3-7-83
Vol. 48 No. 45
Pages 9503-9632

federal register

Monday
March 7, 1983

Selected Subjects

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Selected Subjects

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Rules and Regulations

Federal Register
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Monday, March 7, 1983

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

Inspections of Persons Applying for Admission; U.S. Citizen Identification Card Discontinued

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule discontinues authorization for issuing the U.S. Citizen Identification Card (Form I–197). Cards presently in circulation will remain valid, but there is no provision for replacement cards. The card is not required by law and discontinuing its issuance will result in saving of Service resources.

EFFECTIVE DATE: April 7, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048
For Specific Information: Daniel J. Stephan, Immigration Inspector, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–2075.

SUPPLEMENTARY INFORMATION: On November 4, 1982, at 47 FR 49974, the Service published a proposed rule in the **Federal Register** to discontinue issuing Form I–197, the U.S. Citizen Identification Card, and the related application, Form I–196. The thirty-day comment period ended December 6, 1982.

This final rule discontinues the U.S. Identification Card, Form I–197, and it will no longer be issued. Identification cards in circulation will remain valid, but there will be no provision for replacing them. The intent of this rule is to maximize available Service resources. Form I–197 is not a required document and it was issued simply as a convenience. With the limited Service resources to process applications and petitions involving documents and actions required by law, it is impractical and wasteful to continue funding for a document of convenience. A fee study conducted in early 1982 revealed that Service processing cost per card was $11.40. The projected 2-year savings, based on FY '82 applications and modest anticipated increases for FY '83, was $631,000.00. This dollar estimate, however, may actually be somewhat greater because costs for issuing replacement cards were not included in the projection. The impact on U.S. citizens who apply for the card, primarily new U.S. citizens and those who speak little or no English, will be limited because the rule is not retroactive (previously issued cards remain in effect), and alternative documents, such as the U.S. passport, serve the same purpose.

There were five comments in response to the published proposal. Three came from private citizens and two from INS field officers.

Comments against abolishing the U.S. Citizen Identification Card included:

1. The card is an "invaluable tool" in the inspection of U.S. Citizens who speak little or no English and absence of the card would cause inspectional delays.

2. The cost of inspectional delays would overshadow projected savings.

3. Loss of the card is a violation of a citizen's "right to free movement".

4. Alternative documents that could be used in place of Form I–197 are not as convenient, and are more susceptible to fraudulent use and counterfeiting.

The primary concern was with those applicants for admission who claim U.S. citizenship, but who speak little or no English. The U.S. Citizen Identification Card has provided a means by which an applicant could quickly establish to the satisfaction of the inspecting officer that he or she is a U.S. citizen. Without the card, future applicants for admission would presumably have greater difficulty proving their claim to U.S. citizenship, and this could delay their inspection. In some instances, U.S. citizens would be unable to establish eligibility to enter the U.S., and would have to seek other means of proving the citizenship claim.

Initially, some delays may occur; however, there are overriding factors which must be considered: First, since cards in circulation remain in effect, the impact would be far less than predicted. It would be limited, generally, to new citizens. Once it was clear to this group that alternate documents are available and can be used to establish citizenship, their compliance in using alternate documents will further reduce the possibility of inspectional delays.

Secondly, the impact will be limited because many Service officers are fluent in Spanish and can readily determine both true and false claims to U.S. citizenship by means of the verbal inspection, whether or not documents are presented.

More importantly, although the impact of inspectional delays may be a factor in the decision, it is not the central issue. The issue is whether or not the Immigration and Naturalization Service, with resources already strained in providing essential services to the public, should continue to devote resources to issue a document not required under any section of law. Savings projected for the next two years would be substantial. Cost savings is an important consideration, but it is also noted that improvement of service to the public, by devoting resources where needed most, is in line with INS management objectives to increase overall efficiency. When a negative impact is limited to relatively few, management must opt for the greatest good. Executive Order 12291 of February 17, 1981 reads, in part: "* * * agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society".

One commenter stated that abolishing the card would be "counter-productive—both as to expense and manpower". This argument makes the same presumption as discussed above, i.e., the number of inspectional delays will be high. Delays are translated into dollars, and the commenter asserts that the cost to the government in inspector time will exceed the projected savings by abolