1,200 feet upstream of confluence with Brooks Swamp.	*108

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Buck Swamp	Just downstream of County Road 1324	*110
		Burden Creek	Just upstream of County Road 1225	*89
			Just downstream of County Road 1007	*91
		Burnt Mill branch	Just downstream of County Road 1933	*113
			Just upstream of County Road 1933	*121
		Falling Creek	Just upstream of County Road 1008	*91
			Just downstream of U.S. Highway 13	*100
			Just upstream of County Road 1006	*114
			Just downstream of County Road 1005	*121
		Lee Branch	Just upstream of County Road 1135	*119
		Little River	Just upstream of County Road 581	*95
			Just downstream of County Road 1234	*100
		Mill branch	Just upstream of County Road 1008	*93
		Mill Creek (north)	Just downstream of County Road 1319	*96
		Mill Creek (south)	Just upstream of County Road 1200 (flooding at this location is affected by backwater from Neuse River).	*85
		Moccasin Creek (backwater from Neuse River).	Confluence with Neuse River	*84
		Nahunta Swamp	Just upstream of County Road 1532	*70
			Just upstream of County Road 1534	*78
			Just upstream of County Road	*97
			Just upstream of County Road 1324	*115
			Just upstream of County Road 1340	*119
		Northeast Cape Fear River	Just downstream of County Road	*90
			Just downstream of State Highway 403	*112
			Just downstream of County Road 1558	*121
		Neuse Riuver	Just downstream of State Highway 11	*61
			Just upstream of U.S. Highway 117	*73
			Just downstream of County Road 1008	*76
			Just upstream of County Road 1224	*84
		Peacock branch	Just downstream of County Road 1324	*108
		Reedy branch	Just upstream of County Road 1571	*105
		Sleepy Creek	Just downstream of County Road 1915	*76
			Just downstream of County Road 1933	*129
		The slough	Just upstream of County Road 1535	*82
			Just upstream of County Road 1537	*111
		Slough tributary	Just upstream of County Road 1545	*110
		Stoney Creek	Just upstream of County Road 1571	*101
			Just upstream of County Road 1523	*113
		Stoney Creek tributary	Just downstream of County Road 1547	*105
		Thoroughfare Swamp	Just upstream of County Road 1120	*114
			Just downstream of County Road 1113	*115
		Thunder Swamp	Just upstream of County Road 1118	*120
			Just downstream of County Road 1117	*124
		Walnut Creek	Just upstream of County Road 1730	*60
			Just upstream of County Road 1728	*88
		Walnut Creek tributary A	Just downstream of County Road 1719	*91
		Walnut Creek tributary C	Just downstream of County Road 1728	*97
			Just upstream of County Road 1728	*102
		West Bear Creek	Just upstream of County Road 1719	*87
			Just upstream of County Road 1705	*103
		Yellow Marsh branch	Just upstream of County Road 1127	*110
			Just downstream of U.S.Highway 17	*145

Maps available for inspection at County Planning Director's Office, County Administration Building, 115 South Williams Street, Goldsboro, North Carolina 27530.
Send comments to Mr. Bruce Grice, County Administrator, or Mr. B. Reid Tunstall, Jr., Director of Planning, P.O. Box 227, Goldsboro, North Carolina 27530.

Ohio	(V) Chesapeake, Lawrence County	Ohio River	At downstream corporate limits	*553
			At upstream corporate limits	*554

Maps available for inspection at the Village Hall, 205 Third Avenue, Chesapeak, Ohio
Send comments to Honorable Robert Templeton, Mayor, Village of Chesapeake, Village Hall, 205 Third Avenue, Chespeake, Ohio 45619.

Ohio	(Uninc.)	Delaware County	About 1.36 miles downstream of Houk Road	*900
			About 0.63 mile upstream of Hills-Miller Road	*946
		Alum Creek	About 1.23 miles downstream of Worthington-Galena Road.	*814
			Just downstream of Lewis Center Road	*827
		Little Walnut Creek	Just upstream of State Route 3	*898
			Just downstream of US Route 36 and State Route 37	*914
		Duncan Run	About 0.25 mile upstream of Red Bank Road	*898
			Just downstream of Harlem Road	*991
			Just upstream of Harlem Road	*996
			Just downstream of Center Village Road	*1,067
		Olentangy River	Just upstream of Delaware-Franklin County line	*765
			Just upstream of Norfolk and Western Railway	*892
		Scioto River	About 300 feet upstream of Delaware-Franklin County line.	*795
			Just downstream of O'Shaughnessy Dam	*802
			Just downstream of State Route 257	*860
			About 0.25 mile upstream of Mink Street Road	*897
		Mill Creek	About 500 feet upstream of State Route 745	*860
			About 200 feet downstream of Delaware-Union County line.	*919
		Bluss Creek	About 500 feet upstream from confluence with Mill Creek.	*904
			At Delaware-Union County line	*931

Maps available for inspection at the Delaware County Regional Planning Commission, 110½ North Franklin Street, Delaware, Ohio.
Send comments to Honorable Kenneth Reed, President of the County Commissioners, Delaware County, Office of the Delaware County Commissioners, Delaware, Ohio 43015.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Irondale, Jefferson County	North Fork Yellow Creek	About 600 feet downstream of Conrail (downstream of East Avenue).	*699
			Just upstream of East Avenue	*718
			About 1.1 miles upstream of Ford Street	*729
Maps available for inspection at the Village Clerk's Office, Village Hall, Irondale, Ohio.				
Send comments to Honorable Harry Diehl, Mayor, Village of Irondale, Village Hall, P.O. Box 223, Irondale, Ohio 43932.				
Ohio	(V) North Bend, Hamilton County	Ohio River	At downstream corporate limits	*492
			At upstream corporate limits	*493
Maps available for inspection at the Mayor's Office, 21 Taylor Street, North Bend, Ohio.				
Send comments to Honorable Alan Montague, Mayor, Village of North Bend, 21 Taylor Street, North Bend, Ohio 45052.				
Ohio	(V) Rome, Adams County	Ohio River	Within corporate limits	*525
Maps available for inspection at the Mayor's Office, Stout, Ohio.				
Send comments to Honorable Norma Ralston, Mayor, Village of Rome, P.O. Box 302, Stout, Ohio 45684.				
Ohio	(C) Toronto, Jefferson County	Ohio River	About 0.9 mile downstream of confluence of Jeddo Run.	*675
			At confluence of Croxton Run	*677
Maps available for inspection at the Municipal Building, 308 North Sixth Street, Toronto, Ohio.				
Send comments to Honorable Andrew Blanter, Mayor, City of Toronto, Municipal Building, 308 North Sixth Street, Toronto, Ohio 43964.				
Ohio	(V) Walbridge, Wood County	Dry Creek	Just upstream of Lemoyne Road	*614
			About 1,200 feet upstream of Conrail	*618
		Cedar Creek	About 1,950 feet downstream of Conrail	*612
			Just downstream of Chessie System	*615
Maps available for inspection at the Mayor's Office, 111 North Main Street, Walbridge, Ohio.				
Send comments to Honorable Gary Revill, Mayor, Village of Walbridge, 111 North Main Street, Walbridge, Ohio 43464.				
Oregon	Yamhill County (unincorporated areas)	Willamette River	50 feet upstream from center of State Highway 219	*98
		Yamhill River	At the intersection of Lafayette Highway and Yamhill River.	*107
		North Yamhill River	At the intersection of Poverty Bend Road and North Yamhill River.	*113
		South Yamhill River	At the intersection of Three Mile Land Highway and South Yamhill River.	*119
			20 feet upstream from center of Salmon River Highway.	*182
		Hess Creek	25 feet upstream from center of Mountain Drive	*183
		Chehalem Creek	Intersection of Dayton Avenue and Chehalem Creek	*99
			25 feet upstream from center of County Road 98	*147
		Palmer Creek	Confluence with West Fork Palmer Creek	*103
		West fork Palmer Creek	25 feet upstream from center of Webfoot Road	*103
		Panther Creek	At confluence with Baker Creek	*113
		Baker Creek	100 feet upstream from center of West Side Road	*114
		Yamhill Creek	25 feet upstream from center of State Highway 240	*167
		Cozine Creek	At the intersection of Hill Road and Cosine Creek	*146
		Salt Creek	Intersection of Roy Freeman Ranch Road and Salt Creek.	*136
		Ash Swale	At the center of U.S. Highway 99 W. crossing near confluence with Sale Creek.	*135
		Willamina Creek	25 feet upstream from center of Fort Hill Junction Road.	*244
		Agency Creek	50 feet upstream from center of State Highway 22	*349
Maps available for inspection at the Planning Department, County Courthouse, McMinnville, Oregon.				
Send comments to Honorable Ted Lopuszynski, County Courthouse, Room 108, McMinnville, Oregon 97128.				
South Carolina	Township of Sullivan's Island, Charleston County	Atlantic Ocean	At the intersection of Keenan and Middle Street	*17
			At the intersection of Thee and Station 19 Streets	*17
			At the intersection of Bayonne and Station 26 Streets	*17
			At the intersection of Atlantic Avenue and Station 26 Street.	*16
			At the intersection of L'on Avenue and 26 Street	*15
			At the intersection of Middle and Station 26 Streets	*14
Maps available for inspection at Town Hall, 1610 Middle Street, Sullivan's Island, South Carolina 29482.				
Send comments to Mayor C. M. Anderegg or Mr. Sammy Ward, Administrative Assistant, Town Hall, P.O. Box 427, Sullivan's Island, South Carolina 29482.				
Pennsylvania	Benton, borough, Columbia County	Fishing Creek	Downstream corporate limits	*748
			Upstream State Route 487	*764
			Upstream dam	*774
			Upstream corporate limits	*775
		West Creek	Downstream corporate limits	* 751
			Upstream Market Street	*763
			Upstream corporate limits	*778
Maps available for inspection at the Borough Building, Third Street, Benton, Pennsylvania.				
Send comments to Honorable Ernie Roberts, President of the Benton Borough Council, Third Street, Benton, Pennsylvania 17814.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Indiana, township, Allegheny County	Little Deer Creek	At downstream corporate limits	*783
			Approximately 125' downstream of Bessemer and Lake Erie Railroad (1st crossing).	*810
			Upstream of Rich Hill Road	*835
			Upstream of Russellton Road	*877
			At most upstream corporate limits	*877

Maps available for inspection at the Township Building, Indianola, Pennsylvania.
Send comments to Honorable Jack A. Rafferty, Mayor of Indiana Township, P.O. Box 153, Indianola, Pennsylvania 15051.

Pennsylvania	North Fayette, township, Allegheny County	Montour Run	Downstream corporate limits	*851
			Upstream State Route 60	*867
			Upstream Cliff Mine Road	*890
			Upstream Railroad Street (1st crossing)	*946
			Upstream U.S. Route 30	*979
		South fork Montour Run	Upstream Santiago Road	*1,013
		Robinson Run	Downstream corporate limits	*867
			Upstream Willow Steet	*923
			Upstream Main Street	*940
			Upstream corporate limits	*965
		North branch Robinson Run	Downstream corporate limits	*913
			Upstream North Branch Road (State Route 978)	*950
			At Donalson Road	*975

Maps available for inspection at the Township Building, Oakdale, Pennsylvania.
Send comments to Honorable Louis Chauvert, R.D. 3, Box 760, Oakdale, Pennsylvania, 15071.

Pennsylvania	Spring, township, Centre County	Spring Creek	At most downstream corporate limits	*720
			At downstream corporate limits with the borough of Bellefonte.	*729
			At upstream corporate limits with the borough of Bellefonte.	*752
			At most upstream corporate limits	*757
		Logan Branch	At downstream corporate limits	*757
			Upstream of second upstream private road	*775
			Upstream of Township Route 384	*802
			Iris Hollow Road (extended)	*833
			At upsteam corporate limits	*878
		Gap Run	At downstream corporate limits	*915
			Upstream of State Route 144 (downstream crossing)	*946
			Downstream of Harrison Road	*987
			Upstream on the Hill Road (Township Route 367)	*1,101
			Upstream of State Route 144 (upstream crossing)	*1,245

Maps available for inspection at the Township Municipal Building, RFD 2, Bellefonte, Pennsylvania.
Send comments to Honorable Milo Wilson, Chairman of the Spring Township Board of Supervisors, RFD 2, Box 1100, Bellefonte, Pennsylvania 16823.

Pennsylvania	West Deer, township, Allegheny County	Deer Creek	Downstream corporate limits	*863
			Upstream of first crossing of State Route 910	*899
			Upstream of private road	*911
			Upstream of 2nd crossing of State Route 910	*922
			Confluence of west branch Deer Creek	*933
		West branch Deer Creek	Confluence with Deer Creek	*933
			Upstream of private road	*948
			Approximately 0.29 mile upstream of private road	*955
		Little Deer Creek	Downstream corporate limits	*888
			Upstream of Little Deer Creek Valley Road	*934
			Upstream of McKrell Road	*947
			Upstream of access road	*961
			Upstream of Bessemer and Lake Erie Railroad	*978
			Upstream of private road	*987
			Approximately 0.3 mile upstream of private road	*992

Maps available for inspection at the Township Building, Russellton, Pennsylvania.
Send comments to Honorable Charles Bergensky, Box 2, Russellton, Pennsylvania, 15076.

Washington	Sultan (town), Snohomish County	Sultan River	At the center of First Street and Birch Avenue	*116
		Skykomish River	150 feet south from the center of intersection of Tenth Street and Dyer Road.	*117

Maps available for inspection at Town Hall, Sultan, Washington.
Send comments to the Honorable Harold Love, P.O. Box 2201 Sultan, Washington 98294

West Virginia	Pineville, City, Wyoming County	Guyandotte River	Downstream corporate limits	*1,272
			Upstream of Park Street	*1,286
			Upstream corporate limits	*1,313
		Rockcastle Creek	Upstream State Route 10 (River Drive Avenue)	*1,288
			At State Route 97 (Twin Falls Road)	*1,319
			Upstream Hemlock Street	*1,371
			Upstream corporate limits	*1,384
		Bearhold fork	Upstream of confluence with Rockcastle Creek	*1,319
			Upstream corporate limits	*1,364

Maps available for inspection at the City Hall, Park Street, Pineville, West Virginia.
Send comments to Honorable Everett W. Bowling, Mayor of Pineville, P.O. Box 220, Pineville, West Virginia 24874.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
West Virginia	Williamstown, city, Wood County	Ohio River	Downstream corporate limits	*615
			Upstream corporate limits	*616
		Williams Creek	Downstream corporate limits	*615
			Upstream of Highland Avenue	*626
			Approximately 2,200 feet upstream of Highland Avenue.	*630

Maps available for inspection at the Municipal Building, Fifth Street and Park Avenue, Williamstown, West Virginia.

Send comments to Honorable Herman Fisher, Mayor of Parkersburg, Fifth Street and Park Avenue, Williamstown, West Virginia 26187.

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

Issued: January 14, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2410 Filed 2-1-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-21; RM-4216]

FM Broadcast Station in Agana, Guam; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 248 to Agana, Guam, in response to a petition filed by Radio K–57, Inc., licensee of Station KGUM(AM) in Agana. The proposal could provide a fourth FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments must be filed on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Agana, Guam); MM Docket No. 83–21, RM–4216.

1. A petition for rule making was filed October 12, 1982, by Radio K–57, Inc. ("petitioner"), licensee of Station KGUM(AM) in Agana, Guam, proposing the assignment of Class C FM Channel 248 to Agana as its fourth FM assignment.[1] Petitioner expressed an interest in applying for the channel, if assigned, the channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a fourth FM broadcast service to Agana, Guam, the Commission believes that it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Agana, Guam	230, 238, 262	230, 238, 248, and 262.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel can be assigned.

[1] Petitioner states that it is currently an applicant for Channel 262. That application is mutually exclusive with another application filed by Guam Radio Service, Inc. Should the subject rule making be granted for Channel 248, it would dismiss its application for Channel 262.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes

an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2855 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-23; RM-4215]

FM Broadcast Station in Waterville, Maine; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to substitute Class B FM Channel 253 for Channel 252A at Waterville, Maine and to modify the license of Station WTVL-FM accordingly in response to a petition filed by Kennebec Broadcasting Company.

DATES: Comments must be filed on or before March 11, 1983, and reply comments must be filed on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Waterville, Maine): MM Docket No. 83-25, RM-4215.

1. A petition for rule making was filed October 12, 1982 by Kennebec Broadcasting Company ("petitioner") [1] seeking to substitute Class B Channel 253 for Channel 252A at Waterville, Maine and to modify the license of Station WTVL-FM, Channel 252A to specify operation on Channel 253. The substitution can be made in compliance with the minimum distance separation requirements. Petitioner states that, should the substitution be made, it will immediately modify its facilities to meet all technical standards for a Class B station. Petitioner further states that, should the Commission open Class B Channel 253 to other applicants and if those applicants cannot be otherwise accommodated, it would withdraw its request for rule making.

2. Waterville, Maine is within 320 kilometers (200 miles) of the United States-Canadian border. Therefore, the proposed substitution requires coordination with the Canadian government.

3. Petitioner points out that the boundary between Zones I and II passes through Waterville, its city of license, and through Winslow, the town in which its transmitter is located. Petitioner states that § 73.205(a) provides that when zone boundary lines pass through a city, that city shall be considered to be located in Zone I. According to petitioner, although its present transmitter site is located in Zone II, it must be considered to be in Zone I by virtue of § 73.205(a), and a Class B allocation is proper. Petitioner asserts that, should the Commission find the meaning of § 73.205(a) to be otherwise, it, nevertheless, requests the Class B allocation for Waterville, indicating that it could serve that city from alternate transmitter sites in Zone I or, since its present transmitter site is only 1,300 feet outside Zone I, it could seek a waiver of the Zone boundaries.

4. Petitioner states that the proposed Channel 253 would preclude operation of WTVL-FM on Channel 252A. Therefore, it assets that it is essential to the rule making that its license be modified to specify operation on the Class B channel.

5. Petitioner indicates that the proposed license modification would result in a more efficient utilization of the frequency, as without such modification, WTVL-FM would be

[1] Petitioner is the licensee of Station WTVL-FM, Channel 252A, Waterville, Maine.

precluded from use of the Class B channel. Petitioner asserts that more efficient use of the frequency is in the public interest and that the higher power will also enable Waterville's only commercial FM station to provide improved service to the area.

6. A station which has a site in Zone I is considered a Class B station. If the site is in Zone II, it is a Class C station. It is the transmitter site that governs, not the location of the city of license. See § 73.211(c) of the Commission's Rules. Petitioner's reliance on § 73.205(a) that the city of assignment determines the class of station is not applicable here. That section applies to vacant assignments so that the mileage separations can be measured from a certain class of channel. Where a transmitter site is already in existence, that site would govern. Here petitioner proposes to use its present site which is located in Zone II (Class C). Petitioner recognized the possibility of the nonapplicability of § 73.205(a) and indicated it may seek a waiver. The Commission's policy on this matter is to permit operation of a Class B station in Zone II in order to take advantage of an existing antenna structure where an applicant states that it will accept a grant of its application conditioned upon the provision that it maintain Class B facilities. See *Doubleday Broadcasting Co., Inc.*, 46 RR 2d 1577 (1980).

7. The Commission also proposes to modify the license of Station WTVL–FM (Channel 252A), Waterville, Maine, to specify operation on proposed Class B Channel 253, provided that no other party expresses an interest in operating a Class B channel. See *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976).

8. On the basis that petitioner will either conform its station to the requirements of § 73.211(c) or seek a waiver thereof, the Commission believes that petitioner's proposal warrants consideration. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Waterville, Maine as follows:

City	Channel No.	
	Present	Proposed
Waterville, Maine	252A	253

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties my file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 83-2860 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-22; RM-4222]

FM Broadcast Station in Los Alamos, New Mexico; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 296A to Los Alamos, New Mexico, as its second FM channel assignment, in respones to a petition filed by Ronald Nedblake.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Los Alamos, New Mexico); MM Docket No. 82-22, RM-4222.

1. A petition for rule making was filed October 18, 1982, by Ronald Nedblake ("petitioner"), seeking the assignment of FM Channel 296A to Los Alamos, New Mexico, as its second FM assignment. Petitioner has stated that it would apply for the channel, if it is assigned.

2. In view of the fact that the proposed assignment could provide a second FM broadcast service to Los Alamos, New Mexico, the Commission proposes to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Los Alamos, N.Mex.	253	253, and 296A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend §73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the processing. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be

served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420.(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-2859 Filed 2-1-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-20; RM-4236]

FM Broadcast Station in Cave Junction, Oregon; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 274 to Cave Junction, Oregon, in response to a petition filed by Illinois Valley Radio. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cave Junction, Oregon); MM Docket No. 83-20, RM-4236.

1. A petition for rule making was filed October 26, 1982, by Illinois Valley Radio ("petitioner") proposing the assignment of Class C FM Channel 294 to Cave Junction, Oregon, as its first FM broadcast assignment.

2. The assignment of Channel 294 to Cave Junction would be short-spaced to Channel 295 already proposed for assignment at Medford, Ore. (BC Docket 82-308). The distance between the two communities is approximately 44 miles, whereas the required distance is 150 miles. However, a staff study indicates that Class C Channel 274 is available to Cave Junction as an alternative. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that the proposed assignment could provide a first FM broadcast service to Cave Junction, Oregon, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Cave Junction, Oregon		274

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in

connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2857 Filed 2-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-19; RM-4212]

FM Broadcast Station in Brigham City, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUBJECT: Action taken herein proposes the substitution of Class C FM Channel 295 for Channel 296A at Brigham City, Utah, and modification of the license of the Class A station (KBUH-FM) to specify operation on the Class C channel, at the request of the licensee, Brigham City Broadcasting Company, Inc.

DATE: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; Brigham City, Utah; MM Docket No. 83-19; RM-4212.

Adopted: January 13, 1983.

Released: January 25, 1983.

1. A petition for rule making was filed September 23, 1982, by Brigham City Broadcasting Company, Inc. ("petitioner"), licensee of Station KBUH-FM, proposing the substitution of Class C FM Channel 295 for Channel 296A at Brigham City, Utah, and modification of the license of Station KBUH-FM to specify operation on Channel 295.

2. In a recent action, the license for Station KABE in Orem, Utah, was modified from Channel 296A to Channel 298 (BC Docket No. 80-525). That change must take place before Channel 295 can be used at Brigham City, Utah. We are sending a copy of this Notice to the licensee to inquire as to whether there will be any further delay in switching frequencies.

3. A site restriction of 6.6 miles west of Brigham City is required due to the construction permit issued at Evanston, Wyoming on Channel 292A.

4. According to the Commission's established policy, the proposal to substitute a superior Class C channel for a Class A channel and modify the license to specify operation on the Class C channel is subject to affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

5. In view of the foregoing, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Brigham City, Utah	296A	295

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

9. It is requested that the Secretary SHALL SEND a copy of this *Notice of Proposed Rule Making,* Return Receipt Requested, to Station KABE, Morris J. Jones, 66 East, 800 North, Orem, Utah, 84210.

10. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6)

and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2856 Filed 2-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 82-24; RM-4240]

FM Broadcast Station in Jackson, Wyoming; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 238 to Jackson, Wyoming, in response to a petition filed by Phil Keller. The proposed channel could provide a second FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Jackson, Wyoming); MM Docket No. 83-24, RM-4240.

Adopted: January 13, 1983.

Released: January 25, 1983.

1. A petition for rule making was filed November 1, 1982, by Phil Keller ("petitioner") seeking the assignment of Class C Channel 238 to Jackson, Wyoming, as its second FM assignment. Petitioner filed comments in support of the proposal and expressed an interest in applying for the channel, if assigned. A site restriction of 9 miles north of the city is required due to Station KVFM in Ogden, Utah.

2. In view of the fact that the proposed assignment could provide a second FM broadcast service to Jackson, Wyoming, the Commission believes it is appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Jackson, Wyoming	245	238,245

3. The commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b), of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.292(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply or the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2858 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5 (Sub 4)]

Passenger Broker Surety Bonds or Insurance; Discontinued Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinued rulemaking

SUMMARY: The "Bus Regulatory Reform Act of 1982" exempts brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, the discretion to impose insurance and/or bond requirements on passenger brokers if deemed necessary to protect passengers and carriers dealing with brokers.

On November 19, 1982, the passenger broker bond requirements under 49 CFR 1043.4(b) became void as a matter of law and have no legal effect. Accordingly, § 1043.4(b) is being removed from the Code of Federal Regulations elsewhere in this issue. The Commission has decided not to reinstitute any bond or insurance requirement for passenger brokers at this time, and thus discontinues the rulemaking proceeding.

DATE: This decision is effective on March 4, 1983.

FOR FURTHER INFORMATION CONTACT:

Alice K. Ramsay, (202) 275-0854

or

Margaret Richards, (202) 275-1538.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking was served on September 22, 1982, and published on September 29, 1982, at 47 FR 42926. It requested comments on a number of issues concerning the need for passenger broker insurance and/or bonding requirements to protect passengers and motor carriers who use the services of brokers. Sixteen statements were filed in response to the notice from the following parties:

American Bus Association
Bellport Travel, Inc.
James M. Burns, I.C.C. Practitioner
Campus Travel, Inc., Consolidated Terminal and Travel Bureau, Inc., Keri Tours, Inc., and Lincoln Transit Co., Inc.
Capitol Bus Company, Capitol Trailways Tours, Inc., 88 Transit Lines, Inc., Frank Martz Coach Company, Gold Line, Inc., Lincoln Coach Lines, Lincoln Coach Travel, Inc., and Martz Travel, Inc.
Greyhoud Lines, Inc.
John W. Higgins, Inc.
Marshall Motor Coach, Inc.
Moore Travel Service, Unlimited
National Tour Brokers Association, Inc.
Office of the Special Counsel
Quality Tours
Roy Shelton
The Surety Association of America
Triangle Tours
Wertz Motor Coaches, Inc.

Most of the comments are to the effect that bonding and/or insurance coverage is needed to protect the public and bus operators from unscrupulous tour or passenger brokers who collect the tour money and then don't provide some or all of the purchased services. The comments predict that such occurrences will increase due to the deregulation of motor passenger brokers by the "Bus Regulatory Reform Act of 1982." Indeed, the Act exempts interstate passenger brokers from any licensing, recordkeeping, or service requirements and leaves the Commission with only the discretion to impose bonding and/or insurance requirements.

However, there is little substantive evidence that abuses by tour brokers occur with such frequency or magnitude that they constitute a substantial consumer problem. Since 1935, the Commission has received few complaints against tour brokers or reported instances of loss due to defaulting brokers. As a result of our experience, we believe that the abuses

committed by passenger brokers are not significant enough to warrant a Federal regulation requiring bonding or insurance protection at this time. The public has other means of redressing grievances against brokers. State laws, consumer agencies of cities and counties, and independent consumer advocate groups exist to help protect the rights of the public, especially in instances of fraud and failure to provide services for which payment has been made.

Motor carriers of passengers are able to use their business prerogative in making judgments and decisions about the particular brokers with which they will no business. Many carriers require a broker to show evidence of insurance before providing a contract for service or extending credit to the broker. This practice shows that individual carriers are in a position to protect themselves from unscrupulous brokers without additional Federal regulations.

We believe that many passenger brokers will continue to maintain voluntarily some sort of security for the protection of the public. Both the American Bus Association and the National Tour Brokers Association are active in developing certification and monitoring programs for their members to ensure that bonding or insurance coverage is maintained by the brokers concerned. These programs should be valuable information sources for the users of broker services.

Finally, this Commission desires to act in the spirit of the "Bus Regulatory Reform Act of 1982" by eliminating entry barriers into the broker industry and reducing the cost of compliance with Federal regulations. Although the annual cost of a $5,000 surety bond may be as little as $75.00, the bond normally must be fully collateralized and thus may act as an entry barrier to a potential passenger broker. Many of the commenting parties favor surety bond protection in even greater amounts, of $10,000 or more. The National Tour Brokers Association, on the other hand, favors insurance coverage which includes coverage for errors and omissions as well as bodily injury and property damage liability. This type of insurance in an amount of $1,000,000 may be purchased for an annual permium of $426.00, which could act as a significant deterrent to a potential broker with minimal start up capital.

Since the Act eliminated any licensing requirement for passenger brokers, identifying those persons or companies functioning as brokers could present endless problems for enforcement on a bonding or insurance requirement. The wide variety of services performed by persons involved in developing travel tours and the sometimes complicated financial arrangements make it difficult at times to determine whether they fall within the statutory definition of a broker under 49 U.S.C. 10102(1). If a broker is identified who fails to have proper insurance or bonding, the Commission's recourse for all practical purposes is limited to court action to enjoin the broker from violating a regulation requiring insurance or bonding, were there such a requirement. There will be no license to revoke nor provisions to levy any penalty against a noncomplying broker. Additionally, proper enforcement of a bonding or insurance requirement would require a burdensome filing to prove evidence of security and to ensure against any lapses in security coverage.

The minimal benefits that would be derived from bonding or insurance at this time do not justify the greater cost and burden of compliance for the broker. Therefore, we will not institute a bonding or insurance requirement for brokers at present. There is no limit under 49 U.S.C. 10924(f) for exercising the Commission's discretionary authority to adopt requirements for security for the protection of the public. If a demonstrable need arises in the future, the Commission may again consider the adoption of passenger broker requirements for bonding and/or insurance.

The passenger broker surety bonds now on file with the Commission are no longer required by law. Passenger brokers and surety companies who would like their surety bonds returned to them, should make a request in writing to the Insurance Branch, Interstate Commerce Commission, Washington, D.C. 20423. Members of the public who need information about passenger broker bonds which were required during the period that these brokers were subject to regulation may continue to request such information from the Commission.

Because of the exemption from Commission regulation granted to passenger brokers by the "Bus Regulatory Reform Act of 1982," § 1043.4(b) is inoperative and is being removed from Title 49 of the Code of Federal Regulations elsewhere in this issue.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

We certify that this action will not have a significant impact upon a substantial number of small entities. As stated in this notice, abuses by brokers are rare, and federal regulation is not warranted in this area.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

(49 U.S.C. 10321 and 10924, 5 U.S.C. 553, and Sec. 14 Bus Regulatory Reform Act of 1982.)

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Simmons concurred with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Simmons, concurring:

I believe that the public interest dictates that the Commission should require brokers of passengers to maintain insurance and/or bonds. In determining whether to impose such a requirement, the Commission has to weigh what I consider to be a minimum regulatory burden on brokers against that of protecting the public. If the requirement is not a significant barrier to entry (which I do not believe it is), then we must consider whether the public needs this protection. I am convinced that there is such a need.

Against my better judgment, I reluctantly concur with the decision, however, because the majority has left open the option to adopt bonding and /or insurance requirements if the need should arise in the future. OCCA should diligently monitor all complaints received regarding brokers and report their findings to the Commission in its regular report to the Commission.

[FR Doc. 83-2757 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

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.

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament
Date: February 17 and 18, 1983
Time: 9:00 a.m. each day
Place: State Department Building, Washington, D.C.
Type of meeting: Closed
Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.
Purpose of advisory committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda

Will include the following discussions and presentations:

February 17, 1983

A.M.—U.S. Theater Nuclear Force Modernization Programs
P.M.—U.S. Strategic Nuclear Force Modernization Programs

February 18, 1983

A.M.—Discussion of the foregoing and possibly other similar matters.
Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.
Authority to close meeting: the closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated January 18, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,
Committee Management Officer.

[FR Doc. 83-2734 Filed 2-1-83; 8:45 am]
BILLING CODE 6820-32-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding Asset Management In Bureau of Land Management

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement, pursuant to § 800.8 of the Council's regulations (36 CFR Part 800), with the Bureau of Land Management (BLM), Department of the Interior, and the National Conference of State Historic Preservation Officers (NCSHPO) providing for the protection of historic properties in connection with the BLM's Asset Management program and related actions. Comments and suggestions on how such properties should be identified and protected in advance of federal land transfers and other asset management actions are solicited. Drafts of the proposed agreement will be available as consultation progresses.

DATE: Comment due March 4, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

Dated: January 28, 1983.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 83-2841 Filed 2-1-83; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 28, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447-6201.

New

• Agricultural Marketing Service
Mesa County, Colorado Peaches—Marketing Order No. 919
On occasion
Farm, business: 376 responses; 2,430 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

Revised

• Agricultural Marketing Service
Florida Indian River Grapefruit—Marketing Order No. 912
On occasion, weekly, annually
Business: 2,134 responses; 239 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

• Food and Nutrition Service
State Plan and Operating Guidelines, Forms and Waivers
FNS-366A and FNS-366B
Annually
State and local governments: 108 responses; 3,984 hours; not applicable under 3504(h)
Paul Jones (703) 756-3431

• Agricultural Marketing Service
Florida Interior District Grapefruit—Marketing Order No. 913
On occasion, weekly, annually
Business: 501 responses; 495 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Extension

• Agricultural Research Service
Taxonomic Data Input Forms—Beatle Genus and Species
ARS–125 and ARS–126
On occasion
Individuals or households: 1,350 responses; 113 hours; not applicable under 3504(h)
John Kingsolver (202) 382–1787

• Food and Nutrition Service
Monthly Report of Commodity Supplemental Food Programs
FNS–153
Monthly
State or local governments: 348 responses; 696 hours; not applicable under 3504(h)
Maxine McMillian (703) 756–3710.

Charles E. Caudill,

Acting Statistical Clearance Officer.

[FR Doc. 83-2776 Filed 2-1-83; 8:45 am]

BILLING CODE 3410-01-M

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

Correction

In FR Doc. 83–1581 beginning on page 2720 in the issue of Thursday, January 20, 1983, make the following corrections:

On page 2720, top of the third column, **"Program Research Grants Program"** should have read **"Special Research Grants Program".**

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

Airborne Express, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause 83–1–119.

SUMMARY: The Board has tentatively decided to issue a certificate to Airbrone Express, Inc. authorizing it to engage in scheduled foreign air transportation of cargo.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken as described in the order cited above shall, no later than February 24, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40669, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Airborne Express, Inc. and the Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and issue a certificate authorizing Airborne Express, Inc. to engage in scheduled foreign air transportation of cargo.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropoitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Don Hainbach, (202) 673–5035, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2837 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

Application of APA International Air, S.A.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause; Order 83–1–118.

SUMMARY: The Board proposes to approve the following application.

Applicant: APA INTERNATIONAL AIR, S.A.
Application Date: November 13, 1981, Docket: 40246.
Authority Sought: Scheduled foreign air transportation of persons, property and mail between Puerto Plata, Dominican Republic and Miami, Florida; New York, New York; and San Juan, Puerto Rico.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 23, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Dominican Republic in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 40246, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428
Applicant: APA International Air, S.A., c/o Mr. James M. Burger, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, Suite 900, Washington, D.C. 20036

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Gordon H. Bingham, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5134.

By the Civil Aeronautics Board, January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2839 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 83–1–115, January 27, 1983, Dockets 38961 and 40751, proposes to establish the final service mail rates established in those dockets for the mail services of each air carrier certificated to provide intra-Alaska or intra-Hawaii air transportation on and after the date of this order.

FOR FURTHER INFORMATION CONTACT: Joseph Bolognesi, Bureau of Domestic Aviation, (202) 673–5333 or James E. Gardner, Bureau of International Aviation, (202) 673–5391.

Copies of Order 83–1–115 are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request to that address.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2838 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

Trav'lers Aire, Inc., et al.; Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
83-1-108	Trav'lers Aire, Inc	Feb. 16, 1983.
83-1-109	Pacific Cal Air, Inc	Do.
83-1-110	East Hampton Aire, Inc	Feb. 17, 1983.
83-1-111	Ohio Valley Aviation, Inc	Feb. 18, 1983.
83-1-112	Tri-State Airlines, Inc	Feb. 22, 1983.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Chew for Order 83-1-108 at (202) 673-5340; Ms. Carolyn S. Kramp for Orders 83-1-109 and 83-1-110 at (202) 673-5919; Mr. Paul Samuel Smith for Order 83-1-111 at (202) 673-5450; and Ms. Anne W. Stockvis for Order 83-1-112 at (202) 673-5088; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2836 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Maine 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 Maine Advisory Committee to the Commission will convene at 6:00p and will end at 8:00p, on April 6, 1983, in the Board Room, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine 04330. The purpose of this meeting will be to discuss the Block Grant study, Civil Rights Developments in Maine, 1982, and the status of the Maine Equal Rights Amendment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine 04106, (207) 775-1451 or the New England Regional Office, 55 Summer Street, 8th Floor, 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., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2818 Filed 2-1-83; 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 March 2, 1983, in the Conference Room, at the Vermont National Education Association, 58 East State street, Montpelier, Vermont 05602. The purpose of this meeting will be to discuss the Block Grant study; the reports on Civil Rights Developments in Vermont, 1982, and Franco-Americans; and legislative action on civil rights related bills.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and PO, Burlington, Vermont, 05401, (802) 658-4300 or the New England Regional Office, 55 Summer Street, 8th Floor, 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., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2817 Filed 2-1-83; 8:45 am]

BILLING CODE 6335-01-M

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 Virginia Advisory Committee to the Commission will convene at 1:00 p and will end at 4:00 p, on March 8, 1983, in Room 311, at the City Hall, 301 King Street, Alexandria, Virginia 22314. The purpose of this meeting will be to conduct orientation for the new members of the Committee, and discuss program planning of activities for Fiscal Year 1983 and 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Curtis W. Harris, 209 Terminal Street, Hopewell, Virginia 23860, (804) 458-7404 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2819 Filed 2-1-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Stainless Steel Products From Brazil; Suspension of Countervailing Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigations.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigations involving hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod (certain stainless steel products) from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to be subsidies on exports of certain stainless steel products to the United States.

EFFECTIVE DATE: February 2, 1983.

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, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Case History

On June 16, 1982, the Department received a petition from Al Tech Specialty Steel Corporation, Carpenter Technology Corporation, Colt Industries, Inc., Crucible Specialty Metals Division, Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels and Republic Steel Corporation, filed on behalf of the U.S. industry producing certain stainless steel products. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

We found the petition to be sufficient and on July 6, 1982, we initiated countervailing duty investigations (47 FR 30274). We stated that we expected to issue preliminary determinations by September 9, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until November 15, 1982 (47 FR 40202).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On August 2, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 36038).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On November 1, 1982, we received the response to that questionnaire. During December 13–17, 1982, we verfied this information by a review of government documents and company books and records of Companhia Acos Especiais Itabira (ACESITA), Acos Finos Piratini S/A (PIRATINI), and Acos Villares S/A (VILLARES), which represented over 85 percent of exports of certain stainless steel products to the United States. On November 15, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of certain stainless steel products under six programs. The programs preliminarily found to confer subsidies were the Industrialized Products Tax (IPI) export credit premium, preferential working capital financing for exports, income tax exemption for export earnings, long-term loans, IPI rebates for captial investment, and the Industrial Development Council (CDI) program.

Notice of the preliminary affirmative countervailing duty determinations was published on November 19, 1982 (47 FR 52207). We directed the U.S. Customs Service to suspend liquidation of all entries of the certain stainless steel products entered or withdrawn from warehouse, for consumption on or after November 19, 1982, and to require a cash deposit or bond in the amount of 12.50 percent of the f.o.b. value of the merchandise.

On December 28, 1982, the Department initialed a proposed agreement to suspend the countervailing duty investigations involving certain stainless steel products form Brazil. The basis for the proposed agreement to was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of certain stainless steel products to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we discussed with the petitioners the proposed agreement and provided them a copy of the proposed agreement.

Scope of Investigations

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod. For a further description of these products, see Appendix A to this notice.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for ACESITA and PIRATINI, and February 1, 1981 to January 31, 1982 for VILLARES. We have referred to these periods as fiscal year 1981 in this notice.

Petitioners' Comments

The Department has consulted with the petitioners, and received the following comments from them concerning the proposed suspension agreement, our responses are shown for each comment.

Comment 1: The petitioners argue that any agreement suspending these investigations should be an agreement eliminating injurious effect under section 704(c) of the Act, rather than an agreement to eliminate or offset completely a subsidy under section 704(b) of the Act. The petitioners contend that the Act states a preference for an agreement under section 704(c) in investigations where there are a large number of subsidy practices, the issues raised are novel and the suspension would be more beneficial to the domestic industry because the countervailing duty determined by the Department would not fully offset the price undercutting.

DOC Position: The statute provides alternate means by which the Department may suspend an investigation. We find no evidence whatsoever that the statute states a preference for one alternative over another. Further, the Department believes that a suspension agreement that will offset completely the net subsidy *a fortiori* eliminates any injury casued by the net subsidy.

Comment 2: The petitioners suggest that we add a provision to the proposed agreement requiring that the export tax be paid in full at the time of export. They contend that a delay in collection of the export tax would reduce the real value of the tax, given the high rate of inflation in Brazil.

DOC Position: The Department believes that the method of collection of the export tax to be used by the government of Brazil will completely offset the subsidy found to exist on the subject products. Brazil requires that the export tax be paid within 45 days of the last day of the month in which the merchandise is exported. This is the minimum amount of time for collection which is administratively feasible. For late payments (payments after 45 days), the government of Brazil imposes penalties sufficient to offset the amount of the benefit derived from the delay in payment. While we do not permit an offset to the IPI export credit (the only subsidy payable on date of export) because of the administrative delay in receipt of the credit, we have ascertained in other cases that the average time period for receipt of the credit is greater than the time period within which the Brazilian government will collect this export tax (which covers the credit and other benefits found to be subsidies). In monitoring the agreement, we will insure that either payment was made within 45 days or the appropriate penalty imposed.

Comment 3: The petitioners propose that we add to the list of programs for which the export tax must offset the benefits to the subject products programs that in other investigations we have found to confer subsidies with respect to other Brazilian products, that

is, subsidy programs which the Department preliminarily determined were not used by the manufacturers, producers, or exporters of stainless steel bar and rod products in Brazil. They request that we add a provision requiring that the export tax completely offset these or other programs which subsequently might be found to confer subsidies upon certain stainless steel products.

DOC Position: Paragraph B.1.g. of the proposed suspension agreement accounts for any program not specifically listed in the agreement which may subsequently be determined to confer subsidies upon the subject products. We believe it is unnecessary to enumerate such programs.

Comment 4: The petitioners propose that paragraph B.2. be modified to read: "The Government of Brazil certifies that no new or equivalent benefit shall be granted on the subject product as a substitute for *or in addition to* any benefits offset by the agreement."

DOC Position: The addition of the phrase "or in addition to" serves no useful purpose, because the proposed agreement adequately protects the domestic industry from additional benefit programs "subsequently determined by the Department to constitute a subsidy under the Act to the subject product." See paragraph B.1.g. of the agreement.

Comment 5: The petitioners request us to change the effective date of the export tax from March 31, 1983 to February 28, 1983.

DOC Position: The statute requires that the export tax which completely offsets the amount of the net subsidy be imposed within six months after suspension of the investigation. This agreement allows approximately two months for imposition of the tax, which the Department feels is a reasonable length of time.

Comment 6: The petitioners request us to modify paragraph C.3. to require that the government of Brazil certify to the Department the amount of the export taxes collected in each quarter-year within 15 days after the end of each preceding quarter. They further request that under section 751 of the Act, the Department verify infortnation needed to monitor the agreement on a quarterly rather than an annual basis.

DOC Position: The requested certifications and quarterly verifications are unnecessary because paragraph C.1. is not limiting. The Department may request, at any time, any information it deems necessary for effective monitoring of the agreement.

Comment 7: The petitioners contend that the Department should have determined that certain fully-indexed long-term loans from the National Bank for Economic Development (BNDE) are countervailable because of an alleged lowered risk premium associated with such loans resulting from government participation. The petitioners claim that it is obvious that these loans are preferential because the Department, in its preliminary determinations, stated that the real interest rates for the BNDE loans were lower than those for other fully-indexed loans from FINAME, a program of BNDE for the purchase of captial equipment manufactured in Brazil. They suggest that we estimate the subsidy rate as the difference between the interest rates for the BNDE and FINAME loans.

DOC POSITION: As stated in the preliminary determinations in these investigations, as well as in other countervailing duty investigations involving steel products from Bazil, BNDE loans (including FINAME loans), when fully indexed, are not made at preferential rates. In explaining the difference in interest rates for these non-preferential loans, the Department pointed out that BNDE loans are granted directly form BNDE to the recipient, while FINAME loans are granted through commercial banks and therefore carry higher real interest rates than BNDE loans. The petitioners have incorrectly attributed this difference to an alleged risk premium factor rather than to a difference in the costs of obtaining a loan through an intermediary.

Comment 8: The petitioners state that a typographical error was made with respect to the calculation of the *ad valorem* subsidy rate stemming from those long-term loans which the Department determined to be countervailable. They claim that in order to determine the subsidy rate, the benefits to VILLARES should be divided by that company's sales and not by the total sales of all companies under investigation.

DOC Position: The calculation stated by the Department in its preliminary determination for this program was correct. VILLARES was the only company under investigation which received benefits from preferential long-term loans. By allocating the benefit to VILLARES under this program over the total sales of all companies under investigation, we derived the average benefit from this program for all of the products investigation. This is consistent with the methodologies employed with other countervailable programs in these and other countervailing duty investigations of products from Brazil.

Comment 9: The petitioners claim that the Department omitted an alleged countervailable loan to "Cobrasma."

DOC Position: The government of Brazil met the Department's requirements by responding to its questionnaire with information from three companies which produce and export over 85 percent of certain stainless steel products to the United States from Brazil. Cobrasma was not one of these companies. Therefore, the Department has not investigated any loans to Cobrasma.

Comment 10: Petitioners claim that the Department, in its preliminary determinations, failed to account for alleged subsidies stemming from government grants to, and equity participation in, the companies under investigation. The petitioners state that such allegations were made in their petition filed on June 16, 1982, and that these allegations were in addition to any subsidies due to government participation in long-term loans which the Department found to be countervailable.

DOC Position: In analyzing the petition filed in this case, the Department does not believe the statement from self-initiated carbon steel plate case against Brazil, that "annual allotments to the steel industry have risen to about $2.5 billion per year," reasonably can be interpreted as an allegation of government participation in addition to the more specific allegations concerning preferential long-term loans. Moreover, petitioners failed to provide in their petition or later during the investigation any information to support an allegation regarding grants or equity participation to certain stainless steel products, as they did regarding long-term loans.

Since the petitioners, to date, have failed to support these allegations (although the prescribed comment period following the publication of our preliminary determinations has expired), we do not have a sufficent basis to investigate these allegations further prior to the suspension of the investigations. The allegations may be reviewed under the provisions of section 751 of the Act.

In the certain carbon steel cases, the Department determined that neither government equity ownership *per se*, nor any secondary benefit to the company reflecting the private market's reaction to government ownership, conferred a subsidy (See 47 FR 39316–39319; September 7, 1982). Government ownership confers a subsidy only when it is on terms inconsistent with commercial considerations. An equity

subsidy may arise, for instance, when the government makes equity infusions into a company which is sustaining deep or significant continuing losses and for which there does not appear to be any reasonable indication of a rapid recovery. It should be noted that in the countervailing duty investigation of carbon steel plate from Brazil the Department determined that equity participation in manufacturers, producers or exporters in Brazil of carbon steel plate by the government of Brazil did not confer countervailable benefits upon carbon steel plate. (See 43 FR 2568–2578; January 20, 1983).

Suspension of Investigations

The Department consulted with the petitioner and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will offset the subsidies completely with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed January 27, 1983, are set forth in Appendix B to this notice. Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of certain stainless steel products from Brazil effective November 19, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Stainless Steel Products from Brazil," is hereby terminated.

Any cash deposits on entries of certain stainless steel products from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within 12 months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigations if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Dated: January 27, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix A: Description of products

Appendix B: Suspension Agreement—Certain Stainless Steel Products from Brazil

Appendix A—Certain Stainless Steel Products From Brazil

For purpose of these investigations:

1. The term "*stainless steel wire rod*" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS) or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term "*hot-rolled stainless steel bars*" covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA).

3. The term "*cold-formed stainless steel bars*" covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA.

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element

Appendix B—Suspension Agreement; Certain Stainless Steel Products From Brazil

Pursuant to section 704 of the Tariff Act of 1930, as amended (the Act), and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and the government of Brazil enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigations initiated on July 6, 1982 (47 FR 30274) with respect to certain stainless steel products from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to certain stainless steel products manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject products"). "Certain stainless steel products" covers stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars.

The term "stainless steel wire rod" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS), or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS. The term "hot-rolled stainless steel bars" covers hot-rolled stainless steel products of solid section having cross sections in the shapes of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA). The term "cold-formed stainless steel bars" covers cold-formed stainless steel products of solid section having cross sections in the shapes of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA.

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element.

B. Basis of the Agreement

1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department in this proceeding to exist with respect to the subject products. The offset shall be accomplished by an export tax applicable to the subject products exported on or after March 31, 1983. The export tax shall offset completely any benefits found to exist with respect to the following programs:

(a) Industrialized Products Tax (IPI) export credit premium,
(b) Resolution 674 financing,
(c) income tax exemption for export earnings,
(d) long-term loans,
(e) IPI rebates for capital investment,
(f) Industrial Development Council (CDI) program, and

(g) any other program subsequently determined by the Department to constitute a subsidy under the Act to the subject product.

The Department shall officially notify the government of Brazil of any determination made with respect to items (a) through (g) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits offset by the agreement.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigations and until the imposition of an export tax no later than March 31, 1983 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject product will not exceed the average monthly rate of exports to the United States in the period June 1981–May 1982. Exports in excess of this quantity will constitute a violation of the agreement pursuant to section 704(i) of the Act.

C. Monitoring of the Agreement

1. The government of Brazil agrees to supply to the Department documentation concerning the method and time of payment of the export tax and any other information the Department deems necessary to demonstrate full compliance with the agreement.

2. The government of Brazil shall notify the Department if any Brazilian exporters of the subject products which benefit from the programs described in paragraph B.1 regarding the manufacture, production or export of the subject products transship the subject products through third countries to the United States.

3. The government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on July 1, 1983, whether it continues to be in compliance with the agreement by offsetting completely the net subsidy referred to in paragraph B.1 and whether it has substituted any new or equivalent benefits for the benefits offset by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigations or issuance of a countervailing duty order.

4. The government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject products, of any change in the rate of the export tax, or if it decides to alter or terminate its obligation with respect to any of the terms of the agreement.

6. If quantitative trade restrictions affecting U.S. imports from all or a substantial number of trading partners of the United States are implemented with respect to the merchandise covered by this agreement, the parties agree to consult concerning the possibility of modification or amendment of this agreement in such a fashion that will continue to meet the requirements of U.S. law in light of the quantitative restrictions or other types of relief then in effect. Pending any possible modification of this agreement, the terms of this agreement will remain in effect.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed on this 27th day of January, 1983 for the Government of Brazil.

José Alfredo Graça Lima,

Minister-Counselor, Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to certain stainless steel products exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigations is in the public interest.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2822 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-25-M

[A-412-027]

Diamond Tips for Phonograph Needles From the United Kingdom; 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 diamond tips for phonograph needles from the United Kingdom. The review covers the two known exporters of this merchandise to the United States currently covered by the finding and the period April 1, 1981 through March 31, 1982. The review indicates the existence of dumping margins for one exporter.

As a result of the review, the Department has preliminarily determined to assess dumping duties for that one exporter equal to the calculated differences between United States price and foreign market value on each of its shipment during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 40678) the final results of its last administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom (37 FR 6665, April 1, 1972) and announced its intent to conduct the next administrative review by the end of April 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of diamond tips for phonograph needles ("diamond tips") consisting individually of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. Diamond tips are currently classifiable under item 685.3400 of the Tariff Schedules of the United States Annotated.

The review covers the two known exporters of British diamond tips to the United States currently covered by the finding and the period April 1, 1981 through March 31, 1982.

Bauden Precision Diamonds Ltd. did not export diamond tips to the United States during the review period. The estimated antidumping duty cash deposit rate for Bauden shall be equal to the most recent rate for that firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the ex-factory, packed prices. No 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, for the period April 1, 1981 through March 31, 1982, the following margins exits:

Exporter	Margin (percent)
Bauden Precision Diamonds Ltd	[1]0
Diamond Stylus Ltd	6.56

[1]No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication on 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 45 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 U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of British diamond tips for phonograph needles from these firms 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).

Dated: January 25, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2821 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 21102-223]

Revision to Federal Information Processing Standard 86; Additional Controls for Use With ASC II

Correction

In FR Doc. 82-35213 beginning on page 57982 in the issue of Wednesday, December 29, 1982, make the following corrections:

1. On page 57982, in the last line of the second paragraph of the document, "ASD II" should have read "ASC II".

2. On page 57983, first column, under *Applicability,* in the 15th line, "of stand-" should have read "or stand-".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss reports of the demersal finfish oversight and surf clam Mid-Atlantic liaison committees, as well as the ad hoc committee on gillnets; pelagics-new International Commission for the Conservation of Atlantic Tuna (ICCAT) guidelines; foreign fishing, as well as other fishery management and administrative matters. In addition, the majority of the second day of the Council's meeting will be devoted to discussion of the Regional Director's annual fact-finding report of the Atlantic sea scallop fishery.

DATES: The public meetings will convene on Tuesday, February 22, 1982, at approximately 10 a.m., and will adjourn on Wednesday, February 23, 1982, at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rarranged, depending upon progress on the agenda.

ADDRESS: The public meetings will take place at King's Grant Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts, 01906, Telephone: (617-231-0422).

Dated: January 27, 1983.

Joe P. Glem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-2842 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exempting From Import Levels Certain Cotton, Wool, and Man-Made Fiber Textile and Apparel Products Valued at U.S. $250 or Less, Produced or Manufactured in Poland

January 27, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting from the levels of the bilateral agreement individual commercial shipments of cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Poland and valued at U.S. $250 or less which have been properly certified for exemption prior to exportation.

SUMMARY: Paragraph 9 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic provides that shipments of textile and apparel products from Poland which are individually valued at U.S. $250 or less shall not be charged to the levels established under the terms of the bilateral agreement. Such shipments shall be accompanied by an exempt certification issued by the Government of Poland prior to exportation. A facsimile of the certification stamp is published as an enclosure to the letter to the Commissioner of Customs which follows this notice. Merchandise for the personal use of the importer, not for resale, does not require an exempt certification, regardless of value.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D. C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 27, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and 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 September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic; 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, effective on February 2, 1983 and until further notice, to permit entry for consumption and withdrawal from warehouse for consumption of individual commercial shipments of cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Poland and valued at U.S. $250 or less, which have been properly certified prior to exportation by the Government of the Polish People's Republic.

The certification will be an original rectangular stamped marking in blue ink on the front side of the invoice (Special Customs Invoice, successor document, or commercial invoice when such form is used). Each exempt certification will include its date and the signature of the official issuing the certification. A facsimile of the certification stamp is enclosed. Merchandise for the personal use of the importer and not for resale does not require an exempt certification, regardless of value.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton, wool, and man-made fiber textile products from Poland 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,

Chairman, Committee for the Implementation of Textile Agreements.

This is to certify that the shipment valued at / _____ is subject to exemption from the bilateral Agreement limits
MINISTRY OF FOREIGN TRADE
By Authorized Agent

[FR Doc. 83-2820 Filed 1-2-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Applicants for Registration as Associated Persons; No-Action Position

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of adoption of no-action position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined not to take enforcement action with respect to any applicant for registration as an associated person ("AP"), based solely on the failure of such a person to be registered, if such person's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met. This "no-action" position supplements an earlier no-action position which was made available only to certain applicants for AP registration who were also registered with the National Association of Securities Dealers.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission is aware that the implementation of its new registration processing system has in certain instances delayed the granting of applications for registration, thereby precluding those individuals who have applied for registration as an associated person from engaging in activities which require registration.[1] As indicated above, the Commission has already adopted a no-action position with respect to certain applicants for AP registration. This earlier no-action position, however, is limited to those applicants for AP registration who are associated with a broker or dealer which is a member of the National Assoication of Securities Dealers, Inc. ("NASD") and who are themselves registered with the NASD as "registered representatives" or "registered principals." 47 FR 53764 (November 29, 1982).[2] As the Commission indicated at that time, the availability of that no-action position was limited to those APs "who have previously been determined by the NASD, under screening procedures similar to those of the Commission, to be fit to engage in the securities business * * *, [thereby] assuring that a fitness check exists for persons who are to engage in the commodity business."[3]

The recent enactment of the Futures Trading Act of 1982,[4] however, has now provided the Commission with the ability to grant temporary licenses to applicants for registration. Specifically, that legislation amends Section 8a(1) of the Act (7 U.S.C. 12a (1)) to authorize the Commission to "grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt * * *." This newly-enacted legislation therefore expressly contemplates that, subject to such limitations as the Comission may deem necessary, the Commission may permit an apparently-qualified applicant to commence his employment while the Commission checks the applicant's fitness for registration.[5]

The Commission has not yet developed the regulations and internal procedures necessary to permit the issuance of temporary licenses. In the interim, however, and as described more fully below, the Commission has determined to take no enforcement action based solely on the failure of an associated person to be properly registered if a properly completed application was received by the Commission on or before November 18, 1982.[6] The Commission is taking this action in order to "accelerate the opportunity for apparently qualified individuals who submit complete applications to the Commission to begin work while a fitness check is being conducted" [7] and to afford those individuals who did not qualify for the Commission's earlier no-action position a comparable opportunity "to commence

[1] *See* Section 4k of the Commodity Exchange Act ("Act"), 7 U.S.C. 6k.

[2] *See also* 47 FR 57266 (December 23, 1982); 47 FR 54528 (December 3, 1982).

[3] 47 FR at 53764–65 (footnotes omitted).

[4] Pub. L. No. 97–444 section 223, 96 Stat. 2310 (January 11, 1983).

[5] H.R. Rep. No. 97–964, 97th Cong., 2d Sess. 58 (Conference Committee 1982).

[6] The Commission's no-action positions are, of course, prospective in effect and do not in any way excuse or in any way mitigate the earlier failure of any person who may now qualify for such a no-action position to be registered in accordance with the requirements of the Act and the Commission's regulations thereunder. Furthermore, these no-action positions do not in any way affect any pending enforcement action.

[7] H.R. Rep. No. 97–964, 97th Cong., 2d Sess. 58–59 (Conference Committee 1982).

employment in the commodity futures or options business."[8]

Specifically, the Commission will not take any enforcement action against any applicant or futures commission merchant ("FCM") based solely on the failure or the applicant to be registered as an associated person of such FCM if:

(1) The FCM with whom the applicant for AP registration will be associated is a member of a registered futures association or of a contract market and the FCM provides the Commission with a written certification, signed by a senior officer of that FCM, stating that:

(i) The applicant's application for registration as an associated person was submitted to the Commission on or before November 18, 1982, specifying the date on which the application was submitted;

(ii) The applicant's application for registration included a properly completed "Sponsor's Certification" and that, consistent therewith, upon being granted registration, the applicant will be associated with an FCM which is a member of a registered futures association or of a contract market, or with an agent of such an FCM, and, until such time as that registration is effective (unless withdrawn or refused), the applicant will be "sponsored" by the FCM consistent with the provisions of Commission regulation 3.12 (17 CFR 3.12) as if registration has been granted;

(iii) The applicant's application for registration did not contain any self-declared derogatory information;

(iv) The FCM will cause the applicant to cease doing business as an associated person upon the termination of the no-action position for any reason other than the granting of registration; and

(2) The FCM with whom the applicant for AP registration will be associated receives from the Commission approval of the no-action request with respect to such applicant.

Certifications must be submitted to the Commission at its headquarters office (2033 K Street, NW., Washington, D.C. 20581. Attention: Andrea M. Corcoran, Director, Division of Trading and Markets). The Commission's Division of Trading and Markets will review each such certification for completeness and, where appropriate, may verify information submitted by sponsoring FCMs through coordination with the Securities and Exchange Commission, other Federal or state agencies, or by other appropriate means. The Commission requests that all requests for a no-action position include the social security number of the applicant for AP registration in order to expedite the Commission's processing of the request.

A no-action position, if granted, will become effective upon the return by the Commission's Division of Trading and Markets of a complete certification with respect to an applicant and, for FCMs sponsoring several APs, upon return of a list furnished by the FCM of all the AP applicants to which the FCMs completed certification applies. To assure notification to the affected parties of the Division's approval of a no-action request, each FCM is requested to furnish a duplicate copy of its certification and, for associated persons, the list of sponsored APs on whose behalf the FCM is seeking such relief. The Division will "time-stamp" the duplicate copy and will return it to the FCM.[9]

All such no-action positions granted by the Commission will terminate on April 30, 1983 or the earlier occurrence of any one of the following events: (1) Receipt by the FCM which sought a no-action position on behalf of an AP applicant of a notice from the Commission that the AP's registration has been granted; (2) receipt by the Commission of a termination notice (Form 8–T or U–5) from a sponsoring FCM indicating that an AP applicant has terminated his employment with the FCM, or receipt of any other notice from the FCM indicating that the FCM is withdrawing its certification as to the eligibility of an AP applicant for a no-action position; or (3) notice from the Division of Trading and Markets to the FCM which sought and obtained a no-action position on behalf of an AP applicant that the no-action position has been revoked with respect to such applicant.[10]

The Commission wishes to caution all FCMs seeking a no-action position on behalf of any AP applicants that, based on the principles of the law of agency in conjunction with the certification made by the FCM, as consistently applied by the Commission and the courts, an FCM is fully responsible for the acts of any AP applicants associated with it who obtain a no-action position with respect to violations of the Act or regulations thereunder by virtue of such cerrtification.

Issued in Washington, D.C. this 27th day of January 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2803 Filed 2-1-83; 8:45 am]

BILLING CODE 6351-01-M

[8] 47 FR 53764 (November 29, 1982).

[9] To facilitate such return, each FCM is requested to furnish the Division with a pre-posted, pre-addressed envelope for return of the duplicate list.

[10] The acquisition of a no-action position pursuant to the procedure described herein is voluntary. Furthermore, the Commission's action constitutes a relief measure. The provisions of the Paperwork Reduction Act of 1980, Pub. L. No. 96-511, 94 Stat 2812 (44 U.S.C. 3501 *et seq.*), do not, therefore, apply.

Publication and Request for Comment on Proposed Amendments to Chicago Board of Trade Capital Requirements for Member Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of contract market rule proposals and request for public comment.

SUMMARY: The Chicago Board of Trade has submitted a proposal to amend its rules establishing minimum capital requirements for member futures commission merchants ("FCMs"). The proposed amendments would increase the adjusted net capital a member FCM must maintain by an amount equal to its guaranty deposits, if any, with clearing organizations other than the Board of Trade Clearing Corporation, to the extent such deposits cannot be used for margin purposes. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 4, 1983.

ADDRESS: Interested persons should submit their views and comments to: Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Chicago Board of Trade Member FCM Net Capital Rules (Exclusion of Guaranty Fund Deposits).

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letters dated September 14 and November 29, 1982, the Chicago Board of Trade ("CBT") proposed to amend its minimum financial capital rules for

member FCMs. Such rule amendments must be approved by the Commission pursuant to sections 4f(2) and 5a(12) of the Commodity Exchange Act, 7 U.S.C. 6f(2) and 7a(12), before they may be ins effect for the FCMs. The proposed amendments would increase the adjusted net capital a member FCM must maintain by an amount equal to its guaranty deposits, if any, with clearing organizations other than the Board of Trade Clearing Corporation, to the extent such deposits cannot be used for margin purposes. The CBT believes that the proposed amendments are necessary due to Commission approval of rules concerning guaranty funds for the Comex Clearing Association, Inc., and CSC Clearing Corporation.[1]

Under Commission regulation 1.17(c)(2) (viii), guaranty deposits made by an FCM with clearing organizations are considered "current assets" for purposes of determining the FCMs net capital requirements. The CBT essentially contends, however, that in the event of the bankruptcy of an FCM, such guaranty deposits may be required to meet the FCM's obligations at another clearing organization and thus be unavailable to meet obligations at the CBT. In order to avoid such a potential deficiency, the CBT proposes to increase a member FCM's net capital requirement by the amount of any funds committed to another clearing organization's guaranty fund.

One of the proposed amendment (*i.e.*, to Section 201 (A) and (B) ("Minimum Requirements")) of Appendix 4B of the Chicago Board of Trade rules is printed below, showing deletions in brackets and additions in italics:

1. Amend Section 201 (A) and (B) to read as follows:

Each member FCM must maintain Adjusted Net Capital equal to or in excess of—

A. The greater of $50,000 or 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; *plus an amount equal to the guaranty deposits with clearing organizations, other than the Chicago Board of Trade, which were included in current assets under Section 211, to the extent such deposits can not be used for margin purposes.*

B. For Securities Broker Dealers, the greatest of $50,000, or 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC Regulations, exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account, or the amount of net capital specified in Rule 15c3–1(a) or the regulations of the Securities and Exchange Commission (17 CFR 240.15c–1(a)); *plus an amount equal to the guaranty deposits with clearing organizations, other than the Chicago Board of Trade, which were included in current assets under Section 211, to the extent such deposits can not be used for margin purposes.*

The remaining amendments to Sections 230(A)(2) (a) and (b) ("Equity Withdrawal"); Section 250 (B)(6)(c), (B)(7) and (B)(8)(a) ("Minimum Requirements for Subordination Agreements") and Section 251 (B), (E) and (F)(a) ("Miscellaneous Provisions—Subordination Agreements") similarly revise such Sections to reflect the proposed exclusion of guaranty deposits. The complete text of and justification for the proposed amendments can be obtained through the Division of Trading and Markets, Attention Robert H. Rosenfeld, by mail at the above address or by telephone at (202) 254–8955.

The Commission invites comments from intersted persons concerning the CBT's proposed financial protection rules. Comments should be directed to whether the CBT's proposed rules comply with the provisions of the Act and the Commission's regulations thereunder and should address specifically the manner in which these proposals would, or would not, further the public interest objectives and proposes of the Act. The commission also is soliciting comments on whether the proposals would represent the least anticompetitive means for the CBT to achieve its objectives and, if not, what other means the CBT could employ to achieve its desired results. To the extent possible, comments should be supported by appropriate economic data and statistical or factual analysis which will demonstrate the effect of the CBT's proposed rules on the business or financial operations of the commentator.

Interested persons should send written data, views or arguments on the amendments proposed by the CBT to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington D.C. 20581, by April 4, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on January 27, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission

[FR Doc. 83–2802 Filed 2–1–83; 8:45 am]

BILLING CODE 6351–01–M

[1] The Commission, *inter alia*, approved such rules of the CSC Clearing Corporation and Comex Clearing Association, Inc., on January 15 and 19, 1982, respectively. A description of these clearing organizations' guaranty fund proposals is provided at 46 FR 27366 (May 19, 1981) and 46 FR 15192 (March 4, 1981). *See also* 47 FR 50941 (November 10, 1982) (proposal by the New York Mercantile Exchange which, *inter alia*, would increase the required contribution to its Clearing House Guaranty Fund).

DEPARTMENT OF DEFENSE

Department of the Air Force

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: (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 respondents; (5) And 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

Questionnaire for System Safety Program Effectiveness Study

This information is needed to collect industry inputs concerning the effectiveness of Air Force system safety program conducted per MIL–STD–882. The survey results will be used to initiate necessary changes in directives and contract requirements guidance to improve effectiveness and eliminate waste.

All major aircraft and engine manufactures who contract to the Department of the Air Force: 16 responses, 256 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235,

NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

(A copy of the industry survey proposal may be obtained from Lt Col Don Ross, HQ AFISC/SES, Norton AFB, CA 92409, telephone (714) 382-4104)

Dated: January 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2833 Filed 2-1-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

January 27, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on the Potential Military Utility of a Manned National Space Station will meet at the Pentagon, Washington, DC on February 23-24, 1983. The purpose of the meeting will be to review the Air Staff views of the task and an initial overview by NASA of their Manned National Space Station program. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Darwin W. Berg,

Chief, Special Projects Branch, Administration Management Division, 1947 Administration Support Group.

[FR Doc. 83-2811 Filed 2-1-83; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Diked Disposal Area at the Crow Island State Game Area in Bay and Saginaw Counties, Mich.

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Actions

Sediments in the federally maintained portion of the Saginaw River have been determined by the Environmental Protection Agency to be unsuitable for open water disposal. At this time, a new confined disposal facility for Saginaw River dredged materials is required to replace the Middle Ground Island facility, which can no longer be used. The Detroit District has completed the preliminary site selection process. While other sites have been considered, two sites at the Crow Island State Game Area were the only ones acceptable to the Michigan Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and the Corps. The proposed disposal plan would involve wetland creation and enhancement, and other related features. The agencies have given conditional approval to this plan, pending their review of the results of contaminant uptake tests which are currently underway.

Alternatives

Five alternatives to the tentatively selected plan will be addressed in detail in the Draft Environmental Impact Statement:

(1) "Private Site #1". This site is a diked wetland along the river near Zilwaukee with a make-shift weir. The owner intends to fill the area.

(2) "Private Site #2". This site is a densely vegetated field south of the confluence of Cheboyganing Creek with the Saginaw River. The area has several pockets of wetland and has been used for dumping of some fill material.

(3) "Southeast Airport Site". This site at the James Clements Airport is owned by Bay City and consists mostly of open field.

(4) "Northwest Airport Site". This site is a diverse marsh with patches of open water. Bay City, the owner, wishes to fill the area and eventually develop it.

(5) The "No Action" Alternative. Should no project be constructed, Federal maintenance of the Saginaw River Channel could not continue.

Ten other sites were considered but did not warrant detailed consideration. These sites will be mentioned and discussed briefly in the DEIS.

Scoping Process

a. Public Involvement—A public workshop was held in July 1980 in order to encourage public participation in the study, and to obtain information concerning potential disposal sites. Coordination with Federal, State, and local officials has been, and will continue to be, maintained through a series of meetings and mailings.

b. Significant issues to be addressed in the EIS are:

(1) Impact of using Saginaw River dredged material, which is high in some contaminants, for a type of marsh creation project.

(2) Fisheries and benthos impacts which may result from the proposed project.

(3) Impact of sub-dividing an existing wetland unit and thereby increasing the State's ability to manage the area.

c. Other Environmental Review and Consultation Requirements—This project will be reviewed for compliance with the following:

Fish and Wildlife Act of 1956;
Fish and Wildlife Coordination Act of 1958;
National Historic Preservation Act of 1968;
National Environmental Policy Act of 1969;
Endangered Species Act of 1973;
Water Resources Development Act of 1976;
Executive Order 11990, Wetlands Protection, May 1977;
Executive Order 11988, Floodplain Management, May 1977;
Clean Air Act of 1977;
Clean Water Act of 1977;
Corps of Engineers, Department of the Army, 33 CFR Part 230, Environmental Quality;
Corps of Engineers, Department of the Army, Policy and Procedure for Implementing NEPA (ER 200-2-2).

Estimated Date of DEIS Release

It is anticipated that the DEIS will be available to the public in September 1983.

Address: Questions about the proposed action and DEIS can be answered by Ms. Barbara Schmitt, Environmental Analysis Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231.

Dated: January 24, 1983

Raymond T. Beurket, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-2770 Filed 2-1-83; 8:45 am]

BILLING CODE 3710-GA-M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed

session on February 14, 15 and 16, at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2834 Filed 2-1-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Desegregation of Public Education Program; Application Notice for New Projects for Fiscal Year 1983

Applications are invited for new projects under the State education agency (SEA) programs for race, sex, and national origin desegregation assistance under Section 403 of the Civil Rights Act.

Authority for this program is contained in Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c-5).

The program issues awards to State education agencies.

The purpose of the awards is to provide technical assistance, training, and advisory services to school districts in coping with the special educational problems caused by the desegregation of their schools based on race, sex, and national origin.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered by March 18, 1983.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.004C, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The regulations provide specific criteria for awards in 34 CFR 270.17-19 (formerly 45 CFR 180.17-19). Applications will be evaluated under these criteria. The Secretary approves only those applications that received a score of at least 60 points on the criteria. The applicant should also refer to 34 CFR 270.11-15 (formerly 45 CFR 180.11-15) in the development of the grant application.

An SEA should submit separate applications for race, sex, or national origin desegregation assistance. SEAs that presently have awards are reminded that they must submit new applications for Fiscal Year 1983.

Available Funds

The Continuing Resolution for Fiscal Year 1983 provides $24 million for Title IV projects. Of this amount approximately $14,000,000 will be made available for approximately 110 new grants. The average award is projected to be $127,000.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 1, 1983. They may be obtained by writing to the Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary urges that applicants not submitted information that is not requested.

The program information is intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulation

Regulations applicable to this program include the following:

(a) Regulations governing the Desegregation of Public Education program 34 CFR Part 270 (formerly 45 CFR Part 180).

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74 (Administration of Grants), 75 (Direct Grant Programs), 77 (Definitions), and 78 (Education Appeals Board).

For Further Information

For further information contact Jack Simms, Director, Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue,

S.W., Washington, D.C. 20202. Telephone: (202) 245–8484.

(42 U.S.C. 2000c–2000–5)

Dated: January 25, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83–2782 Filed 2–1–83; 8:45 am]

BILLING CODE 4000–01–M

Desegregation of Public Education Program; Application Notice for Noncompeting Continuation Projects for Fiscal Year 1983

Applications are invited for noncompeting continuation projects under the Desegregation Assistance Center (DAC) programs for race, sex, and national origin desegregation under Section 403 of the Civil Right Act.

Authority for this program is contained in Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c–5).

The purpose of the awards is to provide technical assistance, training, and advisory services to school districts in coping with the special educational problems caused by the desegregation of their schools based on race, sex, and national origin.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 18, 1983.

Applications Delivered by Mail.

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.004D, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

Program Information

DACs are reminded that they must submit a continuation application for Fiscal Year 1983 if they are to be considered for funding.

Available Funds

The Continuing Resolution for Fiscal Year 1983 provides $24 million for Title IV projects. Approximately $10,000,000 will be used for the 40 continuation projects.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any project.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 1, 1983. They may be obtained by writing to the Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the grant application packets.

The program information is intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Desegregation of Public Education program 34 CFR Part 270 (formerly 45 CFR Part 180).

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74 (Administration of Grants), 75 (Direct Grant Programs), 77 (Definitions) and 78 (Education Appeals Board).

For Further Information

For further information contact Jack Simms, Director, Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–8484.

(42 U.S.C. 2000c–2000c–5)

Dated: January 25, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83–2783 Filed 2–1–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its third meeting on Thursday, February 10, 1983, starting at 10:00 a.m. in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group Study Assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with

the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 26, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-2795 Filed 2-1-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its third meeting on Wednesday and Thursday, February 9 and 10, 1983, starting at 9:00 a.m. in Room 1603, Mobile Exploration and Production Services, Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group Study Assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 26, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-2794 Filed 2-1-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of December 24 Through December 31, 1982

During the Week of December 24 through December 31, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 25, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 24 through Dec. 31, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 28, 1982	Alkek/Adams/Mobil Oil Corp., Washington, D.C.	HFD-0097, HFH-0097	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted to Mobil Oil Corporation and an evidentiary hearing would be convened in connection with Mobil's refund application (Case No. RF6-24). *In re Alkek* (Case No. DFF-0002, and others) and *Adams Resources and Energy, Inc.* (Case No. BEF-0055 and others). The issue involved in the discovery and evidentiary hearing proceedings concerns the right of Entitlements Program participants to receive refunds with respect to alleged crude oil misertifications.
Dec. 28, 1982	Department of Interior, Washington, D.C.	HEZ-0116	Interlocutory Order. If granted: Laketon Asphalt Refining, Inc. would be ordered to provide information requested by the Office of Hearings and Appeals in connection with the Application for Exception filed by the Department of the Interior (Case No. HEE-0051) with the Office of Hearings and Appeals.
Dec. 28, 1982	Little America Refining Co./Mobil Oil Corp., Washington, D.C.	HEJ-0029	Request for protective order. If granted: Mobil Oil Corporation would enter into a protective order with Little America Refining Company regarding release of proprietary information to Mobil in connection with Little America's year-end entitlements review proceedings (Case Nos. HYX-0008 and HYX-0014).
Dec. 29, 1982	O. B. Mobley, Jr., Lafayette County, Ark.	HEX-0071	Supplemental order. If granted: The Decision and Order issued to O. B. Mobley, Jr. on December 5, 1978 (Case No. DEE-1021) would be modified with respect to the disbursement of escrowed funds to the TOSCO Corporation.
Dec. 29, 1982	Pittsburgh-Des Moines Corp., Seattle, Washington	HFA-0106	Appeal of an information request denial. If granted: The November 22, 1982 Information Request Denial issued by the Department of Energy would be rescinded, and Pittsburgh-Des Moines Corporation would receive access to a draft of a letter dated February 22, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Dec. 24 through Dec. 31, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 29, 1982	Sun Company, Inc., Houston, Tex.	HRZ-0117	Interlocutory order. If granted: In view of the Consent Order entered into by Sun Company, Inc., the PRO issued to Mapco, Inc. (Case No. BRO-1457) would be partially dismissed with respect to overcharges attributable to Sun's working interest in Mapco's Sarasota property.
Dec. 31, 1982	Dorothy J. Taylor, Bakersfield, Calif.	HFA-0105	Appeal of an information request denial. If granted: The Information Request Denial issued by the Office of General Counsel would be rescinded, and Dorothy J. Taylor would receive access to the names and qualifications of the persons who gave expert testimony arid a transcript of any testimony received by the DOE relating to a claim which she filed for injuries.

NOTICES OF OBJECTION RECEIVED

[Week of Dec. 24, 1982 to Dec. 31, 1982]

Date	Name and location of applicant	Case No.
12/28/82	Gulf States Oil & Refining Co., Houston, Tex.	HEE-0008.

[FR Doc. 83-2796 Filed 2-1-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Determination of Annual Charges, Public Meeting—Falcon-Amistad Projects, Texas

AGENCY: Western Area Power Administration, DOE.

ACTION: Determination of Annual Charges, Public Meeting—Falcon-Amistand Projects, Texas.

SUMMARY: The Salt Lake City Area of the Western Area Power Administration (Western) markets the hydroelectric power and energy generated by the Amistad and Falcon Projects, which is available to the United States under the Treaty with Mexico of February 3, 1944, and under existing agreements between the United States and Mexico contained in minutes of the International Boundary and Water Commission (IBWC). IBWC constructed or is having constructed and will operate, maintain, and replace the facilities for generating the United States share of the hydroelectric power and energy at the Amistad and Falcon Projects.

Under Contract No. 7-07-50-P0890, Western (as successor in interest to the Bureau of Reclamation) must determine the rate for power and energy in the form of an annual charge in advance of the fiscal year to which it will pertain, in consultation with IBWC, and submit it to the contractors on or before August 31 of the year preceding the appropriate fiscal year in the form of a contract exhibit. Service under this contract is expected to be initiated in June

Western has determined the annual charges for FY 1983 and FY 1984 in Accordance with the terms of said Contract No. 7-07-50-P0890 which include:

1. A fixed annual payment for amortization of the Falcon facilities and the penstocks at Amistad Dam;

2. A fixed annual payment for amortization of the United States actual total cost related to the construction of the hydroelectric power features of the Amistad Project, not including penstocks; plus

3. the annual costs for operation, maintenance, replacement, and administration, related to the United States power facilities at the Falcon and Amistad Dams.

Western has determined the proposed annual charges for FY 1983 and FY 1984 to be $3,262,882 and $3, 285,682 respectively. However, the charge due and payable the first fiscal year is determined by multiplying the amount computed as set forth above by the ratio that the number of days following the date of initial service until the end of the fiscal year bears to the total number of days in said year. Assuming initial service begins June 1, 1983, the ratio would be 122/365 of the FY 1983 figure above, or $1,090,607. Dividing the charge into equal monthly amounts would result in a monthly charge for FY 1983 of $272,652, with the first payment due July 1, 1983. The monthly charge for FY 1984 would be $273,824.

Since the computations of the annual charges are necessarily based on certain assumptions and estimates, it will be necessary to adjust the annual charges as actual data becomes available. The need for making such adjustment s will be considered quarterly, but normally will be made only at the end of each fiscal year unless significant differences between estimated and actual information result in the need to make an adjustment as quickly as possible.

In determining the annual charges, major replacements will be capitalized in the fiscal year in which the replacement is made and will be amortized and paid for over the life of the replacement unless the life of the replacement extends beyond the expiration date of the contract. Any unpaid replacement costs shall be due and payable on the date of the expiration of the contract. Any unpaid replacement costs shall be due and payable on the date of the expiration of the contract. Minor replacements are included in annual operation and maintenance expenses.

DATES: Since the intial interpretation of the contract terms by Western will establish the basis for determining all future annual charges, Western representatives will explain the methods that will be used to determine the proposed annual charges and to adjust them and will answer questions at a public meeting which will be held on February 10, 1983, beginning at 2:30 p.m. Interested parties will be given the opportunity to make comments and suggestions at the same meeting. In addition, written comments on the FY 1983 and 1984 annual charges received in the Salt Lake city Area Office, at the address given below, by March 10 1983, will be given consideration.

ADDRESSES: The public meeting on February 10, 1983, will be held at the Ramada Inn, 2101 Avenue F, Del Rio, Texas.

FOR FURTHER INFORMATION CONTACT: Marlene A. Moody, Assistant Area Manager for Power Marketing, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, Utah 84147, Telephon: (801) 524-5497.

Documents used to develop the proposed annual charges will be available in Western's Salt Lake City Area Office at 438 East 2nd South, Suite #2, Salt Lake City, Utah.

Background

The Falcon Dam is an international storage project located on the Rio Grande River About 130 miles upstream form Brownsville, Texas.

The powerplant owned by the United States at Falcon Dam has a generating capacity of 31.5 megawatts.

The Amistad Powerplant is currently under construction at Amistad Dam, located about 300 miles upstream from the Falcon Dam. The Amistad Powerplant is being constructed by the

corps of Engineers, as agent for IBWC. Western is responsible for the marketing of power from the Falcon and Amistad Powerplants, and for the administration of Contract No. 7-07-50-P0890. Contract No. 7-07-50-P089, will become effective no later than 1 month after IBWC is ready to provide service from the Amistad Powerplant. This contract, dated August 9, 1977, commits the output of both the Falcon and Amistad Powerplants to South Texas Electric Cooperative, Inc. (STEC) and Medina Electric Cooperative, Inc. (MEC). The contract under which power from Falcon Powerplants has been sold will terminate concurrently with the effective date of Contract No. 7-07-50-P089. In payment for transmission service, STEC and MEC have agreed to provide a portion of the capacity and energy available to them to the Central Power and Light Company (CPL), and CPL has agreed to resell a portion of that power to the city of Brownsville, Texas. IBWC expects Unit No. 1 of the Amistad Powerplant to be operational in June 1983, and the second unit is scheduled for operation in August 1983.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory Flexibility analysis to describe the impact of the proposed rule on samll entities. In this instance, the determination of the annual charges for power from the Falcon and Amistad Projects relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C 601 (2), rates or services of particular applicability are not considered "rules" within the meaning of the act. Since the charges for Falcon and Amistad power are of limited applicability and are being accomplished in accordance with specific legislation and are being accomdance with specific legislation under particular circumstances, Western believes that no flexibility analysis is required.

National Environmental Policy Act

Western has made a determination based upon environmental considerations of the proposed rules that this action is not a significant action in the context of the National Environmental Policy Act, and that it will not lead to any significant environmental impacts.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of the Executive Order 12291.

Issued at Golden, Colorado, January 28, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83-3013 Filed 2-1-83; 10:20 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-306; PH-FRL 2292-2]

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 the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address 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-306] and the 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 and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2785.* FMC Corporation, 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide carbosulfan, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl-[(dibutyl-amino)thio] methylcarbamate; its cholinesterase-inhibiting metabolites, 2,3-dihydro-2,2-dimethyl-7-benzpfuranyl-*N*-methylcarbamate (carbofuran), 2,3-dihydro-2, 2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methycarbamate, and 2,3-dihydro-2,2-dimethyl-3-keto-7-benzofuranyl-*N*-methylcabamate; its phenolic metabolites, 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-7-benzofurandiol; and its metabolite di-*n*-butylamine which will not exceed the following levels in or on the raw agricultural commodities green alfalfa and alfalfa hay. Green alfalfa: at 26 parts per million (ppm) total, (of which no more than 3 ppm is carbosulfan, 10 ppm cholinesterase-inhibiting metalolites, and 9 ppm of the metabolite di-*n*-butylamine). Alfalfa hay: at 50 ppm total, (of which no more than 3 ppm is carbosulfan, 25 ppm cholinesterase-inhibiting metabolites, and 15 ppm of the metabolite di-*n*-butylamine). Meat, fat, and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, and sheep: at 1.1 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 1.0 ppm is the metabolite di-*n*-butylamine). Liver and kidney of cattle, goats, hogs, horses, and sheep: at 8.1 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 8.0 ppm is the metabolite di-*n*-butylamine). Milk: at 1.6 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 1.5 ppm is the metabolite di-*n*-butylamine). The proposed analytical method for determining residues is by alumina and gel-liquid chromatography using a nitrogen phosphorus detector. (PM 12, Jay Ellenberger, 703-557-2386).

2. *PP 3F2793.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.407 by establishing tolerances for the combined residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis[[(methylimino)-carbonyl]oxyl]]bis[ethanimidothioate) and its metabolite methomyl, *N,*-((methylcarbamoyl)thioacetimidate in or

on the raw agricultural commodity soybeans at 0.2 ppm. The proposed analytical method for determining residues is by liquid chromatography. (PM 12, Jay Ellenberger, 703–557–2386).

3. *FAP 3H5378.* Union Carbide Corp. Proposes amending 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb and its metabolite methomyl in or on the commodity soybean hulls at 0.8 ppm. (PM 12, Jay Ellenberger, 703–557–2386).

4. *FAP 3H5377.* Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Proposes amending 21 CFR Part 561 by establishing a regulation permitting 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 dried citrus pulp at 6.0 ppm and citrus molasses at 5.0 ppm in connection with an experimental use program. (PM-21, Henry Jacoby, 703–557–1900).

5. *FAP 3H5377.* Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the metalaxyl and its metabolite in citrus oil at 7.0 ppm in connection with an experimental use program. (PM-21, Henry Jacoby, 703–557–1900).

6. *FAP 3H5379.* Rhone-Poulenc, Inc., PO Box 125, Monmouth Junction, NJ 08852. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidine-carboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on raisins at 180 ppm in connection with an experimental use program. (PM 21, Henry Jacoby, 703–557–1900).

B. Amended Petition

PP 2F2720. Ciba-Geigy Corp. EPA issued a notice published in the **Federal Register** of August 25, 1982 (47 FR 37289) that announced that Ciba-Geigy Corp. had submitted a pesticide petition 2F2720 to the Agency proposing to amend 40 CFR 180.368 by increasing and/or establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[2-ethyl-6-methylphenyl)-amino]-1-propanol and 4-(2-ethyl-6-methylethyl)-2-hydroxy-5-methyl-3-morpholinons, each expressed as parent metolachlor, in or on the raw agricultural commodities as follows:

(1) Increase the established tolerance levels in or on corn fodder and forage from 1.0 ppm to 6.0 ppm and in or on soybean fodder and forage from 2.0 to 6.0 ppm.

(2) Establish tolerances for residues in or on liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.05 and 0.2 respectively.

The Ciba-Geigy Corporation has amended the petition by raising the tolerance levels for corn fodder and forage and soybean fodder and forage from 6.0 ppm to 8.0 ppm and deleting the proposed tolerance for kidney of poultry. The proposed analytical method for determining residues is gas chromatography. (PM-23, Richard Mountfort, 703–557–1830).

(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: January 18, 1983.

Robert V. Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2271 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-307 PH-FRL 2292-1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and withdrawal of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address 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–307) and the specific petition number. All written comments filed in response to this notice will be available for public 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 petitions relating to the establishment and withdrawal of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2803.* E.I. du Pont de Nemours & Company, Wilmington, DE 19898. Proposes amending 40 CFR 180.253 by establishing tolerances for the residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity rice at 0.5 part per million (ppm). Proposed analytical method for detemining residues is by gas chromatography. (PM–12, Jay Ellenberger, 703–557–2386).

2. *PP 3F2802.* ICI Americas, Inc., Agricultural Chemicals Division, Concord Pike & New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the insecticide permethrin (3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodity peaches at 5.0 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM–17, Franklin D. R. Gee, 703–557–2690).

B. Withdrawal of Petition

PP 6F1753. EPA issued a notice published in the **Federal Register** of April 1, 1976 (41 FR 13984) that announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852 (formerly Rhodia Inc., Agricultural Division, 23 Belmont Dr., Somerset NJ 08873), had filed pesticide petition 6F1753 with the Agency. This petition proposed the establishment of a tolerance for residues of the insecticide phosalone (*S*-[6-chloro-3-(mercaptomethyl-2-benzoxazolinone)*o,o*-diethy phosphorodithioate) including its oxygen analog in or on the raw agricultural commodity alfalfa at 100 ppm. The petitioner has withdrawn this petition without prejudice to future filing. (PM–12, Jay Ellenberger, 703–557–2386).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C 136))

Dated: January 13, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2272 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-36, et al.]

Art Broadcasting Corp. and Freddie Gauthier Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 21, 1983.

Released: January 25, 1983.

In the matter of applications of ART BROADCASTING CORPORATION, Naranjito, Puerto Rico MM Docket No. 83-36, File No. BPCT-820525KE, and FREDDIE GAUTHIER BROADCASTING COMPANY, Toa Baja, Puerto Rico, MM Docket No. 83-37, File No. BPCT-820824KO; for construction permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 64, Naranjito, Puerto Rico or Toa Baja, Puerto Rico.[1]

2. Art Broadcasting Corporation (Art) specifies Naranjito as its community of license and Freddie Gauthier Broadcasting Company (Gauthier) specifies Toa Baha as its community of license. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in Naranjito or Toa Baja would better provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), both applicants can be considered under the comparative issue.

4. The Commission has not received a determination from the Federal Aviation Administration that Gauthier's proposed tower height and location would not constitute a hazard to air navigation. Accordingly, and appropriate issued will be specified.

5. The proposed tower for Gauthier is to be located 0.97 mile from the directional tower of AM radio station WBMJ, San Juan, Puerto Rico. Because of the proximity of the proposed tower to WBMJ, any grant of a construction permit to Gauthier will be conditioned to ensure that WBMJ's radiation pattern is not adversely affected by the construction of the proposed station.

6. The material submitted in Gauthier's application does not demonstrate the applicant'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 the release 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.*, Docket No. 82-378 (released July 15, 1982.) [2]

7. 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.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, 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 Freddie Gauthier Broadcasting Company whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

4. In the event it is concluded from Issue 3, above, that a choice between applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

10. It is further ordered, That in the event of a grant of Freddie Gauthier Broadcasting Company's application, the construction permit shall contain the following condition:

Prior to the construction of the TV tower authorized herein, permittee shall notify AM station WBMJ so that the AM station may determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and the AM station. Thereafter, the TV station may commence *Limited Program Tests.*

11. It is further ordered, That Freddie Gauthier Broadcasting Company 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.

12. It is further order, 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, whithin 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 of the issues specified in this Order.

13. It is further order, That the applicants herein shall, pursuant to Section 311(a) (2) of the

[1] Channel 64 is assigned to Vega Baja, Puerto Rico. Naranjito and Toa Baja are located within 15 miles of Vega Baja. Accordingly, under § 73.607 of the Commission's Rules, Channel 64 is available for use in Naranjito or Toa Baja.

[2] Gauthier states that it is presently negotiating for financing.

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 Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-2789 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-35, et al.]

Celcom Communications Corp. of Georgia, et al., Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Celcom Communications Corp. of Georgia, CC Docket No. 83-35, File No. 26161-CL-P-(11)-82, Cellular Mobile Systems of Georgia, Inc., File No. 26178-CL-P-(11)-82, Gencom Incorporated, File No. 26032-CL-P-(7)-82, Maxicom, Inc., File No. 26076-CL-P-(10)-82, and Unit Telecommunications Systems, Inc., File No. 26122-CL-P-(12)-82; for a Construction Permit to establish a cellular system to operate on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Atlanta, Georgia, modified Standard Metropolitan Statistical Area.

Memorandum Opinion and Order Designating Applications for Hearing

Adopted January 21, 1983.

Released January 26, 1983.

1. Presently before the Chief, Common Carrier Bureau, acting under delegated authority, are: (a) The captioned applications of Celcom Communications Corp. of Georgia (Celcom), Cellular Mobile Systems of Georgia, Inc. (CMS), Gencom Incorporated (Gencom), Maxicom, Inc. (Maxicom), and Unity Telecommunications Systems, Inc. (Unity) to construct a cellular radio system to serve the Atlanta, Georgia modified Standard Metropolitan Statistical Area (SMSA); and (b) various motions, petitions, pleadings and amendments related to the applications.[1]

2. Except with respect to the applications of Unity and Maxicom, we find that petitions fail to raise any substantial and material issues requiring designation for hearing. These applications are electrically mutually exclusive; accordingly, we are designating them for a comparative hearing in accordance with the Commission's special hearing procedures for cellular radio applications announced in the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982). We are designating certain basic qualifying issues against Maxicom and Unity to be considered in the comparative hearing. Finally, we are requiring the CMS, Gencom and Unity applications to be modified as set forth below.

Celcom Application

3. Maxicom and CMS filed petitions against the Celcom application. Both petitioners argue that Celcom has failed to demonstrate site availability and has failed to show that it is financially qualified.

4. In its Opposition, Celcom responds that at the time that it filed its application, it had reasonable assurance that the proposed sites would be available, and it continues to have such assurance. As for its financial qualifications, Celcom explains that it will need a maximum of $9.3 million to cover the construction costs and operating expenses of its Atlanta cellular system.[2] To demonstrate its ability to meet these estimated costs, Celcom submitted in its application a bank letter from Michigan National Bank indicating its willingness to act as the lead bank in a consortium of banks, consisting of holding company affiliates of Michigan National Bank, Mellon Bank and Pittsburgh National Bank, which would lend Celcom $9.5 million. With its Opposition, Celcom provided a second letter from the Michigan National Bank emphasizing that all three banks will participate in the loan and that the loan is adequately secured by Celcom's parent, Associated Communications of America, Inc.

5. After carefully reviewing the Celcom application and the related pleadings, we conclude that Maxicom and CMS have failed to raise any substantial and material issues. Celcom has provided reasonable assurance of site availability. *See Alabama Citizens for Responsive Public Television, Inc.*, 59 FCC 2d 1 (1976); *Beep Communications Systems, Inc.*, Mimeo 16536, Common Carrier Bureau, released April 19, 1979. Celcom has identified the site locations and has indicated that, based on signed statements, it has a good faith belief that all cell sites are available. None of the petitioners has demonstrated that any of the sites would not be available to Celcom. Absent specific evidence rebutting Celcom's showing, we find that Celcom has adequately demonstrated site availability.

6. We also conclude that Celcom is financially qualified to construct and operate the proposed facility. While the petitioners claim that Celcom has failed to adequately estimate its construction and operating costs, Celcom explains in great detail in its Opposition the particulars of its cost estimates. Furthermore, Celcom's letter from Michigan National Bank provides reasonable assurance that the bank consortium will provide $9.5 million for Celcom's proposed cellular system. *See Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979). The Michigan National letter identifies the particpating banks and contains the basic payment terms and the formula for the interest rate. The petitioners argue that the loan commitment should be disregarded because it is unclear whether all the banks identified will participate in the loan and whether the proposed loan is adequately secured. These same arguments were raised against Celcom in Pittsburgh and were rejected in our recent *Pittsburgh Order*.[3] Further, Celcom has submitted a letter from the Michigan National Bank which unequivocally states that all three banks have agreed to participate and that the loan is adequately secured. Accordingly, no further consideration of this issue is warranted.

CMS Application

7. Celcom and Maxicom filed petitions against the CMS applications alleging that CMS is not financially qualified and that there are unresolved character qualification issues pending against the parent of CMS, Graphic Scanning Corp. (Graphic), in *A.S.D. Answer Service, Inc., et al. (ASD)*, CC Docket Nos. 82-587 to 590, FCC 82-391, released August 24, 1982. Maxicom also argues that the CMS application should be dismissed because CMS has failed to present a proper direct case.

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[1] Two applications were also filed requesting the wireless allocation (frequency block B) in this SMSA. The two applicants have filed a settlement agreement for this SMSA. *See* Public Notice, Mimeo 383, Report No. CL-4, released October 22, 1982. We will consider the wireline allocation in a separate order.

[2] The costs include $6,006,000 for equipment, $161,740 for antenna towers and $3,166,000 for the pre-operating and first year operating expenses.

[3] Advanced Mobile Phone Service, Inc. *et al. (Pittsburgh Order)*, CC Mimeo 1169, released December 6, 1982.

8. We are not persuaded by the petitioners' arguments. In the application, CMS estimated that it will need $6,222,000 in capital construction, other pre-operating and first year operating costs. To cover these costs, CMS relies upon a commitment from Graphic for $7 million. In *Advanced Mobile Phone Service Inc., et al. (Chicago Order)*, FCC 82-452, released November 1, 1982, the Commission found Graphic and its subsidiaries to be financially qualified to construct and operate the 30 cellular systems it proposes, including the Atlanta system. The petitioners have not raised any arguments with respect to CMS' Atlanta application that were not thoroughly considered in the *Chicago Order*. In addition, the Commission has already held that the character of Graphic would be examined in the *ASD* proceeding and would not be included in cellular application proceedings. *Chicago Order*, at n. 19. *See also* note 21 and para. 38, *infra*.

9. Finally, we find absolutely no merit to Maxicom's argument concerning alleged infirmities in CMS' direct case. Maxicom argues that sponsoring witness affidavits are deficient because they do not identify the specific portion of each exhibit that is being sponsored. Maxicom also argues that CMS' exhibits are not properly paginated. These allegations are frivolous. CMS' direct case submission does not contravene any of the Commission's hearing procedure rules, 47 CFR 1.201–1.364. Thus, dismissal of the CMS application is not appropriate. The issues raised by Maxicom are evidentiary matters that may be considered at the hearing.[4]

Gencom Application

10. Maxicom, Celcom and CMS filed petitions against the Gencom application. Maxicom and Celcom argue that Gencom is not financially qualified. In the application, Gencom estimates the cost to construct and operate the Atlanta facility to be $7,151,000. The capital requirements for Gencom's six top-30 cellular proposals is $32,329,068.[5] To finance these proposals, Gencom relies upon a $30 million line of credit from InterFirst Bank Dallas, N.A. (formerly the First National Bank in Dallas), $20 million in internal funds from Communications Industries, Inc. (CI),[6] and letters from four investment brokers indicating that CI will be able to arrange public equity financing of $40 million. The petitioners dispute the liquidity of Gencom's existing current assets, and the availability of Gencom's future cash flow and its equity financing.

11. In response to the petitioners' objections, Gencom submitted an amendment dated September 13, 1982, which provided a second letter of credit from InterFirst for an additional $30 million. On November 5, 1982, this amendment was returned as unacceptable for filing because it modified the financial plan in a major, material respect.[7] Accordingly, we have not considered this additional source of funds in evaluating Gencom's financial qualifications. Also on September 13, Gencom submitted an amendment to its San Diego application in which it takes the position that its original financial showing should only be applied to the capital requirements for its six top-30 applications. Gencom asserts that the funding requirements for the remaining cities would be met with its second bank commitment.

12. Because we have been evaluating cellular applicants' financial resources in terms of the top-30 SMSAs, we conclude that only Gencom's six top-30 applications need be considered at this time. However, we are unable to verify the capital spending analysis for the six markets contained in the San Diego amendment. Gencom's estimate does not correspond with the aggregate of construction and operating costs for its six proposals (Ex. 9, Tables 9–1–1 and 9–2–1 in each application). Accordingly, for purposes of our analysis here, we have substituted the figure $32,329,068 based on the information in the six applications.

13. After carefully reviewing the material presented, we conclude that Gencom is financialy qualified to meet its commitments for six top-30 cellular proposals. First, Gencom provides a letter from InterFirst Bank that establishes an irrevocable $30 million line of credit, of which $27,898,632 is available for cellular operations. The letter contains all essential details of the loan, including the interest rate, the monthly payments, and the repayment terms. The petitioners have not disputed the availability of this loan. Under applicable precedent, this letter is acceptable as reasonable assurance that $27,898,632 will be available to Gencom. *See Multi-State Communications Inc. v. FCC, supra*. Second, a review of CI's most recent balance sheet (dated March 31, 1982) indicates that CI has net liquid assets of approximately $9 million.[8] In this regard, we agree with the petitioners' claim that CI's projection of future cash flow of $10 million must be disregarded. Gencom's analysis to arrive at its estimate of future cash is too speculative to be considered. However, we disagree with the petitioners' claim that CI's accounts receivable should not be considered. Gencom has submitted an affidavit from its vice president of finance, who is a certified public accountant, which indicates that he has aged CI's accounts receivable and found the average period of collection to be 55 days. Accordingly, based on past Commission precedent, at least 75% of Gencom's accounts receivable may be counted as part of net liquid assets. *See Kaiser Broadcasting*, 62 FCC 2d 246 (1977).

14. In summary, we find that Gencom has demonstrated under applicable precedent reasonable assurance that $36,893,632 will be available to cover approximately $32 million cost of construction and operating its proposed cellular systems. *See Multi-State Communications, Inc. v. FCC, supra*. Gencom thus has a cushion of nearly $4.6 million to cover any minor omissions or shortfalls of funds for this market or its other five cellular proposals.[9] Accordingly, we find Gencom to be financially qualified in its six top-30 market proposals. Any financial issues relevant to specific markets will be resolved in the order dealing with that specific market.

15. *Other matters*. CMS argues that Gencom's application is defective because Gencom included equipment charges in its proposed schedule of charges, despite the Commission's decision that charges for mobile equipment were to be detariffed, and because it did not file engineering data concerning point-to-point microwave links interconnecting its cells. These arguments are without merit. Gencom has explained that its application clearly states that it will offer cellular mobiles at prevailing competitive rates; that its charges were filed in response to

[4] CMS has not specified a control point in the application in accordance with Section 22.909 of the Rules. CMS will be required as an amendment to specify its proposed control point.

[5] Gencom proposes cellular systems in Atlanta, Phoenix, San Diego and Tampa. Gencom is also a participant in joint ventures in Dallas-Ft. Worth and St. Louis. The $32.3 million figure is derived by adding the construction and operating costs for the six top-30 proposals (Ex. 9, Tables 9–1–1 and 9–2–1 in each application).

[6] CI is parent company of Gencom.

[7] A similar amendment to the San Diego application, File No. 26034-CL-P-(10)-82, had been returned on August 31, 1982.

[8] Net liquid assets are the excess of current assets readily convertible to cash over current liabilities. *See Chicago Order*, at para. 8.

[9] Gencom also relies on equity financing of $40 million to provide additional funds for its cellular proposals. The petitioners dispute the availibility of these funds. Because we have found that Gencom has sufficient resources without this equity commitment, we do not reach this question.

the requirements in the Form 401; and that they were not intended to be a formal tariff. With regard to the argument concerning the microwave links, Common Carrier Public Notice, Mimeo 567, November 1, 1982, at page 3, stated that applicants need not include in their applications the associated microwave applications and/or authorizations to connect the cell sites with the system control station to meet the required basic qualifications, and that no comparative preference would be accorded to an applicant submitting such interconnection information. The Public Notice reflects the absence of any requirement in the cellular rules, specifically, or in Part 22 of the rules, generally, that applicants specify the method of connecting transmitter sites with switches and control points. In any case, Gencom has explained that it will file its microwave applications in sufficient time so that the microwave links will be available at the time of the grant of its cellular construction permit.[10]

16. There is one final matter that we are raising on our own motion, which concerns two pending antitrust law suits, one concerning Gencom, and the other concerning its parent, CI. In Exhibit 10.4 of the application, Gencom informed us that it is a defendant in a civil antitrust suit in which it is alleged that Gencom attempted to monopolize the radio common carrier market in Florida.[11] This action has been dismissed once for failure to state a cause of action; a revised complaint has been filed and is still pending. By amendment filed August 3, 1982, Gencom informed us that a civil antitrust action has been filed in Texas against CI and others.[12] The defendants have moved to dismiss this complaint. While the Commission traditionally has been reluctant to inquire into the allegations pending in another forum, it is the Commission's usual practice to condition any award to take into account the pending litigation. *Peoples Broadcasting Corporation, et al.*, 68 FCC 2d 1569, 1573–74 (1978). We will include a condition here and in each other city for which Gencom has applied, but we emphasize that it would be premature to examine this matter in a cellular comparative hearing.

Maxicom Application

17. CMS filed a petition to deny the Maxicom application, alleging that the application failed to include an exhibit explaining the applicant's projected method of system expansion (Section 22.193(a)(4)) and the criteria that the applicant will use to determine whether cell-splitting is warranted (subsection (a)(5)). In its reply, Maxicom clarified the information describing its projected method of system expansion and referenced a July 23, 1982, amendment which described its criteria for cell-splitting. However, on August 13, 1982, Maxicom's July 23 amendment was returned as major because portions of it contained additional information which was not presented in the original application. Maxicom did not resubmit the information concerning cell-splitting.[13]

18. We have reviewed Maxicom's application and the related pleadings. Based on our review, we conclude that the applicant has provided sufficient information concerning its projected method of system expansion. However, because Maxicom's application did not sufficiently describe its criteria for cell-splitting, and the July 23 amendment containing such information was returned as unacceptable, we conclude that Maxicom has failed to provide the information required by § 22.913(a)(5) of the Rules. Accordingly, we will designate an issue whether Maxicom's application provides criteria for cell-splitting and, if not, the effect on Maxicom's technical qualifications. The Administrative Law Judge may use our summary procedures to resolve this issue if Maxicom submits an appropriate amendment.

Unity Application

19. CMS, Maxicam and Celcom filed petitions against the Unity application. The petitioners argue that Unity is not financially qualified, and raise objections to various aspects of the applicant's technical proposal. Additionally, the staff has reviewed the Unity application and indentified a number of inconsistencies or defects in the technical portion of the application. For the reasons described below, we are designating a site availability issue against Unity.

20. *Financial Qualifications.* In the application, Unity estimates $7,765,000 will be required to construct its Atlanta cellular facility, and $2,725,000 will be necessary to operate the facilities for one year. To cover these costs, as well as the costs for its four other top-30 markets (Philadelphia, Miami, Tampa, and Detroit), Unity relies upon a letter from Faneuil Hall Associates specifiying $50 million in venture capital financing, a credit letter from Freedom National Bank of New York for $50 million, and a letter of credit from Chemical Bank for an unspecified amount. The petitioners claim that these letters cannot be considered because they do not contain sufficient detail and are too speculative. In the Phiadelphia Order,[14] the Bureau examined similar arguments and found them to raise a substantial and material question of fact about Unity's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning Unity's overall financial package. We will not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to Unity's finacial qualifications in the *Philadelphia* proceeding to be dispositive of the issue, and we reserve the right to reexamine and reconsider any authorization to Unity in the event that Unity's Atlanta application is granted as a result of the comparative hearing.[15]

[10] The CGSA map submitted by Gencom is not to the proper scale. Gencom will be required to submit, as an amendment, the information requested by § 22.903(A) on one or more U.S. Geological survey map(s) with a scale of 1:250,000.

[11] Westside Communications of Tampa, Inc. v. Gencom Incorporated, Fla. Circuit Court (Hillsborough County), filed September 16, 1981.

[12] Radio Relay Corporation—Texas v. D/FW Signal, Inc., *et al.*, No. CA3 82-0677 G (N.D. Tex., filed June 7, 1982).

[13] On August 23, 1982, Maxicom did resubmit several portions of its July 23, 1982, amendment, together with a Memorandum in support of the amendment. Maxicom argues that the amendatory material was either inadvertently omitted or duplicated material already on file. Specifically, Maxicom attempts to add a statement describing the blocking rate of the proposed system, an explanation concerning the method used for assigning signaling channels, and a statement concerning its maintenance proposal. After carefully reviewing the application and the amendments, we conclude that, with the exception of the portion of the amendment dealing with Maxicom's signaling channel plan, these amendments are minor. The portion of the amendment concerning Maxicom's plan for the signalling channels is, however, major. While Maxicom argues that the requested material was inadvertently omitted from the application, the omission is not apparent on the face of the application, and Maxicom has not demonstrated by reference to other portions of the application that the omitted information was prepared prior to the filing of the application. *Compare* Continental Telephone Company of Illinois, Mimeo 4166, Common Carrier Bureau, released May 21, 1982 (information contained in amendment was used in other parts of the application demonstrating that the information was prepared prior to filing of the application). Accordingly, we are returning Maxicom's August 23, 1982, amendment. These portions of the amendment that are minor may be resubmitted within 15 days of publication of this order in the **Federal Register.**

[14] Advanced Mobile Phone Service, Inc., *et al. (Philadelphia Order)* CC Mimeo 1882, released January 21, 1983.

[15] However, the petitioners in this proceeding may file a motion for limited intervention in the *Philadelphia* proceeding on the financial issue. *See Philadelphia Order*, at note 3.

21. *Technical qualifications.* All petitioners claim that Unity has failed to demonstrate site availability. In addition, Maxicom argues that Unity failed to provide adequate antenna sketches, and CMS argues that Unity failed to designate Site L (Kennesaw Mountain) as a major environmental action. Celcom argues that Unity failed to provide sufficient environmental information concerning two sites that Unity indicated were major environmental actions, and that the proposed Cellular Geographic Service Area (CGSA) of Unity does not conform with the Commission's 75% Rule.[16]

22. Unity responded that arguments concerning lack of site availability are unsupported by the facts and law. Citing *Alabama Citizen for Public Television, Inc., supra,* Unity argues that when site discussions are actively continuing, the applicant may make a good faith representation that reasonable assurance of site availability exists. With regard to the major environmental action arguments, Unity contends that it submitted all information required by Section 1.1305 of the rules. Unity further argues that its request to use the Kennesaw Mountain site would be filed with the appropriate governmental body. With respect to Maxicam's argument concerning antenna profile sketches, Unity argues that all cell sites will have one of the three antenna structures submitted in the applcation. Unity also argues that, 39 dBu contour is also its CGSA. Finally, Unity argues that, even if there are deficiencies in its application, they form no basis for denial; Unity contends that it has an absolute right to provide clarification and this should take place in the comparative hearing.[17]

23. *Site availability.* While we agree with Unity that the Commission's rules and policies only require an applicant to demonstrate a good faith belief of site availability, Unity has not made such a showing. In neither the application nor the reply did Unity indicate that it ever contacted potential site lessors or owners. In fact, in Section 3, p. 38, Unity admits "* * * there was not sufficient time to identify an ideal cellular site, visit the site, retain a realtor, law firm, etc. to secure the right to the site * * *." In addition, in reviewing the materials submitted in the Unity application, the staff has identified several apparent inconsistencies with respect to site availability.[18] When these factors are all viewed collectively, we conclude that Unity has not adequately demonstrated reasonable assurance of site availability under the prevailing standard. *See Sampson Broadcasting Co., Inc.,* 52 FCC 2d 954, 959 (1975), and *Silver Beehive Telephone Company,* 35 FCC 2d 333, 337–38 (Rev. Bd. 1972). Accordingly, an appropriate issue will be designated. The Administrative Law Judge may use our summary procedures to resolve this issue if Unity submits amendments showing reasonable assurance and correcting the inconsistencies mentioned above.

24. *Major Environmental Actions.* We have reviewed Unity's application, and we conclude the portion of the application that deals with Site L (Kennesaw Mountain) is a major environmental action in accordance with § 22.913(a)(1) of the Rules. The Kennesaw Mountain National Battlefield Park is listed in the National Register of Historic Places. In accordance with § 1.1305(a)(6)(iii) of the Rules, Unity's proposal to construct this antenna tower is a major action. Therefore, Unity will be required to submit to the presiding Administrative Law Judge (ALJ) an environmental statement which supplies the information required by Section 1.1311 of the Commission's Rules. *See, e.g., Decatur Foursquare, et al.,* BC Docket No. 81–664, BC Mimeo 3538, released September 24, 1981; *Comark Television, Inc., et al.,* 46 FR 24296 (April 30, 1981). If it is determined that Site L will be available to Unity and that construction will have a significant adverse impact on the human environment, the ALJ should consider this issue in conjunction with the site availability issue that we are designating. Meanwhile, the remaining portions of this hearing should proceed without any further delay. Finally, we find no merit to Celcom's argument that Unity failed to provide sufficient environmental information concerning Site A (Hopewell Church) and Site B (Oakdale). Unity's description, although very brief, meets the requirements of § 1.1311 of the Rules.

25. *Antenna profile sketches.* In its application, Unity has submitted three "representative" vertical profile sketches (Exhibit E–14). Unity, however, never identifies which sketch applies to each specific location. We, therefore, instruct Unity to submit to the ALJ an amendment containing a separate sketch for each cell location.

26. *Effective radiated power.* In reviewing the Unity application, the staff has found that the figures for effective radiated power (ERP) are inconsistent with the calculated ERP or transmission line loss figures given in Exhibit E–13. We will therefore require Unity to submit an amendment to the ALJ, which provides the correct figures for losses between the transmitter and the antenna for each location in order to clarify the apparent discrepancies in ERP.

27. *CGSA.* Celcom argues that the Unity application should be dismissed for failure to meet the 75% rule.[19] This argument is based on the fact the Unity's CGSA is not drawn on the contour map submitted in the application. In its reply, Unity claims that the CGSA is the coverage of its 39 dBu contours. While we cannot sanction Unity's approach, we will nevertheless not dismiss Unity's application on this ground. We will, however, require Unity to submit to the ALJ an amendment consisting of a new map which includes the following information: (a) All cell sites plotted; (b) 39 dBu contours for each site; (c) CGSA boundary; and (d) SMSA boundary. The map must indicate pertinent border information to determine proper station plotting of all cell sites.

28. The defects discussed above, when taken individually, appear for the most part to be minor, and some of them will be resolved by amendments which we have instructed Unity to file. Upon considering the technical defects in the aggregate, the engineering proposals for the various cell sites show a lack of detail and consistency. We have decided, however, not to designate a technical qualifications issue. Instead, we will designate a site availability issue and permit the other technical matters discussed above to be resolved through the normal comparative process. Under this approach, many of the technical questions may be satisfactorily answered through resolution of the site availability issue. If, however, the ALJ should determine that technical deficiencies remain, he will be able to award comparative demerits where appropriate.[20]

[16] Section 22.903(a) of the Rules requires an applicant's 39 dBu contours to cover 75% of the total CGSA.

[17] CMS also contends that the digital transmission rate specified in Unity's technical proposal will render Unity's cellular system incompatible with cellular systems in other markets, in violation of the commission's cellular rules. We find that Unity has adequately responded to the petitoner's allegations on this matter. *See* Philadelpha Order, at para. 10. In any event, a system operated by Unity or any other licensee will be subject to the rules' compatibility requirement.

[18] For example, in Section 3, Unity indicates that most cell sites are to be installed on existing structures, while in Exhibit E–1, only two of the 12 sites show existing structures.

[19] *See* note 16, *supra.*

[20] Because we are adding these qualifying issues, we will suspend the procedural deadline in § 22.916(b)(4) and allow the Administrative Law Judge to require such additional evidence as may be necessary. *See* para 36, *infra.*

Conclusions

29. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that, except as indicated above, the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. As indicated in our previous discussions, the captioned applications of CMS, Unity and Gencom do not comply with one or more of the cellular rules. In the *Chicago Order*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requireing these applicants to bring their applications into conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address these amendments in their rebuttal cases. We emphasize that the amendments ordered here may not be used to give the applicants a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order*, in markets for which application have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications.

30. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Celcom Communications Corp. of Georgia, File No. 26161–CL–P–(11)–82, Cellular Mobile Systems of Georgia, Inc., File No. 26178–CL–P–(11)–82, Gencom Incorporated, File No. 26032–CL–P–(7)–82, Maxicom, Inc., File No. 26076–CL–P–(10)–82, and Unity Telecommunications Systems, Inc., File No. 26122–CL–P–(12)–82, are designated for hearing in a consolidated proceeding upon the following issues:[21]

(a) To determine whether Maxicom's application provides criteria for cell-splitting required by § 22.913(a)(5) and, if not, the effect on Maxicom's technical qualifications;

(b) To determine whether Unity has demonstrated site availability for all of its sites, and to determine the environmental impact of construction of site L if that site proves to be available to Unity and it is determined that Site L will have a significant adverse impact on human environment;

(c) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[22] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(d) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[23]

(e) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[24] and

(f) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

31. It is further order, That the burden of proceeding with the introduction of evidence upon the cell-splitting issue (para. 31(a)) and the site availability issue (para. 31(b)), and the burden of proof, shall be upon Maxicom and Unity, respectively.

32. It is further ordered, that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[25]

33. It is further ordered, that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register**.

34. It is further ordered, that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

35. It is further ordered, that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

36. It is further ordered, that CMS, Gencom, and Unity are directed to file the conforming amendments specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the qualifying issues designated against Maxicom and Unity shall be determined by the Judge in his or her discretion.

37. It is further ordered, that, except to the extent granted in this order, the Petitions to Deny filed by Maxicom, Celcom and CMS are denied.

38. It is further ordered, that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of

[21] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of all applicants except Unity. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). With the exception of Unity, we have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Georgia, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc. *et al. (ASD)*, FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 38, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Georgia, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See* Chicago Order, at n. 19.

[22] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metroplitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[23] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–503.

[24] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[25] Members of the separated trial staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); § 1.1221 of the Commission's Rules.

that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

39. It is further ordered, that any authorization granted to Unity as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's financial qualifications as determined in *Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order)*, CC Mimeo 1882, released January 21, 1983.

40. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

41. It is further ordered, that any authorization granted to Gencom shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following final disposition of the antitrust litigation cited in para. 16, *supra*, and shall be specifically conditioned on the outcome of those proceedings.

42. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. See also Rule 1.4(b)(2).

43. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-2790 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[FCC 83-9; MM Docket No. 83-12, et al.; File No. BP-810406AA et al.]

Dena Pictures Inc. and Alexander Broadcasting Co. et al.; Applications for Construction Permit; Hearing Designation Order

In the matter of applications of Dena Pictures, Inc. and Alexander Broadcasting Co. a joint venture d/b/a Kaye-Smith Enterprises KXL, Portland, Oregon Has: 750 kHz, 50 kW, DA-1, L-WSB, Req: 750 kHz, 10 kW 50 kW-LS, DA-2, U (MM Docket No. 83.12, File No. BP-810406AA); Mountain West Broadcasting Inc, Park City, Utah, Req: 750 kHz, 1 kW, 5 kW-LS, DA-N, U (MM Docket No. 83-13 File No. PB-810427AP) and Eastern Utah Broadcasting Company, Koal, Price, Utah, Has: 1230 kHz, 250 W, 1 kW-LS, U, Req: 750 kHz, 10 kW, DA-N, U (MM Docket No. 83-14, File No. BP-810831AM).

Adopted: January 13, 1983.

Released: January 24, 1983.

1. The Commission has under consideration: (a) The above-captioned mutually exclusive applications for AM broadcast stations; (b) a petition to deny the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d/b/a Kaye-Smith Enterprises (Kaye-Smith), filed by Pioneer Broadcasting Company, Inc., licensee of co-channel station KFQD, Anchorage, Alaska; (c) a petition to deny the application of Eastern Utah Broadcasting Company (Eastern Utah) filed by Kaye-Smith; (d) a petition to deny Eastern Utah's application filed by Dart, Inc., licensee of AM station KRPX, Price, Utah (Dart); (e) a request for waiver of § 73.21 of the Commission's Rules filed by Kaye-Smith and; (f) related pleadings. [1]

2. *Consolidation Issues: Kaye-Smith.* Kaye-Smith's petition requests consolidation of its application with that of Eastern Utah because, while Kay-Smith's nighttime proposal would have a normally protected contour of 10 mV/m, Eastern Utah's proposal would increase this to 12.55 mV/m. As Eastern Utah correctly maintains, its application and Kaye-Smith's present proposal (i.e. 10 kW nighttime power) are not mutually exclusive, as Kaye-Smith would be able to provide principal city service to Portland even with the higher nighttime limit resulting from Eastern Utah's proposal. However, the possibility exists that Kaye-Smith's application may not be granted as proposed.

3. Since the Kaye-Smith proposal does not provide service to substantial white areas, § 73.21(a)(2)(ii)(C) imposes a nighttime power limit of 1 kW. Contending that 10 kW, rather than 1 kW, is necessary to provide 10 mV/m nighttime coverage of Portland in compliance with § 73.24(j), Kaye-Smith has requested waiver of the nighttime power limit rule. (see paragraph 11 *infra*). If waiver is not granted, Kaye-Smith's 10 mV/m contour at 1 kw will not cover all of Portland at night, and a waiver of § 73.24(j) will be necessary. To the extent that Eastern Utah's proposed operation reduces Kaye-Smith's coverage at 1 kW, it will bear upon the resolution of this waiver request. [2] Hence, consolidation is appropriate.

4. The status of Kaye-Smith's station KXL as a limited-time station also requires consolidation with the other proposals. Including KXL, there are twelve limited-time stations, all of them providing some nighttime service either immediately before local sunrise or after local sunset, depending upon the location of the dominant co-channel station. For example, KXL operates for a time prior to local sunrise in Portland with its full daytime power. This operation by an essentially daytime-only station is permitted because the skywave signal of WSB, Atlanta, Georgia, the dominant station on 750 kHz, is not adversely affected by KXL's operation due to the time difference between local sunrise in Atlanta and Portland.

5. Our action in *Clear Channel Broadcasting in the AM Broadcast Band*, (*Clear Channel Broadcasting*) 78 FCC, 2d 1345, *recon. granted in part and denied in part*, 83 FCC 2d 216 (1980), aff'd *sub nom. Loyala University* v. *FCC*, 670 F. 2d 1222 (D.C. Cir. 1982), dramatically affects the ground rules regarding future limited-time operation of these dozen stations. For example, if KXL is not granted a license to operate on a full-time basis, the present partial nighttime operation of KXL may be effectively eliminated, as KXL may be unable to provide the required nighttime protection to the sucessful unlimited-time applicant(s) in the instant proceeding, as well as to WSB. [3] Recognizing this problem, we contemplated, in our Report and Order, " . . . the inauguration of a separate rule making proceeding inviting comment on whether, and if so, under what conditions, we should accept and consider applications for unlimited-time

[1] The related pleadings include a letter from Cox Broadcasting Corporation, licensee of co-channel AM station WSB, Atlanta, Georgia contending that the Mountain West and Eastern Utah proposals would cause interference to WSB's then pending minor change proposal and that, therefore, the applications are mutually exclusive. This request was mooted by Cox's subsequent withdrawl of its proposal. Further, all applicants have requested extensions of time to file pleadings which extensions are hereby granted.

[2] The information before us does not indicate KXL's nighttime coverage at 1 kW operating power.

[3] KMMJ, Grand Island, Nebraska and WHEB, Portsmouth, New Hampshire also operate as limited-time stations on 750 kHz. While KMMJ's limited-time operation would curtail a portion of Eastern Utah's proposed white area service, it would not prevent grant of its application. Further, neither Easterh Utah's nor any of the other proposals would affect KMMJ's limited-time operation. Therefore, it is unnecessary to consider KMMJ's limited time operation in relation to these applications. WHEB's operation would be unaffected by the instant proposals.

stations," which would curtail the nighttime operations of the limited-time stations. *Clear Channel Broadcasting*, 78 FCC 2d 1345, 1373.

6. On reflection we realize however that general rule making would be unproductive and inappropriate. There are only a small number of limited-time stations and the consideration of each entails technical considerations and possibilities peculiar to its relationship with relevant existing stations on that frequency and the proposals for new stations. Therefore, ad hoc consideration of each individual limited-time operation is by far the preferable course. Hence we will specify an issue regarding the necessity of modifying the license of KXL with respect to its limited-time operation, pursuant to Section 316 of the Communications Act of 1934, as amended.[4]

7. *The Pioneer Broadcasting Petition.* Pioneer Broadcasting contends that the Kaye-Smith proposal would cause interference to its nighttime operation, reducing its coverage by 6,000–7,000 square miles. While petitioner concedes that this omitted area lies outside of its normally protected contour, it cites the unique qualities of Alaskan broadcasters and the necessity of Kaye-Smith's obtaining a waiver to operate as proposed as warranting more extensive protection for its operation.

8. We do not agree. It is well established that a station is entitled to protection from interference only to its normally protected contour and is not entitled to protection outside of that contour. *Big River Broadcasters*, 44 FCC 1671 (1959), *aff'd sub nom. Interstate Broadcasting Co., Inc.* v *FCC*, 280 F 2d 626 (D.C. Cir. 1960). While the Commission has made special provisions concerning facilities in Alaska, these provisions relate only to the relaxation of certain acceptability separation standards for new applications and are predicated upon existing conditions in Alaska, i.e. the wider spacing between stations in the State's large area, rather than upon a need for more coverage. See *Broadcast Station Assignment Standards*, 19 FCC 2d 472, 486 (1969); *Broadcast Station Assignment Standards* 39 FCC 2d 645, 678–679 (1973). Alaskan stations are specifically held to their normally protected nighttime contours in all respects.

9. *The Dart, Inc. Petition.* Petitioner contends that, due to the proximity of Eastern Utah's proposed site to its existing site (1.28 miles), reradiation will occur, causing interference to Dart's operation. Therefore, Dart requests either denial of the Eastern Utah application or conditioning of any grant. In opposition, Eastern Utah argues that Dart's contentions are factually unsupported and that, in any event, it intends to take preventive measures against reradiation, including adding a "trap" network to its non-directional tower, matching network and "floating" its directional tower.

10. We normally impose reradiation conditions only where an existing station's non-directional tower is located within 0.5 miles of the proposed antenna. The instant situation is outside that parameter. Further, since Dart's KRPX is a daytime-only station and both it and the applicant would be non-directional daytime, we do not believe that the proposed directional facility necessitates the requested conditions. Therefore, the petition is denied.

11. *The Kaye-Smith Waiver Request.* Kaye-Smith proposes 10 kilowatts nighttime power. Recognizing that § 73.21(a)(2)(ii)(C) limits new class II–B stations on the clear channels to a 1 kW nighttime power, KXL requests waiver of the rule. The Commission has adopted a strict standard for waiver requests of this nature, however. Thus waivers will be granted only upon a showing that the higher power proposed is necessary to provide principal city service and will not impede our allocation objectives. While Kaye-Smith has established compliance with the first part of this test, it has not sufficiently supported its claim that the higher power will not preclude other possible co-channel, unlimited time Class II assignments. Therefore, an appropriate issue will be specified.

12. *The Mountain Proposal.* Mountain proposes to serve the city of Park City, Utah, population 2,823. However, its proposed 5 mV/m contour would substantially cover the city of Salt Lake City, Utah, a community of more than 50,000, whose population of 163,033 is over twice that of of Park City. Under the circumstances, a presumption arises that the applicant intends to serve the larger community rather than the smaller specified one. See *Policy Statement on 307(b) Considerations*, 2 FCC 2d 190, *reconsid. denied*, 2 FCC 2d 866 (1965); *AM Station Assignment Standards*, 54 FCC 2d 1, 21–22 (1975). An appropriate issue will be specified.[5]

13. Mountain's local notice of the filing of its application did not include the names of all officers, directors and persons holding 10% or more interest in the applicant. Nor did it specify the class of station involved. To remedy this defect, the applicant must republish a corrected notice complying with § 73.3580 of our Rules.

14. *Other matters.* The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by Eastern Utah. Hence an appropriate issue will be specified.

15. The applicants propose to serve different communities. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

16. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[6] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

17. Accordingly, it is ordered, that pursuant to Sections 309(e) and 316 of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint-venture d.b.a. Kaye-Smith Enterprises, whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(C) of the Commission's Rules.

2. To determine whether the proposal of Mountain West Broadcasting, Inc. would realistically provide a local transmission service for Park City, Utah, or for Salt Lake City, Utah.

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[4] This procedure would also better facilitate our desire "to opt, ultimately, for whichever competing applications promise to yield the greatest public benefit." *Clear Channel Broadcasting, supra*, 78 FCC 2d at 1373. The available options appear to be (1) continuation and protection of the limited-time operation; (2) discontinuation of the limited-time operation; (3) continuation of the limited time operation, modified to protect the new class II–B station(s); and (4) continuation, without protection, of the limited-time operation.

[5] The suburban community policy is currently under review in BC Docket No. 82–320. The disposition of the issues specified here will, of course, be governed by the policies then in effect as a result of that review.

[6] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

3. To determine, in the event it be concluded pursuant to Issue 2 that the Mountain West Broadcasting, Inc. proposal would not realistically provide a local transmission service for Park City, Utah, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Salt Lake City, Utah.

4. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Eastern Utah Broadcasting Company.

5. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

6. To determine, pursuant to Section 316 of the Communications Act of 1934, as amended, whether the limited-time operation authorized to Station KXL should be continued, terminated or otherwise modified, and if so to what extent, to best serve the public interest.

7. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

8. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

18. It is further ordered, that the Federal Aviation Administration is made a party to this proceeding.

19. It is further ordered, that with respect to any modification of station KXL's license to operate on a limited-time basis, the burden of introducing evidence and the burden of proof shall be upon the *Mass Media Bureau.*

20. It is further ordered, that the petition to deny the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d.b.a. Kaye-Smith Enterprises filed by Pioneer Broadcasting Company, Inc. is denied.

21. It is further ordered, that the petition to deny the application of Eastern Utah Broadcasting Company filed by Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d.b.a. Kaye-Smith Enterprises is granted to the extent indicated above and is denied in all other respects.

22. It is further ordered, that the petition to deny the application of Eastern Utah Broadcasting Company filed by Dart, Inc. is denied.

23. It is further ordered, that Mountain West Broadcasting, Inc. shall publish a corrected notice of its application as specified in paragraph 13, above, and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

24. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

25. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 83-2787 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-97, Transmittal No. 7974]

Western Union Telegraph Co; Revisions to Tariffs F.C.C. Nos. 240, 254, 257, 258, 267, 283, 286, 287, 288 and 289

Memorandum Opinion and order

Adopted January 13, 1983.

Released January 26, 1983.

1. Before the Bureau are petitions seeking rejection or, in the alternative, suspension and investigation of the above-captioned proposed tariff revisions filed by the Western Union Telegraph Company (Western Union).[1] The proposed tariff revisions, which are scheduled to become effective January 13, 1983, would increase Western Union's Charges for Telex I usage, and Telex I and II (TWX) remote access.[2] For reasons to be explained, we find that neither rejection nor suspension is warranted. However, as provided in the Commission's designation order in Docket No. 78-97, *Western Union Telegraph Company,* 67 FCC 2d 1420, 1426 (1978), these revisions are automatically consolidated into that investigation.

Background and Contentions

2. In this filing, Western Union has proposed (1) to increase from $3.50 to $5.00 per mile the monthly charge for remote extension facilities provided to Telex and TWX subscribers located outside of 1600 exchange cities, and (2) to increase the rate to subscribers for basic intra-network (non-interconnected) Telex service from 34.75 cents per minute to 37.75 cents. In conjunction with this latter increase, Western Union would also increase, from 29.54 to 32.09 cents per minute, its charge to other carriers for terminating domestic and inbound international interconnected traffic. This rate, Western Union states, conforms with the requirement that its rate for performing interconnected "terminating functions" equal its intra-network charge, less 15 percent, as prescribed by the Commission's recent *Interim Order* on interconnection between domestic and international carriers.[3] For providing the domestic segment of outbound international telex calls, Western Union proposes to increase its charge from 38.4 to 41.7 cents per minute. This rate reflects both the 15 percent discount from the intra-network rate and an averaging factor of 1.3 domestic minutes for each international minute which the *Interim Order, supra,* permits, but does not require, carriers to use in calculating the rate for this type of interconnected service.[4] Finally,

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[1] Petitions for rejection have been filed by Western Union International (WUI) and Graphnet, Inc. (Graphnet). Petitions for rejection or suspension have been filed by RCA Global Communications, Inc. (RCA Globcom) and TRT Telecommunications Corporation (TRT).

[2] As originally fined, Transmittal No. 7974 also included revisions to increase the rates for Western Union's private line services. However, on November 17, 1982, the Bureau granted Western Union permission to file tariff revisions advancing the effective date of the private line increases. These increases, which were unopposed, became effective November 24, 1982.

[3] *See,* Interconnection Arrangements Between and Among the Domestic and International Record Carriers, Interim Order, 89 FCC 2d 928 (1982), *recon. pending.* In this order, the Commission prescribed a 15 percent discount from a carrier's publicly tariffed intranetwork rate which would apply to all carriers when performing interconnected "terminating" functions. This discount applies to (1) terminating interconnected domestic calls, (2) initiating and handing off international outbound calls to a second U.S. carrier and (3) accepting international inbound calls from another U.S. carrier.

[4] In the *Interim Order,* the Commission gave the domestic carrier the option of charging for the domestic component of an international call based upon (1) international minutes, or (2) an imputed count of domestic minutes derived by multiplying international minutes by the 1.3 factor prescribed in the *Interim Order.* Therefore, a domestic carrier may elect to charge for the domestic component of

Western Union would raise from 58 to 63 cents per minute its domestic inter-network rate, *i.e.*, the charge to its subscribers for originating and handing off a domestic call to another carrier.

3. According to Western Union, its proposed increases in rates for remote extension facilities will produce additional annual revenues of $3.5 million, while increases in Telex usage rates are expected to produce $8.1 million in additional annual revenues. Western Union claims that this additional $11.6 million in revenues is necessary to offset the $12 million annual revenue dilution it is experiencing because of the 15 percent discount it is required to give the IRCs for "terminating" interconnected Telex service.[5] Western Union also cites substantial increases in its labor costs arising out of collective bargaining agreements negotiated in 1982 as a factor contributing to its need for additional revenues.

4. Petitioners raise a number of objections to Western Union's proposed rate increases. TRT, for example, claims that in the *Interim Order* the Commission prescribed Western Union's termination charges; accordingly, TRT maintains, the order connot be interpreted to allow Western Union to unilaterally change its termination charges any time it changes its domestic intra-network rate. TRT further argues that Western Union's proposed termination charge increases will, in effect, wipe out the discount required by the *Interim Order* for terminations at Telex terminals. Assertedly, this is becasuse the termination charge increases will shrink the spread between the IRCs' tariff rates to their own subscribers for inter-network service and the payout IRCs must make to Western Union; thus, the argument runs, the IRCs will retain less profit for such calls than they retain under the present rates and thereby lose the benefit of the prescribed discount. In order to continue providing access to Western Union terminals, the IRCs, according to TRT, will have no choice but to offset this loss by increasing their inter-network rates. And finally, says TRT, recovering the increased termination charges for inbound international traffic is no solution since the IRCs will not be able to renegotiate accounting rates and divisions with foreign administrations.

5. As a separate matter, TRT and WUI dispute the methodology by which Western Union has assigned Telex costs between access and usage elements in determining its revenue requirements. It is WUIs position that Western Union has attempted to recoup part of its increased access costs, attributable to a recent Bell System proposal to increase other common carrier (OCC) rates for local access facilities (tielines), by raising its usage charges. WUI says that this amounts to Western Union's "bundling" of access and usage charges, in violation of the Commission's *Unbundling Order*.[6] TRT focuses, in this regard, on Western Union's assignment of costs related to statistical multiplexing devices in its digital Exchange System (DES) Network. Specifically, TRT says that the costs of these multiplexing devices were initially assigned by Western Union as part of its usage costs to justify usage rate increases which are under investigation in Docket No. 76-97, *supra*. Then, according to TRT, to facilitate a subsequent desired rate structure change, Western Union transferred the costs of these devices from usage to access. And now, in order to increase its usage charges, TRT complains that Western Union has again changed the assignment of the costs of this equipment by allocating one-half of its costs to usage and one-half to access.

6. For its part, Graphnet points out that while Western Union's usage rate for intra-network calls has been raised by only three cents, its rate for inter-network calls has been increased by five cents. There is no attempt by Western Union, says Graphnet, to support the higher increase for domestic inter-network traffic, and it sees no justification for this larger increase since none of Western Union's competitors has sought to increase their own termination charges. And, Graphnet continues, Western Union's proposed domestic inter-network charge of 63 cents is unfair when applied to interconnected calls made to Graphnet, since that termination charge does not reflect the fact that Western Union's payment to Graphnet is six cents less than that made to the IRCs. Finally, RCA Globcom complains that the disparity between rates for intra-network and inter-network traffic will frustrate the free flow of traffic from network to network, and will undermine the usefulness of RCA Globcom's network by imposing "punitive" rates on inter-network calls orignated by Western Union subscribers.

Discussion

7. As an initial matter, we find no merit to TRT's claim that the *Interim Order* prescribed Western Union's charges for terminating interconnected calls. The *Interim Order* did nothing more than prescribe the discount to be applied to a carrier's currently effective intra-network rate in order to determine the termination charge,[7] and Western Union has unquestionably complied with that prescription. Thus, the fact that the dollar amount available for retention by an initiating carrier may incidentally shrink as a result of Western Union's proposed increase in termination charges is not tantamount to a violation of the prescription which warrants rejection.

8. We also find unpersuasive TRT's claim that rejection is warranted because the IRCs allegedly will be unable to recoup these termination charges on interconnected inbound international traffic. The short answer is that Western Union, as any carrier, is entitled to increase its charges to recover its own costs associated with interconnected international traffic. Moreover, to the extent TRT focuses on interconnected in bound traffic, its argument is too narrowly focused. As the Commission recognized in the *Interim Order*, the relevant question in this circumstance is whether a carrier's entire international route structure is profitable, as opposed to the inbound or outbound portion of any individual route.[8] Applying that principle here, there is no immediate question that the IRCs may, with proper authority, raise their rates for interconnected outbound international traffic to recoup Western Union's proposed increased charges. Similarly, the IRCs are free to approach the foreign administrations in order to adjust their settlements to reflect the increased termination charges. While we reconize that there may be some delay in this latter recourse, we cannot agree that Western Union's rights should be abrogated in the meantime. Accordingly, we decline to reject on this basis either.

9. Graphnet's contention that Western Union must be earning more for inter-network calls than for intra-network calls because the inter-network rate has increased by 2 cents more than the intra-network rate is also unconvincing.

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an international call based upon a count of international minutes multiplied by 1.3 times the discounted domestic rate. 89 FCC 2d at 970. *See also*, Interconnection Arrangements Between and Among the Domestic and International Record Carriers, Docket No. 82-122, Memorandum Opinion and Order, Mimeo No. 31573, released June 11, 1982.

[5] See footnote 3, *supra*.

[6] Interface of the International Telex Service with the Domestic Telex and TWX Services, Docket No. 21005, Report, Order and Further Notice of Proposed Rulemaking, 76 FCC 2d 61, 78 (1980).

[7] 89 FCC 2d at 960.

[8] *Id.* at 963.

As Western Union explains in its reply, this rate difference is a function of its billing system, which uses pulse meters to accumulate billing information for Telex subscribers. Because of the limitations of the billing equipment, Western Union's inter-network and intra-network Telex rates are measured in the form of pulses per minute, rather than cents per minute. To arrive at a per minute Telex charge, Western Union multiples the number of pulses per minute for each category of traffic by the rate per pulse. For example, for inter-network calls the meter setting is 9 pulses per minute. Since the per minute rate is 37.75 cents for such traffic, the number of pulses is multiplied by a charge of 4.194 cents per pulse (9 x 4.194 = 37.75). At the end of each billing cycle Western Union bills each customer based on the total number of pulses. Because the per pulse charge must remain constant, the higher the meter setting the higher the rate per minute. As explained by Western Union, since there are only five permissible settings on its pulse meters (9, 10, 12, 15 and 18), they lack sufficient gradations to allow optimum flexibility in establishing Telex rates. Thus, the rate for inter-network calls is based on 15 pulses per minute or 63 cents (15 x 4.194). Western Union would actually be entitled to 67.29 cents per minute for inter-network calls, which equals its 37.75 cents intra-network rate, plus a 29.54 cents payout to the IRCs. However, because of the gradations of the pulse meter, Western Union has proposed a rate of 63 cents per minute, rather than 67.29, since that is the closest it can get to that latter level without exceeding it. The next highest rate, based on 18 pulses per minute, would be about 75.5 cents per minute. To sum up, then, because of its use of these pulse meters, Western Union apparently earns less for inter-network calls than it earns for intra-network calls; after payout to the IRCs of 29.54 cents, Western Union retains only 33.26 cents per minute on inter-network calls, or 4.29 cents per minute less than its intra-network charge. Under these circumstances, the case has not been that Western Union is earning more for inter-network calls than for intra-network calls.[9]

10. This brings us to the claim that Western Union's proposed inter-network charge is unfair when applied to interconnected calls made to Graphnet. In reply to this claim, Western Union cites the lack of billing flexibility discussed above to explain why it cannot establish a rate for interconnected traffic terminating on Graphnet's network which is six cents less than the rate applicable to the IRCs. According to Western Union, the next lowest rate, based on 12 pulses per minute, would be 50.33 cents, leaving Western Union with only 26.79 cents after payout to Graphnet of 23.54 cents per minute. We find this explanation somewhat troubling. Specifically, we are concerned here by Western Union's failure to reflect in its inter-network rate the fact that its payment to Graphnet is six cents less than that made to the IRCs. Given the apparent legitimacy of Western Union's immediate problem (it is, as already noted, underbilling most customers who access carriers other than Graphnet) we decline to suspend the inter-network rate for calls terminating on Graphnet's network. However, we will require Western Union to explain, within 30 days of the release of this order, what efforts it can make to rectify this situation. Based upon Western Union's response, we will decide whether formal investigation of this matter is warranted.

11. Finally, TRT's argument that Western Union has improperly assigned costs related to multiplexing devices between access and usage falls short of what is required to warrant rejection or suspension and investigation. As best we can understand it, TRT does not appear to substantively criticize the costing methodology for those multiplexing devices, but rather criticizes Western Union's assigning the costs of these devices differently in this filing than it has done in previous filings. According to Western Union, while it had previously assigned the entire cost of this equipment to the access category, it has since determined for purposes of this filing that it is more appropriate to assign half the costs to usage since the multiplexing devices perform two separate functions. Western Union's explanation of its assignment of costs associated with this equipment does not appear unreasonable. That Western Union has, in this filing, assigned the costs of multiplexing devices differently than it has done in previous filings does not in and of itself create an inference of unlawfulness. On the contrary, such a reassignment of costs seems to be nothing more than a refinement of its costing methodology for these multiplexing devices.[10]

Conclusion

12. These revisions are automatically consolidated into the current investigation in Docket No. 78-97. That proceeding encompasses issues relating to Western Union's Telex/TWX rate of return, and the findings there may have an impact on the lawfulness of the proposed rate increases we permit to take effect here. We also remind Western Union that the accounting order imposed in the original designation order, *Western Union Telegraph Company, supra*, remains in effect to facilitate refunds should the rates be found excessive.

13. Accordingly, it is ordered, that the petitions to reject the tariff revisions filed under Transmittal No. 7974 are denied.

14. It is furhter ordered, that the petitions to suspend and investigate the tariff revisions filed under Transmittal No. 7974 ARE GRANTED to the extent indicated above and otherwise DENIED.

15. It is further ordered, that this Memorandum Opinion and Order is effective upon adoption.

16. It is further ordered, that pursuant to Sction 309(e) of the Communications Act, 47 U.S.C. § 309(e), and § 1.223 of the Commission's Rules, 47 CFR 1.223, a copy of this order shall be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR. Doc. 83-2788 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

January 25, 1983.

Working Group C: Available U.S. Options & Strategies.

Chairman: Perry Ackerman (213) 648-4134.

Date: Thursday, February 17, 1983.

Time: 9:30 A.M.—1:00 P.M.

[9] Similarly, this showing lays to rest RCA Globcom's claim that Western Union's proposed increase in its inter-network rate is "punitive" and will frustrate the free flow of traffic between networks.

[10] WUI's argument that Western Union is attempting to recoup increased access costs by raising usage charges appears to be based on the misconception that Western Union's increased costs are the result of a recent proposed increase in AT&T's rates for OCC facilities. As Western Union states in Transmital No. 7974, at page 2, its filing is justified on the basis of its revenue requirements, "without regard to the AT&T rate increases."

Location: Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Room 3262, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR. Doc. 83-2784 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunication Industry Advisory Group Auditing and Regulatory Subcommittee, Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee. The meeting is scheduled for Monday, February 28, 1983, at 10:00 a.m. in Room 330 of the Commission's offices at 1200 19th Street, N.W., Washington, D.C. and Tuesday, March 1, 1983, at 9:00 a.m. in the Commission Meeting Room (856) located at 1919 M Street, N.W., Washington, D.C. The meetings will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Continued Analysis of impact of ERTA of 1981 on regulated industries
IV. Further Assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed 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. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2785 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Plant 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 (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, February 16 and 17, 1983. The meeting will begin on February 16 at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, N.W., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Reports
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, 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 Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887-3266) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2786 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1393]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 28, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Inquiry into the Policies to be Followed in the Authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the Period 1981-1995. (CC Docket No. 81-343)

Filed by: Thomas J. O'Reilly & Veronica M. Ahern, Attorneys for Hawaiian Telephone Company on 1-3-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2778 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-4; File No. BPCT-820712KJ et al.]

Lea County Television, Inc., et al.; Hearing Designation Order

In re applications of: Lea County Television, Inc.; Odessa, Texas; MM Docket No. 83-4; File No. BPCT-820712KJ; Hispanic Broadcasting Co., Inc.; Odessa, Texas MM Docket No. 83-5; File No. BPCT-820909KT; H. Leonard Todd and Gerald K. Fugit; Odessa, Texas; MM Docket No. 83-6; File No. BPCT-820909KU; William R. Bailey et al d/b/a Odessa Family Television, Ltd.; Odessa, Texas; MM Docket No. 83-7; File No. BPCT-820909KX: For Construction Permit; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: January 10, 1983.

Released: January 18, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Lea County Television, Inc. (Lea), Hispanic Broadcasting Co., Inc. (Hispanic), H. Leonard Todd and Gerald K. Fugit (Todd and Fugit) and Odessa Family Television, Ltd. (OFT) for a new commercial television station to operate on Channel 24, Odessa, Texas.

2. The effective radiated visual power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64dBu (Grade B) contours together with the availability of other television service of 64dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether comparative preferences should accrue to one or more of the applicants.

3. Since we have not received a determination from the Federal Aviation Administration that Todd and Fugit's and OFT's proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

Hispanic Broadcasting Co. Inc.

4. Section 73.636(a)(1) of the Commission's Rules sets forth a policy against granting a television construction permit to an applicant with principals who, directly or indirectly, own, operate, or control a radio station licensed to a community which is

completely encompassed by the predicted Grade A contour of their proposed television station. Note 8 exempts UHF applicants from the blanket prohibition of Section 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Hispanic states that Abraham Torres, president and 10% stockholder of the applicant, is also 16.50% owner of KJJT(AM), Odessa, Texas. Since Hispanic's proposed Grade A contour would envelop Odessa, a "one-to-a-market" issue will be designated.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications 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 applications are designated for hearing in a consolidated proceeding, 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 Todd and Fugit and OFT, 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, with respect to Hispanic, whether common ownership, operation or control of station KJJT(AM) and Hispanic Broadcasting Co. Inc.'s proposed television station would be in the public interest.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY RESPONDENT to this proceeding with regard to Issue 1.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and 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 issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commissions 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.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-2790 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-641; File No. BPH-810603AG et al.]

Radio Jonesboro, Inc., et al.; Hearing Designation Order

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; File No. BPH-810624AD; MSB Communications Corporation; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3kW (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, Incorporated; 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; 3kW (H&V), 300 feet; BC Docket No. 82-646; File No BPH-811028AM; George S. Flinn, Jr.; d/b/a Flinn Broadcasting Co.; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 1.7 kW (H&V), 385 feet; MM Docket No. 82-648; File No. BPH-811029AC; For Construction Permit for a New FM Station; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: December 28, 1982.

Released: January 14, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned application of George S. Flinn, Jr. d/b/a Flinn Broadcasting Co. (Flinn) for a new FM broadcast station at Jonesboro, Arkansas. Six other co-channel applications for Jonesboro were designated for hearing on September 7, 1982 in *Hearing Designation Order* BC Docket Nos. 82-641 thru 83-646 (BC 6315, released September 16, 1982). Flinn's application had been misplaced at the Commission and should have been included in that Order. Accordingly, the purpose of this Order is to consolidate Flinn's application into the Jonesboro proceeding.

2. 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 Flinn published the required notice. To remedy this deficiency, Flinn must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge.

3. Except as indicated above, Flinn Broadcasting Co. is qualified to construct and operate as proposed. However, since the proposal is mutually exclusive with the applications already designated for hearing, it is necessary to consolidate Flinn Broadcasting Co. into the proceeding now in progress in Docket Nos. 82-641 thru 82-646.

4. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Flinn Broadcasting Co. is designated for hearing and consolidated in the proceeding now in progress in BC Docket Nos. 82-641 thru 82-646 on the issues specified in the previously noted Hearing Designation Order.

5. It is further ordered, That Flinn Broadcasting Co. shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

6. It is further ordered, That, to avail itself of the opportunity to be heard, Flinn Broadcasting Co. 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.

7. It is further ordered, That Flinn Broadcasting Co. shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-2791 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-859; File No. BP-810123AA et al.]

Wilson County Broadcast Services, Inc. et al.; Hearing Designation Order

Adopted: December 27, 1982.

Released: January 18, 1983.

In re applications of: Wilson County Broadcast Services, Inc.; [WLSN, Lebanon, Tennessee; Has: 1600 kHz 500 W, D; Req: 1200 kHz, 500 W, 5 kW-LS; DA-2, U MM Docket No. 82-859; File No. BP-810123AA; Lincoln Broadcasting Company, Inc.; WLCB, Hodgenville, Kentucky; Has: 1430 kHz, 500 W, D; Req: 1200 Hz, 250 W, 1 kW-LS, DA-2, U MM Docket No. 82-860; File No. BP-810518AH; Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters; Lebanon, Tennessee; Req: 1200 kHz, 500 W, 5 kW-LS, DA-2, U *MM* Docket No. 82-861; File No. BP-810526AC; William Walters d/b/a Radio Radcliff; Radcliff, Kentucky; Req: 1200 kHz, 250 W, 5 kW-LS, DA-N, U; MM Docket No. 82-862; File No. BP-810526AF; For Construction Permit; Designating Applications for Consolidated Hearing on Stated Issue.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration (a) the above-captioned mutually exclusive applications for AM broadcast stations; (b) a petition to deny or dismiss the application of Wilson County Broadcast Services, Inc., filed by Clear Channel Communications, Inc., licensee of Class I-A station WOAI, San Antonio, Texas; (c) a petition to deny the application of Eward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters filed by Wilson County; and (d) related pleadings.

2. *The WOAI petition.* Petitioner seeks an inquiry into the effect of these proposals on the nighttime operation of WOAI, arguing that new services on its frequency may cause interference to existing WOAI listeners.[1] As Wilson County correctly notes, however, we have already acknowledged the possibility of such interference but have found it a necessary cost of satisfying the need for additional services on the Class I-A clear channels, *Clear Channel Broadcasting in the AM Broadcast Band*, 78 FCC 2d 1345, 1367; *recon. granted in part and denied in part*, 83 FCC 2d 216 (1981); *aff'd sub nom. Loyola University* v. *FCC*, 670 F.2d 1222 (D.C. Cir. 1982). No basis for further inquiry thus exists.

3. *The Wilson County petition.* Wilson County alleges with respect to the Lebanon Broadcasters proposals: (a) that the application violates Section 73.35(b) of our Rules in that its grant would give Lebanon Broadcasters principal Millard V. Oakley an interest in three broadcast stations, two within 100 miles of the third, and two having primary service contour overlap; [2] (b) that Lebanon Broadcasters' proposed 0.5 mV/m contour overlaps that of a new station authorized to operate on 1190 kHz at Springfield, Tennessee, thereby violating Section 73.37(a); (c) that the applicant's proposed nighttime interference-free (18.75 mV/m) contour will not cover all of Lebanon, as required by § 73.24(j); and (d) that the applicant's engineering proposal was so incomplete when submitted as to be unacceptable for filing. In response, Lebanon Broadcasters has filed a minor amendment changing its transmitter site, in the process removing all overlap with the new station at Springfield, achieving compliance with all coverage requirements and substantially completing the technical proposal.[3] The amendment also notes that Oakley has committed himself to divestiture of his WLIV interest upon grant of the instant application.[4] Hence all issues raised in the petition have been resolved.

4. *The Lebanon Broadcasters proposal.* The material submitted in the application does not demonstrate Lebanon Broadcasters' financial qualifications in that the bank letter submitted can not be relied upon for financing the instant application. 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, released July 15, 1982.

5. *Other matters.* Wilson County's local notice of the filing of its application was not broadcast over the air as required by Section 73.3580 of the Rules. Lebanon Broadcasters' local notice included neither a description of its proposed antenna nor the location of its proposed antenna site and studio. Also, the notice appeared only once in the local newspaper. Accordingly, we will require (1) Wilson County to broadcast local notice; (2) Lebanon Broadcasters to republish local notice; and (3) both to certify to the presiding Administrative Law Judge that compliance with the rule has been completed.

6. As the proposals indicate three different communities of license, we will specify an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service. In addition, we will specify a contingent comparative issue.

7. 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.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be

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[1] While its petition was originally directed toward the Wilson County proposal, WOAI subsequently asked that it be considered with respect to the other applicants as well.

[2] Stations WLIV, Livingston, Tennessee; WCSV, Crossville, Tennessee; and WREA, Dayton, Tennessee are all within 100 miles of Lebanon. The 0.5 mV/m contour proposed here would overlap that of WLIV.

[3] However, Lebanon Broadcasters must submit a corrected Section V-G of FCC Form 301 to show the correct overall height above ground level of its antenna and a tower sketch for its new site.

[4] Wilson County has similarly committed itself to a divestiture to achieve compliance with § 73.35. In its case, Bart Walker, vice-president and director, will relinquish all interests in the Great Southern Broadcasting Company, Inc., licensee of station WAMB, Donelson, Tennessee, should the Wilson County application be granted.

specified in a subsequent order, upon the following issues:

1. To determine the areas and population which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That the petition to deny or dismiss filed by Clear Channel Communications, Inc., and the petition to deny filed by Wilson County Broadcast Services, Inc., are denied.

10. It is further ordered, That Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

11. It is further ordered, That Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall file the amendment indicated in footnote 3, above, within 40 days after this order is published in the **Federal Register**.

12. It is further ordered, That Wilson County Broadcast Services, Inc., shall broadcast notice of the filing of its application and that Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall publish a corrected notice of its applications in accordance with Section 73.3580 of the Commission's Rules (if they have not already done so), and shall filed statements of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register**.

13. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

14. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by Section 73.3594(g) of the Rules.[5]

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

Appendix

15. The Commission has not yet received Federal Aviation Administrative clearance for the antenna towers proposed by the below listed applications. Accordingly, it is further ordered, That the following issue is specified:

To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters and William Walters d/b/a Radio Radcliff.

It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 83-2792 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for Senior Executive Service Bonuses.

DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Barry G. Oertel, Chief, Executive Personnel Staff, FEMA, 500 C St. SW., Washington, D.C. 20472, Attn: Office of Personnel, 202-287-0430.

SCHEDULE: The Federal Emergency Management Agency intends to award Senior Executive Service bonuses for the performance appraisal period of July 1, 1981 through June 30, 1982. Payments are scheduled to be made by February 20, 1983.

Dated: January 25, 1983.

Joan C. Mcdonald,

Director of Personnel.

[FR Doc. 83-2769 Filed 2-1-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-221]

Delta Savings & Loan Association, Kenner, La.; Final Action Approval of Conversion Applications

Notice is hereby given that on January 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Delta Savings and Loan Association, Kenner, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: January 25, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2781 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-219]

First Federal Savings and Loan Association of Winter Haven, Winter Haven, Fla.; Final Action Approval of Conversion Applications

January 25, 1983.

Notice is hereby given that on January 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Winter Haven, Winter Haven, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552

[5] Operation with the facilities specified herein is subject to modifications, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2779 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-220]

Home Federal Savings and Loan Association Tucson, Ariz.; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

January 25, 1983.

Notice is hereby given that on January 24, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Home Federal Savings and Loan Association, Tucson, Arizona ("Association"). The application had been approved by the Board by Resolution No. 82-107, dated February 18, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2780 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Germantown Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each applications may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Germantown Bancshares, Inc.*, Germantown, Tennessee; to acquire at least 85 percent of the voting shares or assets of Tennessee Bank and Trust, Millington, Tennessee. Comments on this application must be received not later than February 25, 1983.

2. *Mercantile Bancorporation, Inc.*, St. Louis, Missouri; to acquire 100 percent of the voting shares or assets of Interestate Bank of St. Peter, St. Peters, Missouri. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2808 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Southern Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bankshares, Inc.*, Beckley, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Appalachian National Bank, the successor by merger to Beckley National Bank, Beckley, West Virginia (under the charter of the former, with the title of the latter). Comments on this application must be received not later than February 25, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CBA Bancshares, Inc.*, Americus, Georgia; to be come a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank of Americus, Americus, Georgia. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **Farmers Capital Bank Corporation**, Frankfort, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank & Capital Trust Company, Frankfort, Kentucky. Comments on this application must be received not later than February 25, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Financial Corporation*, Arthur, North Dakota; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Arthur, Arthur, North Dakota. Comments on this application must be received not later than February 25, 1983.

Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Alex Bancshares, Inc.*, Alex, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Alex, Alex, Oklahoma. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2809 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities; Dominion Bankshares Corp.

The organization identified in this notice has applied, pursuant to section 4 (c) (8) of the Bank Holding Company Act (12 U.S.C. 1843 (c) (8)) and section 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b) (1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (mortgage banking, insurance activities; Tennessee): To continue to engage through its subsidiary, Dominion Bankshares Mortgage Corporation, in mortgage banking activities, including originating residential, commercial, industrial, and construction loans for its own account and for sale to others; serving such loans for others; and the sale of credit life insurance and credit accident and health insurance; and to continue to engage through its subsidiary, Dominion Bankshares Services, Inc., in acting as insurance agent or broker with respect to credit life insurance and credit accident and health insurance related to or arising out of loans made or credit transactions involving Dominion Bankshares Mortgage Corporation. These activities would be conducted from an office in Nashville, Tennessee, serving the Nashville-Davidson Standard Metropolitan Statistical Area. This notification is for the relocation of an existing office in Nashville, Tennessee. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2810 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Repository Address and Hour Correction Card

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; New nonrecurring.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the use of a new nonrecurring information collection request for the collection of data.

DATES: Comments on the information collection request must be submitted on or before February 25, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George L. Vogt on (202) 724-1083.

SUPPLEMENTARY INFORMATION: The information collection request is necessary to give historical societies, libraries, and archives an opportunity to provide current data on mailing, telephone, and operation for publication of the Directory of Archives and Manuscript Repositories. A maximum of 5,000 organizations will be contacted, the estimated average time per response is 15 minutes. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202) 566-1164.

Dated: January 24, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-2777 Filed 2-1-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Advisory Council on Alcohol Abuse and Alcoholism et al.; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of February 1983.

National Advisory Council on Alcohol Abuse and Alcoholism
February 1; 9:00 a.m.
National Institutes of Health
Conference Room 10, Building 31C
9000 Rockville Pike, Bethesda, Maryland 20205

Open—9:00 a.m.–4:00 p.m.
Closed—Otherwise
Contact: Mr. James Vaughan, Parklawn Building, Room 16C–20, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375

Purpose: The National Advisory Council on Alcohol Abuse and Alcoholism advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. The Council reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: From 9:00 a.m.–4:00 p.m., February 1, the open session will be devoted to general business of the Council and a discussion of current budget, legislative and program activities. From 4:00 p.m. to adjournment, the Council will conduct a final review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Aging Subcommittee of the Life Course and Prevention Research Review Committee
February 9–11; 9:00 a.m.
Shoreham Hotel, Room 763

Calvert Road and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 9, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Dee Herman, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The Aging Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Basic Psychopharmacology and Neuropsychology Research Subcommittee of the Basic Psychopharmacology Research Review Committee
February 10–11; 9:00 a.m.
Ramada Inn, 8400 Wisconsin Avenue
Bethesda, Maryland 20014
Open—February 10, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Mary Cope, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944

Purpose: The Basic Psychopharmacology and Neuropsychology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Criminal and Violent Behavior Research Review Committee
February 16–18; 9:00 a.m.
Gramercy Inn, 1616 Rhode Island Avenue NW.
Washington, D.C. 20036
Open—February 16, 9:00–10:30 a.m.
Closed—Otherwise
Contact: Ms. Jean Byrne, Parklawn Building, Room 9C–14, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868

Purpose: The Criminal and Violent Behavior Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health aspects of criminal and antisocial behavior, individual violent behavior, sexual assault, and law and mental health interactions, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Drug Abuse Epidemiology, Prevention, and Services Research Review Committee
February 16–18; 8:30 a.m.
Parklawn Building, Conference Rooms L and M, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 16; 8:30–9:30 a.m.
Closed—Otherwise
Contact: Mr. Ron Gold, Executive Secretary, DACA
Parklawn Building, Room 10–42
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Epidemiology, Prevention, and Services Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers, Subcommittee of the Treatment Development and Assessment Research Review Committee
February 17–18; 9:00 a.m.
Holiday Inn Bethesda, 8120 Wisconsin Avenue
Bethesda, Maryland 20814
Open—February 17; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Pamela J. Mitchell, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Clinical Program Projects/Clinical Research Centers Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and

Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

* * * * *

Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee
February 17-18; 9:00 a.m.
The Shoreham Hotel
Calvert Street and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 17; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Ms. Lu McNay, Parklawn Building, Room 9C-14, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4868

Purpose: The Psychosocial and Biobehavioral Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee
February 17-19; 10:00 a.m.
The Capitol Hill Hotel, 200 C Street, S.E.
Washington, D.C. 20003
Open—February 17, 9:00-10:00 a.m.
Closed—Otherwise
Contact: Ms. Ray Polcak, Parklawn Building, Room 9C-26
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936

Purpose: The Neuropsychology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of basic psychopharmacology and neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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Psychopathology and Clinical Biology Research Review Committee
February 17-19; 9:00 a.m.
The Shoreham Hotel, Calvert Street and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 17, 9:00-10:00 a.m.
Closed—Otherwise
Contact: Ms. Irma Fisher, Parklawn Building, Room 9C-24, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1340

Purpose: The Psychopathology and Clinical Biology Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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Drug Abuse Biomedical Research Review Committee
February 22-25; 9:00 a.m.
Linden Hill Hotel, Sea Pines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014
Open—February 22, 9:00-9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR, Parklawn Building, Room 10-42, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620

Purpose: The Drug Abuse Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00-9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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Alcohol Biomedical Research Review Committee
February 23-25; 9:00 a.m.
Embassy Square Hotel, 2000 N Street, NW.
Washington, D.C. 20036
Open—February 23, 9:00-11:00 a.m.
Closed—Otherwise
Contact: Harvey P. Stein, Ph. D., Executive Secretary, Alcohol Biomedical Research Review Committee, Parklawn Building, Room 16C-26, 5600 Fishers Lane, Rockville, Maryland 20857

Purpose: The Alcohol Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00-11:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the

provisions of 5 U.S.C. 552(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Basic Behavioral Processes Research Review Committee
February 24–25; 10:00 a.m.
The Capitol Hill Hotel, 200 C Street SE., Washington, D.C. 20003
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Shirley Maltz, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Basic Behavioral Processes Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Drug Abuse Clinical and Behavioral Research Review Committee
February 22–25; 9:00 a.m.
Linden Hill Hotel, Longwood Room
5400 Pooks Hill Road,
Bethesda, Maryland 20014
Open—February 22, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz
Executive Secretary, DDACB
Parklawn Building, Room 10–42
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Clinical and Behavioral Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Developement and Assessment Research Review Committee
February 24–25; 9:00 a.m.
Holiday Inn Bethesda
8120 Wisconsin Avenue
Bethesda, Maryland 20814
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Pamela J. Mitchell, Parklawn Building
Room 9C–18, 5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–1367

Purpose: The Psychopharmacological, Biological, and Physical Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of development and assessment of psychopharmacological, biological, and physical treatments of mental illness, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee
February 24–25, 7:00 p.m.
Washington Marriott Hotel
1221 22nd Street, NW., Washington, D.C. 20037
Open—February 24, 7:00–7:30 p.m.
Closed—Otherwise
Contact: Diana Souder, Parklawn Building
Room 9C–05, 5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–6470

Purpose: The Research Scientist Development Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for the support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the Minority Advisory Mental Health Council for final review.

Agenda: From 7:00–7:30 p.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Behavioral Sciences Research Review Committee
February 24–26; 9:00 a.m.
The Capitol Hill Hotel
200 C Street, SE.
Washington, D.C. 20003
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Naomi Rothbaum, Parklawn Building
Room 9C–26, 5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–3936

Purpose: The Mental Health Behavioral Sciences Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the

public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-164. NIMH: Mrs. Helen W. Garrett, Committee Management Officer, Room 17C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

This **Federal Register** notice is late because it was difficult to coordinate members' schedules.

Dated: January 27, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-2797 Filed 2-1-83; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-36416]

Colorado; Invitation for Coal Exploration License Application; Gulf Oil Corp.

All interested parties are hereby invited to participate with Gulf Oil Corporation, acting by and through its division Gulf Mineral Resources Co., in its proposed exploration of certain Federal coal deposits in the following described lands in Routt and Moffat Counties, Colorado:

Sixth Principal Meridian, Colorado

T. 5 N., R. 89 W.
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, that portion of Tract 43 lying in Sec. 5; Tract 44, lot 19; and lots 5 to 18, inclusive;
Sec. 6, lots 1, 2, 4, 6, and 7, S½NE¼, E½SW¼, and SE¼
Sec. 7, lots 1 and 2, NE¼, and E½NW¼;
Sec. 9, lots 1 to 12, inclusive;
Sec. 10, lots 4, 5, 11, and 12;
Sec. 17, SW¼.
T. 5 N., R. 90 W.
Sec. 1, lots 5 to 20, inclusive;
Sec. 2, lots 5 to 20, inclusive;
Sec. 3, lots 5 to 20, inclusive;
Sec. 4, lots 5, 6, 7, lots 10 to 15, inclusive, lots 18, 19, and 20;
Sec. 9, lot 3;
Sec. 10, lots 1 to 8, inclusive;
Sec. 11, lots 1 to 8, inclusive;
Sec. 12, lots 1 to 12, inclusive.

The area described contains 6, 943.09 acres.

Any party participating in this exploration license will share all costs on a pro rata basis with the applicant and with any other participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C-36416 for public review during normal business hours at the Colorado State Office, 1037 20th Street, Denver, Colorado. Additional copies of the exploraton plan are available at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado, and at the District Mining Supervior's Office, The Mart 2135 East Main Street, Grand Junction, Colorado.

Any party seeking to participate in the exploration program described in the application must notify both the Bureau of Land Management and Gulf Mineral Resources Co. in writing within 30 days after publication of this Notice of Invitation in the **Federal Register.** Such written notice must be addressed to:

Chief, Mineral Leasing Section, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, and
K. M. Castleman, Manager—Fossil Fuels, Gulf Mineral Resources Co., 1720 S. Bellaire Street, Denver, Colorado 80222.

This Notice of Invitation is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(c) [47 FR 33135, July 30, 1982].

Rodney A. Roberts,

Chief, Mineral Leasing Section.

[FR Doc. 83-2771 Filed 2-1-83; 8:45 am]

BILLING CODE 4310-84-M

Conveyance; New Mexico

Notice is hereby given that, pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described public lands have been conveyed to the purchasers shown through non-competitive sale.

Legal Description, Acreage, and Purchaser

New Mexico Principal Meridian, New Mexico

T. 1 S., R. 1 W.
Sec. 13: Lot 11, 4.71 acres; Middle Rio Grande Conservancy District, 1930 2nd SW, Albuquerque, New Mexico 87102.
Sec. 22: Lot 2, 0.34 acres;
Sec. 23: Lots 25 and 27, 0.92 acres; Michael S. Sarracino, 801 Caine NW, Socorro, New Mexico 87801.
Sec. 23: Lot 38, 1.25 acres; Mary Ann Ulibarri, 3911 Alta Monte NE, Albuquerque, New Mexico 87110.
Sec. 24: Lot 16, 2.70 acres; Fabiola, Robert, and William Rawlins, 1020 Los Arboles NW, Albuquerque, New Mexico 87107.
Sec. 35: Lot 13, .003 acres; Bobby Ray McKinley, P.O. Box 57, Socorro, New Mexico 87801.
T. 2 S., R. 1 W.
Sec. 2: Lot 27, 0.13 acres; Rex and Sheila Gardner, P.O. Box 41, Lemitar, New Mexico 87823.
Sec. 2: Lot 53, 0.08 acres; Frank Chavez, Jr., P.O. Box 943, Socorro, New Mexico 87801.
Sec. 2: Lot 54, 0.31 acres; William and Charlene West, Jr., General Delivery, Lemitar, New Mexico 87823.
Sec. 13: Lots 52 and 53, 1.03 acres; Gerald S. O'Neal, Box 1366, Socorro, New Mexico 87801.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of conveyance documents.

Dated: January 25, 1983.

Donnie R. Sparks,

District Manager.

[FR Doc. 83-2774 Filed 2-1-83; 8:45 am]

BILLING CODE 4310-84-M

[A 6593]

Arizona; Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of application A 6593, filed by the Bureau of Reclamation U.S. Department of the Interior, for withdrawal and reservation of Lands was published as **Federal Register** Doc. 72-3348 on Page 4728, of March 4, 1972 issue. The application proposes to withdraw the lands for location and construction of the Central Arizona Project. The applicant agency has cancelled its application as to the lands described as follows:

Gila and Salt River Meridian, Arizona

T. 3 N., R. 6 W.
Sec. 1, NE¼, E½NW¼, SW¼NW¼, S½;
Sec. 11, NE¼, E½SE¼;
Sec. 12, W½.
T. 4 N., R. 6 W.
Sec. 25, S½NW¼, SW¼, W½SE¼, SE¼,SE¼;
Sec. 26, SE¼, NE¼, NE¼SE¼.
T. 4 N., R. 5 W.
Sec. 13, SE¼SW¼;
Sec. 20, SE¼SE¼;
Sec. 21, S½SW¼, SW¼SE¼;
Sec. 22, S½SE¼;
Sec. 23, NE¼SE¼, S½SE¼;
Sec. 24, E½, E½W½, SW¼NW¼, W½SW¼;
Sec. 25, W½NE¼, W½, SE¼SE¼;
Sec. 26, E½, SE¼NW¼, W½NW¼, SW¼;
Sec. 27, N½, N½S½, SW¼SW¼, SE¼SE¼;

Sec. 28, N½, N½S½, SE¼SE¼;
Sec. 29, E½, SE¼NW¼, SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, E½, S½NW¼, SW¼.
T. 4 N., R. 4 W.
Sec. 7, E½, SE¼SW¼;
Sec. 8, E½;
Sec. 18, E½E½, E½W½, SW¼NW¼, W½SW¼.
T. 5 N., R. 3 W.
Sec. 31, SW¼NW¼, SW¼, SW¼SE¼ except those lands within the Central Arizona Project aqueduct right-of-way described as follows:

Township 5 North, Range 3 East, G&SRM, Arizona, *except* beginning at a point in the west boundary of the Southwest Quarter of said Section 31, that bears South 00°13'06" East 1100.51 feet from the West Quarter corner of said Section 31; thence from said point of beginning and leaving said west boundary South 34°50'58" East 213.28 feet; thence North 89°25'48" East 820.00 feet; thence South 27°41'43" West 569.49 feet; thence South 48°13'19" East 1288.30 feet to a point in the south boundary of said Southwest Quarter; thence along said south boundary South 89°25'48" West 519.17 feet to a point that bears North 89°25'48" East 1112.49 feet from the Southwest corner of said Section 31; thence leaving said south boundary North 48°13'19" West 1496.89 feet to a point in the west boundary of said Southwest Quarter; thence along said west boundary North 00°13'06" West 537.32 feet to the point of beginning.

The areas described contain approximately 7,100 acres in Maricopa County, Arizona.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c), the lands will be at 10 a.m. on March 4, 1983, relieved of the segregative effect of the above mentioned application. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 24, 1983.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-2772 Filed 2-1-83; 8:45 am]

BILLING CODE 4310-84-M

[W-4471-A, W-4471-B, and W-4471-D]

Wyoming; Proposed Continuation of Public Water Reserves, Amendment

Correction

In FR Doc. 83966 appearing on page 1552 in the issue of Thursday, January 13, 1983, make the following corrections:

1. On page 1552, first column, under T. 57 N., R. 93 W., "Sec. 5, SW¼SW¼" Should have read "Sec. 5 SW¼NW¼".

2. In the second column of the same page, under T. 33 N., R. 96 W., "Sec. 18, NW¼, NW¼" should have read "Sec. 18, NW¼NW¼".

3. In the third column, "The are described contains 2,955.98 acres in Freemont County, Wyoming "should have read "The area described contains 2,955.88 acres in Freemont County, Wyoming".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with Endangered Species:

Applicant: International Crane Foundation, Inc., Baraboo, WI; PRT 2–9974.

The applicant requests a permit to export three male and three female captive-born Japanese cranes (*Grus japonensis*) to Vogelpark, Walsrode, West Germany for enhancement of propagation and survival.

Applicant: New York Zoological Society, Bronx, NY; PRT 2-9972.

The applicant requests a permit to import one captive-born white-naped crane (*Grus vipio*) from Hong Kong Zoological and Botanical Gardens, Hong Kong for enhancement of propagation and survival.

Applicant: John W. Peterson, USFWS, Augusta, ME; PRT 2–9959.

The applicant requests a permit to take bald eagles (*Haliaeetus leucocephalus*) for banding and to collect addled eggs, feathers, and the like for scientific research and enhancement of survival. The applicant will be assisted by personnel from the Maine Department of Inland Fisheries and Wildlife and from the University of Maine.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22204.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-2828 Filed 2-1-83; 8:45 am]

BILLING CODE 4310-55-M

Office of the Secretary

Federal-State Task Force on Hawaiian Homes Commission Act; Extension of Termination Date

Pursuant to Pub. L. 92–463, notice is hereby given of the extension of the termination date of the Federal-State Task Force on the Hawaiian Homes Commission Act from March 21, 1983, to June 21, 1983, in order to permit public comment on the draft recommendations of the Task Force.

Further information may be obtained from Stephen P. Shipley, Executive Assistant to the Secretary, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240; (202) 343–7351.

Dated: January 21, 1983.

James G. Watt,

Secretary of the Interior.

[FR Doc. 83-2824 Filed 2-1-83; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with the investigation of processed mushrooms pursuant to section 332(g) of the Tariff Act of 1930, in accordance with a request by the President on March 10, 1977, and amplified by the Office of the United States Trade Representative in a letter of March 30, 1977.

Summary of Proposals:

(1) Number of forms submitted: one
(2) Title of form: Processed Mushrooms—Quarterly Report on Production, Sales, and Inventories
(3) Type of request: reinstatement
(4) Frequency of use: quarterly
(5) Description of respondents: U.S. mushroom processors
(6) Estimated number of respondents: 40
(7) Estimated total number of hours to complete the forms: 40 per quarter
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.
(9) Section 3504(h) of P.L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202-523-4483). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk officer for U.S. International Trade Commission.

If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin [United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436].

Issued: January 24, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2851 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-126]

Certain Handbags, Luggage, and Briefcases; Commission Decision Not To Review Initial Determination To Terminate Investigation With Respect to One Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Edison Brothers Stores, Inc.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in 210.53 (c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 7, 1983, complainant FHL Accessories, Inc. (hereinafter "FHL"), filed a motion (Motion No. 126-7) to dismiss Edison Brothers Stores, Inc., as a party respondent because that respondent has given FHL written assurances that it no longer is selling goods alleged to infringe an alleged common-law trademark owned by FHL. On January 11, 1983, the presiding officer filed an initial determination with the Commission granting the motion.

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 126-7 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination.

Copies of all 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: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

Issued: January 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2850 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-126]

Certain Handbags, Luggage, and Briefcases; Commission Decision Not To Review Initial Determination Granting Motion To Terminate Investigation Without Prejudice

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 5) to grant the motion of complainant FHL Accessories, Inc., to terminate the above-captioned investigation without prejudice (Motion No. 126-6). Accordingly, as of January 31, 1983, the initial determination became the Commission's determination with respect to this matter.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53 (c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 7, 1983, complainant FHL Accessories, Inc., filed a motion to suspend the investigation or, in the alternative, to terminate the investigation without prejudice (Motion No. 126-6).

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 126-6 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2847 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-122]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Denial of Petition for Reconsideration

AGENCY: International Trade Commission.

ACTION: Denial of petition for reconsideration of the Commission's determination in the above-referenced investigation.

SUPPLEMENTARY INFORMATION: On October 15, 1982, the Commission concluded the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) with a determination that there is no violation of that section in the importation into and sale in the United States of certain miniature, battery-operated, all-terrain, wheeled vehicles. On November 2, 1982, the Commission's Unfair Import Investigations Division (UIID) filed a petition for reconsideration, under 19 CFR 210.58, of the Commission's determination.

On January 25, 1983, the Commission denied the petition for reconsideration.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: January 25, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2853 Filed 2–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 104–TAA–16, 17, and 18]

Certain Nonrubber Footwear From Brazil, India, and Spain

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: January 25, 1983.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671), the U.S. International Trade Commission is instituting countervailing duty investigations to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of certain nonrubber footwear from Brazil, India, and Spain covered by an outstanding countervailing duty order, if the order wire to be revoked. The investigations cover imports of nonrubber footwear provided for in items 700.05–.45; 700.56; 700.72–.83; and 700.95 of the Tariff Schedules of the United States (TSUS). With respect to India, the investigation covers all of the above footwear except huaraches (TSUS item 700.05); leather ski boots (TSUS item 700.28); and chappals, slippers and footwear having an open toe and heel, however provided for in part 1, subpart A of Schedule 7 in the TSUS.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz (202–523–0114), Chief, Textiles, Leather Products, and Apparel Division, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On September 12, 1974, the Department of the Treasury (Treasury) issued countervailing duty orders T.D. 74–233 and T.D. 74–235, under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), on certain nonrubber footwear imported from Brazil and Spain, respectively (39 FR 32903 and 39 FR 32904). On October 26, 1979, Treasury issued countervailing duty order T.D. 79–275 on certain nonrubber footwear imported from India (44 FR 61588). On January 1, 1980, the provisions of the Trade Agreements Act of 1979 (Pub. L. 96–39) became effective, and on January 2, 1980, the authority for administering the countervailing duty statutes was transferred from Treasury to the Department of Commerce (Commerce).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c) as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on April 1, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., on April 19, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. 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 March 24, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on March 28, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 12, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on April 26, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before April 26, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All

written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2854 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-120, 121, and 122 (Preliminary)]

Certain Tapered Roller Bearings and Parts Thereof From Japan, the Federal Republic of Germany, and Italy

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: January 26, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, the Federal Republic of Germany (West Germany), and Italy of certain tapered roller bearings and parts thereof, provided for in item 680.39 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission, 701 E. St. NW., Washington, D.C. 20436, telephone 202-523-0312.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on January 26, 1983, by Brenco, Inc., Petersburg, Va., on behalf of the domestic industry producing railway freight car journal roller bearings. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition, or by March 14, 1983 (19 CFR 207.17)

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with section 201.8 of the Commissions rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth section 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, August 4, 1982).

In addition to the foregiong, each document filed with the Commission in the course of these investigations 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 acompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before February 22, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15, as amended by 47 FR 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on February 16, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. parties wishing to participate in the conference should contact the staff investigator, Mr. Robert Eninger (202-523-0312), not later than February 14, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular 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.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982) and Part 201, Subparts A through E (19 CFR Part 201 as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the the conduct of the conference will be provided by Mr. Eninger.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 27, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2848 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-100 (Final)]

Certain Tool Steels From the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from the Federal Republic of Germany of certain tool steels, provided for in items 606.93, 606.94, 606.95, 607.28, 607.34, 607.46, and 607.54 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-100 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final antidumping determination in the case on or before March 28, 1983, and the Commission will make its final injury determination by May 2, 1983 (19 CFR 207.25).

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Miller, Office of Investigations, U.S. International Trade Commission, 701 E St., N.W., Washington, D.C. 20436, telephone (202) 523-0305.

SUPPLEMENTARY INFORMATION:

Background.—On September 13, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, 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 from the Federal Republic of Germany of certain tool steels alleged to be sold at LTFV. The preliminary investigation was instituted in response to a petition filed on July 30, 1982, by counsel for several specialty steel producers and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 § 201.11, as amended by 47 CFR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, February 10, 1982). A copy of the nonconfidential version of each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 9, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with inv. No. 701-TA-187 (Final), Certain Tool Steels from Brazil, beginning at 10:00 a.m. on March 23, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. 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 March 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 4, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 18, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be sumbmitted not later than the close of business on April 1, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 1, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be sumitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188,

February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, February 10, 1982).

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2849 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Commission Review of Initial Determination, Amendment of Notice of Investigation and More Complicated Designation

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined upon petitions for review received from respondents in this investigation and complainant's response to the petitions to review an initial determination granting a motion to amend the notice of investigation. Pursuant to that review the Commission has determined to grant the motion to amend the notice of investigation as noted below. In addition, the Commission has determined to declare this investigation more complicated and establish an administrative deadline at fifteen months after publication of the original notice of investigation. The presiding officer's initial determination on violation of section 337 shall be issued and the record of the investigation certified to the Commission within eleven and a half months of the publication of the original notice of investigation.

AUTHORITY: The authority for Commission disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.15, 210.22, and 210.54 of the Commission's Rules of Practice and Procedure (19 CFR 210.22, 210.54).

SUPPLEMENTARY INFORMATION: The initial determination was issued in response to complainant's, Textron, Inc., motion to amend the notice of investigation to include 160 counts allegedly omitted from the notice of investigation. The original notice of investigation published in the **Federal Register** of November 17, 1982 (47 FR 51821), contained 140 counts alleged against 43 named respondents. The presiding officer granted the motion to amend the notice of investigation and required complainant to submit a brief statement of facts upon which it bases each allegation against each respondent. In addition, the presiding officer stated that the period for completion of the investigation would run from the date of publication of the amended notice of investigation in the **Federal Register.**

The Commission received three petitions for review from respondents pursuant to §210.54 of the Commission's Rules of Practice and Procedure. These petitions requested that the Commission deny the motion to amend the notice of investigation. Complainant filed a response to the petitions requesting denial of review.

Based upon the petitions for review and the response thereto, the Commission has determined that a review of the initial determination is warranted. Furtermore, the Commission determined that the notice of investigation should be amended to reflect the following counts against the named respondents. This notice shall be read in conjunction with the original notice of investigation published in the **Federal Register** of November 17, 1982 (47 FR 51821).

	The letters below indicate which of the acts or methods listed in paragraph one of the original notice of investigation applies
Lilian Machinery Industrial Co., Ltd	a, c–h.
Poncho Enterprise Co., Ltd	a, c–h.
Hong Yeong Machinery Industrial Co., Ltd	a–f, h.
Pai-Up Enterprises Co., Ltd	a–f, h.
She Hong Industrial Co., Ltd	a–f, h.
Yeong Chin Machinery Industries Co., Ltd	a–h.
Yun Fu Machinery Co., Ltd	a–f, h.
Chanun Machine Tool Co., Ltd	a–f, h.
Fu Shanlong Industry Co., Ltd	a, c–f, h.
Jenq Shing Enterprises Co., Ltd	a, c–f, h.
M.I.T. Machinery & Tool Co., Ltd	a, c–h.
Lio Ho Machine Works, Ltd	a, c–f, h.
Long Chang Machinery Co., Ltd	a, c–f, h.
Maw Chang Machinery Co., Ltd	a, c–f, h.
Nahsohn Machinery Co., Ltd	a, c–f, h.
Hsu Pen Machinery Co	a, c–f, h.
Kiheung Machinery Works	a, c–f, h.
Shye Shing Machinery Mfg. Co., Ltd	a, c–f, h.
Kingtex Corp	a, c–f, h.
Great International Corp	a, c–f, h.
King Machinery Inc	a–f, h.
Warner Tool & Machinery Sales, Inc	a, c–h.
Big-Joe Industrial Tool Corp	a, c–h.
ABC Industrial Machine Tool Co	a, c–h.
Kanematsu-Goso, U.S.A., Inc	a, c–f, h.
Rutland Tool & Supply Co., Inc	a–h.
Haerr Machinery Inc	a–h.
Cadillac Machines Inc	a–h.
Kabaco Tools, Inc	a–h.
Webb Machinery Corp	a–h.
Select Machine Tool Co	a–h.
Delta Machine & Tool Co., Inc	a, c–f, h.
Jet Equipment & Tools Inc	a, c–f, h.
Pilgrim Industries Inc	a, c–f, h.
Republic Machinery Co., Inc	a–f, h.
South Bend Lathe, Inc	a, c–h.
Luson International Distributors Inc	a–h.
Intermark-Hartford Corp	a–h.
Enco Manufacturing Co	a, c–h.
Y.C.I. U.S.A. Inc	a–h.
Yamazen U.S.A. Inc	a–h.
DoAll Co	a, c–f, h.
Deka Machine Sales Corp	a, c–f, h.

In addition to amending the notice of investigation, the Commission determined to declare this investigation more complicated pursuant to § 210.15 of the Commission Rules of Practice and Procedure. This investigation involves forty-three respondents and three hundred counts against these respondents. Even in its initial stages, this investigation has involved numerous motions and extensive discovery. Rendering a determination on all of the three hundred counts against these respondents may prove impracticable within twelve months, particularly in light of the additional effort involved with the amended notice of investigation. Declaring the investigation more complicated will ensure that respondents have adequate notice and time to prepare to meet any counts included in the amended notice. Accordingly the administrative deadline in this investigation is set at fifteen months from the date of publication of the original notice of investigation. The presiding officer shall certify the record and issue an initial determination in this investigation within eleven and a half months of the date of publication of the original notice in the **Federal Register.**

Copies of the Commission's action and order and all other non-confidential 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: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0143.

Issued: January 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2852 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 751-TA-7]

Salmon Gill Fish Netting of Manmade Fibers From Japan; Institution of Section 751(b) Review Investigation

AGENCY: International Trade Commission.

ACTION: Institution of Section 751(b) review investigation concerning the affirmative determination in investigation No. AA1921-85, Fish Nets and Netting of Manmade Fibers from Japan.

EFFECTIVE DATE: January 28, 1983.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930, 19 U.S.C. 1675(b) (Supp. III 1979), to review its determination in investigation No. AA1921-85. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding fish netting of manmade fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of manmade fibers provided for in item 355.45 of the Tariff Schedules of the United States. Pursuant to § 207.45(b) of the Commission's Rules of Practice and Procedure, the 120-day period for completion of this investigation begins on the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, senior investigator, Office of Investigations, U.S. International Trade Commission, 202-523-1369 or Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 202-523-0079.

SUPPLEMENTARY INFORMATION:

Background.—On April 18, 1972, the Commission determined that an industry in the United States was injured within the meaning of the Antidumpting Act, 1921, by reason of imports of fish netting of manmade fibers from Japan determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (investigation No. AA1921-85).

On June 1, 1972, the Department of the Treasury issued a finding of dumping, T.D. 72-158, and published notice thereof in the **Federal Register** 37 FR 11560.

On October 14, 1981, following receipt of a request to review its affirmative determination in investigation No. AA1921-85, the Commission instituted investigation No. 751-TA-5, salmon gill fish netting of manmade fibers from Japan. On March 31, 1982, the Commission unanimously determined that the establishment of an industry in the United States would be materially retarded, by reason of imports of salmon gill fish netting of manmade fibers from Japan covered by antidumping order T.D. 72-158, if the order were to be modified or revoked.

This determination was supported by the finding that the domestic production of salmon gill fish netting was so insignificant that there is no established domestic industry producing salmon gill fish netting in the United States. The Commission also found that Nylon Net Co. of Memphis, Tenn., one of the largest domestic producers of fish netting, had made substantial investments in the development of a marketable crystal salmon gill netting. Nylon Net Co. was developing a manmade fiber yarn in a joint project with Firestone Fibers & Textile Co., which would permit Nylon Net to produce netting that would be competitive with the imported Japanese netting. In the presentation of its position during the investigation, Nylon Net relied on Firestone's capacity to produce 1.5 million pounds of yarn per year. Nylon Net's ability to enter the salmon gill fish netting market was presented as being dependent on the production of the yarn by Firestone.

On November 24, 1982, following receipt of information that Firestone Fibers & Textile Co. expected to cease production of Nylon, the Commission requested comments regarding the institution of a new section 751(b) review investigation (47 FR 53152). Comments were received from counsel representing nine Pacific Northwest importers of salmon gill netting (the petitioners in investigation No. 751-TA-5), counsel representing the America Netting Manufacturers Organization (ANMO), counsel for Nichimen Corporation (an exporter of salmon gill net to the United States), counsel for the Fishing Nets and Twine Division of the Japan Textile Products Exporters' Association, counsel for Trans-Pacific Trading, Inc. (an importer of salmon gill netting), and the firm of McClary, Swift & Co. (Custom house brokers). On the basis of the comments filed, the Commission, on January 25, 1983, voted to institute investigation No. 751-TA-7. The Commission determined that the following changed circumstances existed which were sufficient to warrant a review:

(1) Firestone Fibers & Textile Co. Has ceased production of nylon fiber at its Hopewell, Va., plant;

(2) Nylon Net Co. has not secured an alternative source of nylon fiber for use in production of salmon gill netting;

(3) Changes have taken place with respect to the types of salmon gill netting beging sold in the United States.

The investigation will be conducted in accordance with § 207.45(b) of the Commission's Rules of Practice and Procedure (46 FR 18023) (March 23, 1981). The purpose of this investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded if the present antidumping order were to be modified or revoked to exclude salmon gill fish netting of manmade fibers. Modification or revocation of the dumping finding as to salmon gill fish netting would not affect the Commission's affirmative determination as to other forms of fish netting of manmade fibers from Japan.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11, as amended by 47 FR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to 201.11(d) of the Commission's rules (19 CFR § 201.11(d), as amended by 47 FR 6189, February 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without the certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on April 6, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. to April 27, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. 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 April 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on April 6, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 20, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be submitted not later than the close of business on May 4, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 4, 1983. A signed original and fourteen (14) true copies of each submission must filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, February 10, 1982).

Record.—The record of investigation No. 751–TA–5, Salmon gill fish netting of manmade fibers from Japan, will be incorporated into the record of investigation No. 751–TA–7.

Issued: January 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2840 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: January 28, 1983.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C

(1) Agate Elevator Agricultural and Livestock Cooperative Association.

(2) P.O. Box 4, Agate, Colorado 80101.

(3) 40984 Highway 40, Agate, CO 80101.

(4) Robert L. Benjamin, P.O. Box 4, Agate, CO.

(1) Tennessee Farmers Cooperative.

(2) P.O. Box 157, Lavergne, TN 37086.

(3) P.O. Box 157, Lavergne, TN 37086.

(4) Joe L. Wright, P.O. Box 157, Lavergne, TN 37086

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2798 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 21]

Motor Carriers; Applications, Alternate route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

California Docket A 83–01–19, filed January 13, 1983. Applicant: JOE HARTSELL, d.b.a. HARTSELL TRUCKING, 1167 Grange St., Redding, CA 96001. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *general commodities* between all points and places in Butte, Colusa, Glenn, Lassen, Modoc, Plumas, Sacramento, Shasta, Siskiyou, Tehama, Trinity and Yolo Counties, California, except that pursuant to the authority herein granted, carrier shall not transport any shipments of: 1. Used household goods and personal effects, office, store, and institution furniture and fixtures. 2. Automobiles, trucks, and buses, new and used. 3. Ordinary livestock. 4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer. 5. Mining, building,

paving, and construction materials, except cement or liquids, in bulk in dump truck equipment. 6. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity. 7. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials. 8. Fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities. 9. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads or streets. 10. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum type tank truck or trailer. Intrastate, interstate and foreign commerce authority sought.

Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-2764 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

Decided: January 25, 1983.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-MC-FC-39

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC 81088. By decision of January 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to G & A TRUCK LINES, INC., of Hibbing, MN. 55746, of Certificate No. MC 147595 (Sub No. 2X), issued March 16, 1981, to LYLE GUENTZEL TRUCKING, INC. Doing business as G & A Trucking, Hibbing, MN 55746, authorizing the transportation of general commodities (except classes A and B explosives), over irregular routes, between points in Hennepin and Ramsey Counties, MN, on the one hand, and, on the other, points in St. Louis and Itasca Counties, MN. Applicant's Representative: John B. Van De North, Jr., 2200 First National Bank Building, St. Paul, MN 55101.

Note.—Pursuant to transferor's request certificate No. MC-147595 will be cancelled concurrently with the issuance to transferee of a new certificate as a result of this transaction.

Volume No. OP3-MC-FC-41

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC-FC-81125. By decision of January 25, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to H & H LUMBER COMPANY, of Billings, MT, of a portion of Certificate No. MC-138875 Sub 312X, issued March 2, 1982, and Certificate No. MC-138875 Sub 114, issued June 5, 1979, to Shoemaker Trucking Company (Loren Wetzel, Trustee in bankruptcy), of Boise, ID, authorizing the transportation of *waste or scrap materials not identified by industry producing*, between points in MT, on the one hand, and, on the other, points in CA, ID, NV, OR, UT, and WA. An application for temporary authority has been filed. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701.

[FR Doc. 83-2762 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to administrative requirements

stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

No. MC–FC–80080. By decision of January 20, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to LEWIS BUS LINES, INC., of Augusta, GA, of Certificate No. MC–140444 (Sub-Nos. 1 and 3F) issued August 25, 1980 and December 8, 1980, to SHORELINE STAGES, INC., of Jacksonville, FL respectively authorizing the transportation over irregular routes, of (1) *passengers* and *express* and *baggage*, in the same vehicle, with passengers, in round-trip, charter operations, beginning and ending at Jacksonville, FL, and extending to points in Camden County, GA, and (2) *passengers* and *their baggage*, in round-trip charter operations, beginning and ending at points in Duval County, FL, and extending to points in AL, CT, DE, GA, IN, KY, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and the District of Columbia. Representative: Harold McElmurray, P.O. Box 1041, Augusta, GA 30903.

Note.—No TA filed. Transferee holds authority in MC–144296.

No. MC–FC–80126. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to EASY WAY TRUCKING, INC., of Yakima, WA, Certificate No. MC–30092 and Sub-Nos. 7 and 23, issued December 9, 1981, May 1, 1957 and September 15, 1978 to HERRETT TRUCKING CO., of Yakima, WA respectively authorizing the transportation of (1) over regular routes of *fresh fruits and vegetables, building materials, livestock, salt, feed and asphalt* within specified points in WA and OR, and (2) over irregular routes of specified commodities, not limited to but including, *petroleum products, steel pipe, sheet metal pipe, sheet metal, lumber and shingles, feed and flour, hay, canned and processed fruits and vegetables, household goods, heavy machinery and equipment, structural steel, cattle and poultry feed, alfalfa and cottenseed meal*, within specified points in OR, WA, IS and MT. Representative: Marvin A. Wagner, P.O. Box 1329, Yakima, WA 98907.

Note.—Transferee holds no authority. No TA filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2780 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4–046]

Motor Carrier; Permanent Authority Decisions; Restriction Removals

Decided: January 26, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. 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.

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, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4, at (202) 275–7669.

MC 10627 (Sub-19)X, filed January 14, 1983. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO., INC., 50 Hwy 36, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Lead and Sub 15F certificates: (Lead) remove service restrictions (1) "serving no intermediate points, and serving the junction of U.S. Hwy 9 and New Jersey Hwy 440 for purposes of joinder only", (2) "Restriction: The authority granted above is restricted (a) against the transportation of passengers who originate at Keansburg, NJ, or at intermediate points on routes authorized herein between Keansburg, NJ, and Staten Island, NY, and are destined to Staten Island, NY, or who originate at Staten Island, NY, and are destined to Keansburg, NJ, or to intermediate points on routes authorized herein between Keansburg, NJ, and Staten Island, NY; and (b) against the transportation of passengers between Staten Island, NY, on the one hand, and, on the other, the Borough of Manhattan, New York, NY", and (3) "serving no intermediate points, and serving the junction of New Jersey Turnpike and the Newark Bay-Hudson County extension for purposes of joinder only"; (Sub 15) remove restriction against the transportation of passengers between New York, NY, and Newark International Airport, Newark, NJ.

[FR Doc. 83–2765 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Broker (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon

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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note. All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-36

Decided: January 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 2060 (Sub-17), filed January 5, 1983. Applicant: PINE HILL, KINGSTON BUS CORP., P.O. Box 1758, Kingston NY 12401. Representative: Lawrence E. Lindeman 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751-2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 48581 (Sub-15), filed January 11, 1983. Applicant: WILSON BUS LINES, INC., Maine Street, East Templeton, MA 01438. Representative: David M. Marshall, 95 State St., Sixth Floor, Springfield, MA 01103. Transporting *passengers*, in charter and special operations between points in the U.S. (execpt HI).

Note—Applicant intends to provide privately-funded charter and special transportation.

MC 143170 (Sub-2), filed December 27, 1982. Applicant: A-1 BUS LINES, INC., 65 Northeast 27th Street, Miami FL 33137. Representative: Henry L. Beardsley (same address as applicant) (305) 573-0550. Transporting *passengers*, in charter and special operation, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343 (e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343 (A), or (3) 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 this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164400, filed January 4, 1983. Applicant: DENIS S. FOWLER, d.b.a., CHEROKEE TOURS, 7113 Fairytale Street, Citrus Heights, GA 95610. Representative: Denis S. Fowler (same address as applicant) (916) 969-5793.Transporting *passengers*, in charter and special operations, between points in CA, OR, WY, NV, UT, AZ, AK and ports of entry on the international boundary line in WA, ID, and MT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165691, filed January 14, 1983. Applicant: R & T FACTORING, INC., 15 Scout Avenue, South Kearny, NJ 07032. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068 (201) 992-2200. As a *broker* of *general commodities* (except household goods), between points in the U.S. (Except HI).

MC 165701, filed January 14, 1983. Applicant: GARY AND MARLYCE BROCK, a Partnership d.b.a. ALPINE REFRIGERATED FREIGHT LINES, 2499 Eggleston Court, Rockford, IL 61108. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589 (608) 873-8929. 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 165711, filed January 17, 1983. Applicant: DREW MEILSTRUP, d.b.a. MEILSTRUP TRUCKING, P.O. Box 39, Tustin, CA 92681. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657-6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-34

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 113974 (Sub-84), filed January 13, 1983. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant), (412) 461-5100. Transporting, 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.

MC 148434 (Sub-4), filed January 14, 1983. Applicant: SECURITY INCORPORATED, 711 Franklin Square, P.O. Box 274, Michigan City, IN 46360. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. Transporting *passengers*, in charter or special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165675, filed January 13, 1983. Applicant: ABBEYS TRANSPORTATION SERVICE, INC., 37–39 31st St., Long Island City, NY 11101. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, (212) 786–0073. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165705, filed January 13, 1983. Applicant: HARVEY DUBB, d.b.a. DUBB BUS TRANSPORTATION, Building 104, Rotterdam Industrial Park, Rotterdam, NY 12302. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–048

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 287 (Sub-11), filed January 21, 1983. Applicant: PLYMOUTH & BROCKTON STREET RAILWAY CO., 8 Industrial Park Rd., Plymouth, MA 02360. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 62296 (Sub-6), filed January 20, 1983. Applicant: WERNER BUS LINES, INC., Paradise and Chester Avenues, Phoenixville, PA 19460. Representative: Richard M. Ochroch, 316 S. 16th St., Philadelphia, PA 19102, (215) 735–2707. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, MD, NJ, NY and DE, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 115676 (Sub-7), filed January 21, 1983. Applicant: CONWAY'S BUS SERVICE, INC., 3220 Mendon Rd., Cumberland, RI 02864. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162617, filed January 18, 1983. Applicant: WIL-DOM INDUSTRIES, INC., 1200 N. Main St., Suite 530, Santa Ana, CA 92701. Representative: Roger C. McKee, 5030 Camino de la Siesta, Suite 305, San Diego, CA 92108, (619) 296–5051. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2783 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4]

Motor Carriers; Permanent Authority Decisions

Decided: January 26, 1983.

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight forwarders; Water carriers; Household goods brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, with three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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 application involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be

issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1 Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquires to Team 4 at (202) 275–7669.

MC 30657 (Sub-33), filed January 18, 1983. Applicant: DIXIE HAULING COMPANY, 540 Englewood Ave., SE, Atlanta, Ga. 30315 Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting (1) *containers and container closures*, (2) *pulp, paper and related products*, (3) *chemicals and related products*, (4) *plastic and plastic products*, (5) *starch*, (6) *waste or scrap paper*, (6) *machinery*, (7) *reels*, (8) *adhesives*, (9) *lumber and wood products*, and (10) *metal buildings and parts*, between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 54567 (Sub-18), filed January 19, 1983. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. 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 102616 (Sub-1038), filed January 21, 1983. Applicant: COASTAL TANK LINES, INC., 250 Cleveland Massillon Rd., Akron, OH 44319. Representative: Fred H. Daly, 2555 M. St., N.W., Suite 100, Washington, DC 20037, (202) 293–3204. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanto Company, of St. Louis, MO, and Union Carbide Corporation, of Danbury, Ct.

MC 105457 (Sub-107), filed January 21, 1983. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant), (704) 373–1933. 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 K Mart Corporation, of Troy, MI.

MC 105457 (Sub-108), filed January 21, 1983. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant), (704) 373–1933. 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 Southeastern Bonded Warehouses, Inc., of Atlanta, GA.

MC 110567 (Sub-33), filed January 19, 1983. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50304. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. 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 Albertsons, Inc., of Boise, ID.

MC 119787 (Sub-13), filed January 21, 1983. Applicant: F. W. GROVES TRUCKING COMPANY, Route 4, Box 89, Leland, NC 28451. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, NC, SC, and VA.

MC 120776 (Sub-3), filed January 20, 1983. Applicant: KRESSER MOTOR SERVICE, INC., 900 E. Church St., Sandwich, IL 60548. Representative: Edward G. Bazelon, 135 S. La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kresser Broker Service, Inc., of Sandwich, IL.

MC 129087 (Sub-5), filed January 21, 1983. Applicant: L. A. BELL MOTOR LINES, INC., P.O. Box F, Chesterton, IN 46304. Representative: Lorain A. Bill, 111 Sexton St., Porter, IN 46304, (219) 926–5993. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Cook, Lake, and Dupage Counties, IL, on the one hand, and, on the other, points Lake, Porter, and LaPorte Counties, IN.

MC 145627 (Sub-2), filed January 19, 1983. Applicant: M & T TRUCKING, INC., 4290 State Route 7, New Waterford, OH 44445. Representative: David A. Turano, 100 E Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *coal and coal products*, between points in OH and NY.

MC 147436 (Sub-5), filed January 21, 1983. Applicant: BELTMANN NORTH AMERICAN CO., INC., 3400 Spring St. NE, Minneapolis, MN 55413. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Tranporting *household goods, furniture and fixtures*, (1) between points in WI, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, and OK, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147716 (Sub-1), filed January 21, 1983. Applicant: OVERLAND TRA PORT, INC., 1701 Wright Ave., Richmond, CA 94804. Representative: James H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives household goods and commodities in bulk), between points in CA.

MC 148496 (Sub-4), filed January 19, 1983. Applicant O. W. SMITH TRANSPORT, INC., Rt. 3, Hwy 71 N., DeQueen, AR 71832. Representative: Wm. Dean Overstreet, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in TX, OK, KS, MO, AR, LA, MS, AL, FL, GA, TN, SC, NC, KY, IL, and IN, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152366 (Sub-4), filed January 21, 1983. Applicant: AMERICAN COLLOID CARRIER CORP., P. O. Box 951, Scottsbluff, NE 69361. Representative: Robert N. Garity (same address as applicant), (308) 635–3157 Ext. 357). Transporting *building materials, lumber, wood* and *forest products*, between points in the U.S. (except AK and HI).

MC 156327 (Sub-23), filed January 21, 1983. Applicant: TRUCK ONE, INC., P.O. Box 433, Reynoldsburg, OH 43068. Representative: A. Charles Tell, 100 E Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general*

commodities (except classes A and B explosives, household goods and commodities in bulk), between points in Crawford County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157577 (Sub-1), filed January 21, 1983. Applicant: DENNIS RAY, d.b.a. GOLDEN WEST, 1753 Clinton St., Apt. 4, Aurora, CO 80010. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. 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 160297 (Sub-1), filed January 18, 1983. Applicant: LAKES AREA TRANSPORT, INC., 79 NW Fourth St., Forest Lake, MN 55025. Representative: Timothy H. Butler, 4200 IDS Center, 80 S 8th St., Minneapolis, MN 55402, (612) 371–3211. 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 Nationwide Industries, Inc. and Hallberg Marine, Inc. of Wyoming, MN.

MC 165797, filed January 17, 1983. Applicant: WESTRAN TRUCKLINE, INC., 1148 W Western Ave, Muskegon, MI 49443. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *metal products and machinery*, between points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by foundry suppliers, between points in AL, IL, IN, IA, KS, KY, MI, MN, MS, MO, NJ, NY, NC, ND, OH, OK, OR, PA, SD, TX, UT, VA, WV, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI.

MC 165807, filed January 20, 1983. Applicant: CAROLINA TANK LINES, INC., P.O. Box 1534, Burlington, NC 27216. Representative: Terrell C. Clark, P.O. Box 25,. Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods), between points in NC, on the one hand, and, on the other, points in FL, GA, MD, NJ, PA, TN, SC and VA.

MC 165817, filed January 21, 1983. Applicant: TYCO TRUCKING, INC., 916 Lowell Lane, Fort Collins, CO 80524. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in the U.S. in and west of ND, SD, NE, KS, OK and LA (except AK and HI), and (2) between points in the U.S. in and west of ND, SD, NE, KS, OK and LA (except AK and HI), and points in KY.

(FR Doc. 83-2761 Filed 2-1-83; 8:45 am)
BILLING CODE 7035-01

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 orver irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-235

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 118612 (Sub-4–12TA), filed January 21, 1983. Applicant: COLUMBIA TRUCKING, INC., 700–131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601, (312) 332–5106. Chemicals: Between Seneca, IL, on the one hand, and, on the other, Clinton, IA and Tecumseh, KS. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington DE. 19898.

MC 165275 (Sub-4–1TA), filed December 20, 1982. Applicant: SHEEHY MAIL CONTRACTORS, INC. 644 11th Ave North, Onalaska, WI 54650. Representative: Joseph E. Ludden, 2707 South Avenue., P.O. Box 1567, La Crosse, WI 54601. *Contract* irregular: Books, catalogs, catalog parts or section, magazines and/or periodicals and printed articles and supplies between points in Jefferson, Dane, and Sauk Counties, WI on the one hand and, on the other, points in the states of MN, IA, MO, IL, IN and OH. Restricted to traffic moving under continuing contract with Perry Printing Corporation. Supporting shipper: Perry Printing Corporation, 240 West Madison Street, Waterloo, WI 53594.

MC 165751 (Sub-4–1TA) filed January 18, 1983. Applicant: DAN RAUTIO d.b.a. DAN RAUTIO TRUCKING, P.O. BOX 271, FLOODWOOD, MN 55736. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402 (612) 333–1341. *Wood pellets in bulk*, from Virginia, MN to Ladysmith and Fort McCoy, WI. Supporting shipper is Aspenal, Inc. of Virginia, MN.

MC 165752 (Sub-4–1TA), filed January 18, 1983. Applicant: M & J TRANSPORT INC., 17 W. 741 Lorraine, Addison, IL. 60101. Representative: Marion Stout (Same as applicant). *General Commodities*, (except Classes A & B explosives, commodities in bulk requiring special equipment and household goods), between points in CT, DE, IL, IN, MA, MD, MO, NJ, NY, ME, OH, PA, and RI. Seven Statements in support attached to this application.

MC 165782 (Sub-4–1TA), filed January 19, 1983. Applicant: DAN KING d.b.a. DAN KING TRUCKING, 5251 Browns Beach Road, Rockford, IL 61103. Representative: Dan King (Same address as applicant). Transporting *general commodities* (except Classes A and B explosives) between points in the U.S.A. Supporting shipper: The Pillsbury Company, Box 781, Ottawa, IL 61350.

MC 165783, (Sub-4–1TA), filed January 19, 1983. Applicant: PARAGON EXPRESS, INC., 3520 S. Creyts Road, P.O. Box 2703, Lansing, MI 48909. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. *Contract* irregular: *Lumber and wood products*, between Kalamazoo, Mason, Rudyard, Traverse City, and Detroit, MI and its commercial zone and Toledo, OH, on the one hand, and, on

the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, NY, NC, OH, PA, TN, TX and WI. Restricted to continuing contract(s) with Schultz, Snyder & Steel Lumber Company, 610 East Grand River, Lansing, MI 48906. An underlying ETA seeks 120 days authority. Supporting shipper: Schultz, Snyder & Steel Lumber Company, 610 East Grand River, Lansing, MI 48906.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5-44TA), filed January 21, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular, *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI) under continuing contract(s) with Raychem Corporation. Supporting shipper: Raychem Corporation, Menlo Park, CA.

MC 83835 (Sub-5-2TA), filed January 21, 1983. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237-2385. Contract, Irregular; *General commodities (except household goods, and Classes A and B explosives),* between points in the U.S., under continuing contract with Phillips Petroleum Company and Phillips Driscopipe, Inc. Supporting shipper: Phillips Petroleum Company, Bartlesville, OK.

MC 117740 (Sub-5-1TA), filed January 19, 1983. Applicant: HORTON BROTHERS TRUCKING COMPANY, INC., 11613 Denton Drive, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular; *General Commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between Dallas, TX on the one hand, and, on the other, points in the U.S. (except AK and HI). Under continuous contract(s) with The Southland Corporation. Supporting shipper: The Southland Corporation, Dallas, TX.

MC 138134 (Sub-5-2TA), filed January 19, 1983. Applicant: DONALD HOLLAND TRUCKING, INC., P.O. Box 646, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Contract* irregular; General Commodities (Except Household Goods, Classes A and B Explosives and Commodities in Bulk), Between points in Lee County, IA, on the one hand, and, on the other, points in the U.S. (Except AK and HI) under continuing contract(s) with Henkel Corporation of Minneapolis, MN. Supporting shipper: Henkel Corporation, Minneapolis, MN.

MC 143165 (Sub-5-4TA), filed January 20, 1983. Applicant: McCLELLAND LUMBER TRANSPORTS, P.O. Box 73, Cuba, Mo 65453. Representative: Charles W. McClelland (Same address as applicant). Contract, irregular; *Such commodities as are dealt in and used by manufacturers and distributors of metal products,* between points in the U.S. (except AK & HI), under contract with Pershing-Ohio Co. Supporting shipper: Pershing-Ohio Co., St. Louis, MO.

MC 159026 (Sub-5-1TA), filed January 20, 1983. Applicant: U.S. CONTRACT TRUCKING, INC., 2730 Carl Road, Irving, TX, 75060. Representative: Bill W. Huie (Address same as above). Contract, Irregular; *General Commodities (except HHG's, Class A & B explosives, and bulk)* having prior interstate movement by rail or pool car/truck, from Irving, TX to Houston, TX. Supporting shipper: T.P.S. Freight Distribution, Inc. Irving, TX.

MC 161124 (Sub-5-2TA), filed January 21, 1983. Applicant: C. TILE TRANSPORTATION, INC., 515 Houston Street, Ft. Worth, TX 76102. Representative: Dean O'Leary, 515 Houston Street, Ft. Worth, TX 76102. *Mercer commodities,* between Colony and Lovell, WY, on the one hand, and, on the other, points in the U.S. Supporting shipper: NL Baroid/NL Industries, Inc., Houston, TX.

MC 165777 (Sub-5-1TA), filed January 19, 1983. Applicant: ROGERS TRUCKING, INC., Star Route, Purdum, NE 69157. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Rendering plant by-products* from the commercial zones of Sioux Falls and Watertown, SD, to points in FL and the commercial zones of Mobile, AL; Valdosta, GA and Wheeling, WV. Supporting shipper: Girdner & Son Company, Sioux Falls, SD.

MC 165823 (Sub-5-1TA), filed January 21, 1983. Applicant: W. A. QUERNER, d.b.a. RAINBOW MOTOR LINES, 120 Beverly Drive, San Antonio, TX 78201. Representative: William E. Collier, 5622 Evers #1303, San Antonio, TX 78238. *Contract, irregular; Fresh meat* between Greeley, CO and San Antonio, TX under continuous contract with Bill Miller Bar-B-Que, Inc., San Antonio, TX.

MC 165824 (Sub-5-1TA), filed January 21, 1983. Applicant: CHARLES WILSON, d.b.a. SKEETER WILSON TRUCKING, 1167 Viking Road, Story City, IA 50248. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, (except commodities in bulk),* between Tama County, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, ND, NE, OK, SD, TX, and WI. Supporting shipper: Tama Meat Packing Corporation, Tama, Iowa.

The Following Applications Were Filed in Region 6.

Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St. Suite 501, San Francisco, CA 94105.

MC 41098 (Sub-6-17TA), filed January 20, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *Household goods* between points in the U.S. under continuing contract(s) with TRW, Inc. of Redondo Beach, CA., for 270 days. Supporting shipper: TRW, Inc. One Space Park, Redondo Beach, CA 90278.

MC 165842 (Sub-6-1TA), filed January 21, 1983. Applicant: WAYNE L. HANSON, Rt. 3, Box 1540, Ellensburg, WA 98926. Representative: Wayne L. Hanson, (same as applicant). *Contract carrier,* irregular routes, *bulk fertilizer* from Cenex Soil Service Center in Interstate, ID to Midstate Co-op in Ellensburg, WA for the account of Midstate Co-op, for 270 days. Supporting shipper: Midstate Co-op, P.O.B. 480, Ellensburg, WA 98926.

MC 165871 (Sub-6-1TA), filed January 24, 1983. Applicant: HUGO NEU STEEL TRANSPORTATION, INC., P.O. Box 27324, Salt Lake City, UT 84127. Representative: Bill Milner (same address as applicant). *Contract carrier,* irregular routes, *Metal Products and Waste or Scrap Materials Not Identified by Industry Producing,* between AZ, CA, NV, UT and WY, under continuous contract(s) with Hugo Neu Steel Products, Inc., of Salt Lake City UT, for 270 days. Supporting shipper: Hugo Neu Steel Products, Inc., 4221 W 7 So, Salt Lake City, UT 84104.

MC 165870 (Sub-6-1TA), filed January 24, 1983. Applicant: H. B. LEE CONSTRUCTION, INC., 185 Buckskin St., Baggs, WY 82321. Applicant's Representative: Howard B. Lee (same as applicant). *Water and any oil field* related supplies and equipment between points in CO, WY, and UT, for 270 days.

Supporting shippers: Garvin & Sons Crane Service, Box 58, Baggs, WY 82321; River Implement, Inc., P.O.B. 175, Baggs, WY 82321; and Snyder Oil Co., P.O.B. 129, Baggs, WY 82321.

MC 165348 (Sub-6–1TA), filed January 20, 1983. Applicant: MID-CONTINENTAL TANK LINES, INC., P.O.B. 265 Station "T", Calgary, Alberta, CD. Applicant's Representative: Mr. Ben Froese (same as applicant). Liquid Sulphur, between ports of entry on the U.S.-CD border at MT, ID, and WA and points in MT, ID, and WA. For 270 days, an underlying ETA seeks 120 days authority. Supporting shippers: Canadian Occidental Petroleum Ltd., 1600 McFarlane Tower, 700 4 Ave. S.W., Calgary, Alberta, CD, T2P 3J5. Superior Oil Ltd., Three Calgary Place, 355 4 Ave. S.W., Calgary, Alberta, CD. T2P 0J3. Shell Canada Resources Ltd., P.O.B. 100 Station "M", Calgary, Alberta, CD, T2P 2H5.

MC 165840 (Sub-6–1TA), filed January 21, 1983. Applicant: LLOYD PETERSON d.b.a., Peterson Trucking, Rt. 2, Box 71–H, Moses Lake, WA 98837. Applicant's Representative: Boyd Hartman, P.O.B. 3641, Bellevue, WA 98009. *Contract carrier*, irregular routes, *Titanium, Titanium Aggregate, Sponges and Fines* from Grant County, WA to points in the U.S. for the account of International Titanium, Inc., for 270 days. Supporting shipper: International Titanium, Inc., 1320 Rd. 3 N.E., Moses Lake, WA 98837.

MC 151061 (Sub-6–3TA), filed January 21, 1983. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia St., Santa Ana, CA 92701. Applicant's Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702. *Common Carrier*, Regular routes: *Passengers and their baggage*, in the same vehicle, between Laguna Hills, CA and Las Vegas, NV; from Laguna Hills, CA, over Interstate Hwy. 5 to junction California Hwy. 22, then over California Hwy. 22 to junction California Hwy. 55, then over California Hwy. 55 to junction California Hwy. 91, then over California Hwy. 91 to junction Interstate 15E, then over Interstate Hwy. 15E to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to Las Vegas, NV, and return over the same route, serving Santa Ana, Riverside and San Bernardino, CA as intermediate points, for 270 days. An underlying ETA seeks 120 days authority. Supporting witnesses: Sahara Hotel & Casino, 2535 Las Vegas Blvd. So., Las Vegas, NV; Casino Connection, 930 Poinsettia, Santa Ana, CA 92701.

MC 165841 (Sub-6–1TA), filed January 21, 1983. Applicant: WARREN G. WOOD, Rt. 3, Box 1641, Ellensburg, WA 98926. Applicant's Representative: Warren G. Wood (same as applicant). *Contract carrier*, irregular routes, *bulk fertilizer* from Cenex Soil Service Center in Interstate, ID to Midstate Co-op in Ellensburg, WA for the account of Midstate Co-op, for 270 days. Supporting shipper: Midstate Co-op, P.O.B. 480, Ellensburg, WA 98926.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2755 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-130)]

Rail Carriers; Burlington Northern Railroad Company—Abandonment in Lincoln County, WA; Findings

The Commission has issued a decision authorizing the Burlington Northern Railroad Company to abandon its 17.51-mile rail line between milepost 0.41 near Davenport and milepost 17.92 near Eleanor in Lincoln County, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued, and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2739 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30094]

Rail Carriers; St. John's River Terminal Company—Abandonment Exemption—In Duval County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts St. John's River Terminal Company from 49 U.S.C. 10903–4 in connection with 0.66-mile line in Jacksonville, FL, subject to employee protective conditions.

DATES: This exemption is effective on March 4, 1983. Petitions to stay effectiveness of this decision must be filed by February 11, 1983, and petitions for reconsideration must be filed by February 22, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, DC 20013.

Pleadings should refer to Finance Docket No. 30094.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

DECIDED: January 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2758 Filed 2-1-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15059]

Corporate Transport, Inc.—Purchase Exemption—Sigma-4 Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Corporate Transport, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Sigma-4 Express, Inc., a motor carrier, (i.e., certificates Nos. MC–125023 (Sub-Nos. 19, 27, 33, 40, 44, 49, 53F, 54F, 60F, 74F, 75F, and 79F), which certificates, collectively, authorize the irregular-route motor common carrier transportation of malt beverages from and to various points and States located primarily east of the Mississippi River).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative, James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443.

Comments should refer to No. MC–F–15059.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 27, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2768 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15073]

Robert W. Swanson, Gerald E. Malke, Richard V. Pickard, and Joseph A. Eschenbacher—Continuance in Control Exemption—Dahlen Transport, Inc. and DTI, Ltd.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 FR 53303 (November 24, 1982), Robert W. Swanson, Gerald E. Malke, Richard V. Pickard, and Joseph A. Eschenbacher seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Dahlen Transport, Inc., a motor common carrier (No. MC–105375 and sub numbers) and DTI Ltd., a motor contract carrier (No. MC–156733).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036.

Comments should refer to No. MC–F–15073.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 27, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2767 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–12226]

Allis-Chalmers Credit Corp.; Application and Opportunity for Hearing

January 26, 1983.

Notice is hereby given that Allis-Chalmers Credit Corporation (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under certain existing indentures of the Applicant dated May 15, 1979, June 1, 1980 and June 1, 1981, which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from continuing to act as successor trustee under the Applicant's indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within 90 days after ascertaining that is has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, in effect, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there is excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under the qualified indenture and such other indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under such indentures.

The Applicant alleges that:

1. The Applicant has outstanding as of December 15, 1982, $50,000,000 principal amount of its 10.35% Debentures Due 1999 (the "10.35% Debentures") issued under an indenture dated as of May 15, 1979 (the "1979 Indenture"), between the Applicant and Chemical Bank ("Chemical"), as Trustee, which was heretofore qualified under the Act. The 10.35% Debentures were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–64359) and the 1979 Indenture was filed as Exhibit 4.2 to said registration statement.

2. The Applicant has outstanding as of December 15, 1982, $75,000,000 principal amount of its 12% Notes Due 1990 (the "12% Notes") under and Indenture dated as of June 1, 1980 (the "1980 Indenture"), between the Applicant and Chemical, as Trustee, which was heretofore qualified under the Act. The 12% Notes were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–67766) and the 1980 Indenture was filed as Exhibit 4.2 to said registration statement.

3. The Applicant has oustanding as of December 15, 1982, $75,000,000 principal amount of its 16% Notes Due 1991 (the "16% Notes") issued under an indenture dated as of June 1, 1981 (the "1981 Indenture"), between the Applicant and The Chase Manhattan Bank (National Association), as Trustee, which was heretofore qualified under the Act. The 16% Notes were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–72495) and the 1981 Indenture was filed as Exhibit 4.2 to said registration statement.

4. On December 20, 1982, Schroder was appointed the successor trustee under the 1981 Indenture.

5. On January 6, 1983, Schroder was appointed successor trustee under the 1980 Indenture.

6. On January 6, 1983 Schroder was

appointed successor trustee under the 1979 Indenture.

7. The successor trusteeships under the indentures will constitute a conflicting interest under the 1981 Indenture after 90 days from the date of Schroder's appointment and acceptance of the successor trusteeship under the 1980 Indenture unless, in accordance with Section 608(c)(1)(ii) of the 1981 Indenture, the Commission determines that the successor trusteeships under the 1979 and 1980 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from continuing to act as successor trustee under such indentures.

8. The Applicant appointed Schroder to act as successor trustee under the 1979 and 1980 Indentures and Schroder accepted such appointments pursuant to Tripartite Agreements each dated as of January 6, 1983 (the "Tripartite Agreements", among the Applicant, Chemical and Schroder. The Tripartite Agreements provide that, if the Commission does not issue an order under Section 310(b)(1)(ii) of the Act that Schroder is not disqualified from ating as successor trustee prior to April 5, 1983, Schroder shall resign, and upon such resignation by Schroder, the Applicant shall promptly appoint Chemical as successor trustee under the 1979 and 1980 Indentures and Chemical shall accept such appointments. *See Niagara Mohawk Power Corp.*, Order of the Commission dated January 9, 1950, File No. 2–8214 (22–942).

9. The Applicant is not in default under any of the indentures.

10. The Applicant's obligations under the indentures and the securities issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences between the 1979, 1980 and 1981 Indentures except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

11. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the securities issued under such indentures to disqualify Schroder from continuing to act as successor trustee under the 1979 and 1980 Indentures.

12. The Applicant is presently negotiating agreements pursuant to which it will grant security for the equal and ratable benefit of its bank and insurance company lenders and the holders of its public debt under the 1979, 1980 and 1981 Indentures. The Applicant expects such security to be granted prior to April 5, 1983. Since each of the 1979, 1980 and 1981 Indentures contains identical provisions requiring the securities issued thereunder to be equally and ratably secured in the event security is granted to other indebtedness of the Applicant, and since the Applicant will secure such securities equally and ratably, the Applicant has stated its belief that the granting of such security should not affect the Commission's consideration of this application.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, may not later than February 19, 1983, submit to the Commission his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponents thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2799 Filed 2–1–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12995; 811–2229]

Chase Convertible Fund of Boston, Inc.; Filing of Application

January 26, 1983.

In the matter of Chase Convertible Fund of Boston, Inc., One American Row, Hartford, Connecticut 06115 (811–2229).

Notice is hereby given that Chase Convertible Fund of Boston, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, filed an application on July 13, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on September 16, 1971, and filed a registration statement pursuant to Section 8(b) of the Act on September 16, 1971. Applicant states that on September 16, 1971, it filed a registration statement on Form S–4 pursuant to the Securities Act of 1933 with respect to 4,000,000 shares of its common stock ($1 par value). Applicant represents that the registration statement, as amended, became effective with respect to 5,500,000 shares of common stock ($1 par value) on July 26, 1972 (File No. 2–41775). Applicant states further that the initial public offering of its shares commenced on July 26, 1972. Applicant represents that, as of March 18, 1982, there were 5,515,988 shares outstanding of its common stock, $1 par value. Applicant represents further that, as of that same date, it had net assets of $73,495,176 and a net asset value of $13.32 per share.

Applicant states that, pursuant to an agreement and plan of reorganization, including a plan of complete liquidation and dissolution (the "Plan"), on March 19, 1982, Applicant transferred substantially all of its assets to another registered investment company, Phoenix-Chase Series Fund ("Series Fund"), a Massachusetts business trust, in exchange for shares of beneficial interest in the Phoenix-Chase Convertible Fund Series ("Convertible Series").

Applicant represents that, pursuant to the Plan, Convertible Series shares have been distributed pro rata to the former shareholders of Applicant in complete cancellation and retirement of all of the

issued and outstanding shares of Applicant by registering in the name of each former shareholder of Applicant, through the Series Fund's transfer agent, the number of shares of Convertible Series to which each such shareholder became entitled as a result of the exchange of substantially all the assets of Applicant for shares of beneficial interest of Convertible Series. Applicant states that, accordingly, its assets were exchanged for an aggregate of 5,515,987.786 shares of beneficial interest of Convertible Series, having a total value of $73,495,176, which were distributed to the shareholders of record of Applicant on March 19, 1982. Applicant states that each former shareholder of Applicant received one share of Convertible Series for each share of Applicant. Applicant states further that its Articles of Dissolution were filed with the Secretary of State of the Commonwealth of Massachusetts on May 14, 1982, whereupon Applicant was dissolved.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2801 Filed 2-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12994; 811-3494]

First Financial Strategies, Corp.; Filing of Application

January 26, 1983.

In the matter of First Financial Strategies Corporation, 4500 Beverly Drive, Dallas, Texas 75205 (811-3496).

Notice is hereby given that First Financial Strategies Corporation ("Applicant") a Texas corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 25, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Applicant has never made a public offering of its securities. The application states, however, that the Applicant's legal existence and corporate charter is still in existence, and the company is in good standing as a corporation in the State of Texas. The application also states that the Applicant has assets represented by capital stock of the Applicant in the amount of $1,000. The application further states that the Applicant has only one stockholder, has no debts or liabilities, and is not a party to any litigation or administrative proceeding.

The Applicant asserts that it mistakenly applied to be an investment company based on a legal misinterpretation of the legal requirements for such business activity. The Applicant further asserts that Applicant never intended to operate as an investment company, and has no intention to operate in such capacity. The application states that the Applicant has applied with the Commission and intends to operate as an investment adviser and has no present plans to operate in any other capacity.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 18, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2800 Filed 2-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12993, 812-5424]

Keystone Provident Life Insurance Co. et al.; Application

January 26, 1983.

In the matter of Keystone Provident Life Insurance Company and KMA Variable Account, 99 High Street, Boston, Massachusetts 02105 and Dean Witter Reynolds, Inc., 5 World Trade Center, New York, New York 10048 (812-5424).

Notice is hereby given that Keystone Provident Life Insurance Company ("Company"), a stock life insurance company established under the laws of the State of Rhode Island, KMA Variable Account, a separate account of the company registered under the Investment Company Act of 1940 ("Act") as a unit investment trust ("Variable Account"), and Dean Witter Reynolds, Inc., one of the underwriters for the Variable Account ("Dean Witter"), (collectively, "Applicants"), filed an application on January 14, 1983 and an amendment thereto on January

24, 1983 for an order of the Commission pursuant to Section 6(c) of the Act extending the terms of two previous orders of the Commission, as discussed below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

On April 9, 1981 (Investment Company Act Rel. No. 11727), the Commission issued an order pursuant to Section 6(c) of the Act granting an exemption to the Company, the Variable Account, and other persons from provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and rule 22c-1 thereunder to the extent necessary to permit certain transactions and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. On August 3, 1982 (Investment Company Act Rel. No. 12571), the Commission issued an order pursuant to Section 6(c) granting exemptions to the Company, the Variable Account, and another person from provisions of Sections 22(e), 26(a), 27(c)(1), 27(c)(d), and 27(d) of the Act to the extent necessary to permit certain transactions and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. Applicants now request an order amending the two prior orders to the extent necessary to include Dean Witter as a second underwriter for the Variable Account.

Applicants represent that the reasons that formed the bases for the Commission granting the previous orders still exist and that the addition of a second underwriter does not materially alter the discussions presented at the time of the previous applications, which discussions are specifically incorporated by reference into the instant application.

Section 6(c) of the Act generally authorizes the Commission to exempt any person, security, or transaction, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, no later than February 18, 1983, at 5:30 p.m., do so by submitting a written request, setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2790 Filed 2-1-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted To OMB for Review

During the period January 21 through January 27, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0704
Form Number: 5471 and Schedules M, N and O
Title: Information Return with Respect to a Foreign Corporation

OMB Number: 1545-0008
Form Number: W-2, W-2P, W-2AS, W-2GU, W-2C, W-2VI, W-3, W-3PR, W-3SS, W-3C
Title: Wage and Tax Statement and Transmittal of Income and Tax Statements

OMB Number: 1545-0313
Form Number: Letters 31C, 31SC and 31SP
Title: Two Returns Filed, Explanation Requested

OMB Number: N/A (Reinstatement)
Form Number: 4742
Title: Questionnaire—Medical & Dental Expense

OMB Number: 1545-0503
Form Number: Letter 919 (DO)
Title: Request for Information—Highway Motor Vehicle Use Tax

OMB Number: 1545-0118
Form Number: 1099-PATR
Title: Statement for Recipients (Patrons) of Taxable Distributions Received from Cooperatives

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Alcohol, Tobacco and Firearms

OMB Number: N/A (reinstatement)
Form Number: ATF F 8 Part III (5310.11)
Title: Renewal of Firearms License

OMB Number: N/A (New submission)
Form Number: ATF F 5100.32
Title: Certificate of Distilled Spirits Exported to Italy

OMB Number: 1512.0033
Form Number: ATF F 1534-A
Title: Tax Information Authorization

OMB Number: 1512-0204
Form Number: ATF F 5110.38
Title: Formula for Distilled Spirits under the Federal Alcohol Administration Act.

OMB Number: 1512-0167
Form Number: ATF F 3072(5210.14)
Title: Transportation in Bond and Notice of Release of Puerto Rican Cigars, Cigarettes, Cigarette Paper or Tubes

OMB Number: 1512-0236
Form Number: Respd Letterhead—236
Title: Removal and Receipt of Non-Beverage Wine

OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: January 28, 1983.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 83-2835 Filed 2-1-83; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

[Department Circular; Public Debt Series—No. 4-83]

10¾% Treasury Bonds of 2007-2012; Invitation for Tenders

1. Invitation for Tenders

January 27, 1983.

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of

Title 31, United States Code, invites tenders for approximately $3,500,000,000 of United States securities, designated 10¾% Treasury Bonds of 2007–2012 (CUSIP No. 912810 DB 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued February 15, 1983, and are offered as an additional amount of 10¾% Treasury Bonds of 2007–2012 (CUSIP No. 912810 DB 1) dated November 15, 1982. Payment for the securities will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1982, to February 15, 1983. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2012, but may be redeemed at the option of the United States on and after November 15, 2007, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 3, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 2, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 11.21% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1982, to February 15, 1983, in the amount of $26.36740 per $1,000 of securities allotted. Except as otherwise stipulated, settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors not later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2816 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 3-83]

Treasury Notes of Feburary 15, 1993; Series A-1993; Invitation for Tenders

January 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of February 15, 1993, Series A-1993 (CUSIP No. 912827 PD 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securitites may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 15, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1983, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible

bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 2, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 1, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Govenment securities and report daily to the Federal Reserve Band of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the custormers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Except as otherwise stipulated, settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the insitituion to which the tender was submitted, which must be received from institutional investors no later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the

Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-3215 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 2-83]

Treasury Notes of February 15, 1986; Series L-1986; Invitation for Tenders

January 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of February 15, 1986, Series L-1986 (CUSIP No. 912827 PC 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 15, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1983, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, February 1, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 31, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisons or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent

required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ¼ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Except as otherwise stipulated, settlement on securities alloted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompnay the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as many be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promplty provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2814 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Boards; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Medical Research Service Merit Review Boards for calendar year 1981 has been issued.

The report summarizes activities of the Boards on matters related to the review, discussion and evaluation of individual investigator initiated medical research projects. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room, LM 133, Madison Building, Washington, DC 20540;
and
Veterans Administration, Medical Research Service Chief, Merit Review Board Staff Division, Room 755, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: January 25, 1983.
By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-2826 Filed 2-1-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

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

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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, February 7, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552 (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: Franklin National Bank, New York, New York.

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: January 31, 1983.

Federal Deposit Insurance Corporation.

[S-149-83 Filed 1-31-83; 3:35 pm]

BILLING CODE 6714-01-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, February 7, 1983, 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.

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. 45,577-SR—Hohenwald Bank & Trust Company, Hohenwald, Tennessee

Case No. 45,578-L—Banco Credito y Ahorro Ponceno, Ponce, 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.

Report of the Director, Office of Corporate Audits:

Audit Report re: Control Weaknesses Evident During Accountable Property Sale Investigation, dated July 30, 1982.

Discussion Agenda

Memorandum and Resolution re: Proposed amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would subject any deposit, even though by its terms payable solely outside of the United States and the District of Columbia, to interest rate ceilings where the deposit may be accessed either through an account maintained within the United States or the District of Columbia or through instruction for payment by any person who is not a resident of the extraterritorial sovereignty, possession or territory where the deposit account is maintained.

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, Excutive Secretary of the Corporation, at (202) 389-4425.

Dated: January 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-150-83 Filed 1-31-83; 3:35 pm]

BILLING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 2.15 p.m., Thursday, February 3, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed changes to the employee benefits program to implement the Omnibus Reconciliation Act of 1982. (This item was originally announced for a meeting on Tuesday, February 1, 1983.)

Vice Chairman Martin and Governor Teeters, a subquorum of the Board with

delegated authority to act on matters relating to this subject.

CONTACT PERSON FOR MORE INFORMATION:50 Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[S-151-83 Filed 1-31-83; 3:49 pm]

BILLING CODE 6210-01-M

4

NATIONAL MEDIATION BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2888.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 P.M., February 9, 1983.

CHANGES IN THE MEETING: Meeting rescheduled for 2:00 P.M., February 14, 1983.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Date of notice: January 27, 1983.

[S-147-83 Filed 1-31-83; 3:30 pm]

BILLING CODE 7550-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 31, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Thursday, February 3

2:00 p.m.—Discussion of Proposed Enforcement Action (Closed—Ex. 5)

Friday, February 4

2:30 p.m.—Briefing on SEP Program—Phase II Results (Public meeting)

ADDITIONAL INFORMATION: Affirmation of NFS Erwin Hearing: NRDC's Request for DOE's Classified Information; Hearing Scope Issues; and Related Matters scheduled for January 27 *postponed.* On January 27 the Commission voted 4–0 (Commissioner Gilinsky not present) to hold Discussion of Regulatory Reform Task Force—Legislative Proposals, held that day.

On January 27 the Commission voted 4–0 (Commissioner Gilinsky not present) to hold Discussion of Regulatory Reform Task Force—Legislative Proposals, to be held January 28.

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert, (202) 634–1410.

Dated: January 27, 1983.

Gary Gilbert,

Office of the Secretary.

[S-152-83 Filed 1-31-83; 3:50 pm]

BILLING CODE 7590-01-M

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SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 7, 1983, at 450 5th Street, N.W., Washington, D.C.

An open meeting will be held on Thursday, February 10, 1983, at 10:00 a.m. in Room 1C30 followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, February 10, 1983, at 10:00 a.m., will be:

1. Consideration of whether to propose for comment a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 between the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Midwest Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. For further information, please contact Elizabeth S. York at (202) 272–2377.

2. Consideration of whether to issue an advance concept release requesting public comment as to whether the Commission should propose rules under the Investment Company Act of 1940 to utilize private entities to perform certain functions involving routine examinations of investment companies to supplement the Commission's investment company examination program. For further information, please contact Mary S. Champagne at (202) 272–2079.

The subject matter of the closed meeting scheduled for Thursday, February 10, 1983, immediately following the 10:00 a.m. open meeting, will be:

Formal order of investigation.

Settlement of administrative proceeding of an enforcement nature.

Institution of injunctive actions.

Regulatory matter regarding financial institution.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Catherine McGuire at (202) 272–3085.

January 31, 1983.

[S-148-83 Filed 1-31-83; 3:34 pm]

BILLING CODE 8010-01-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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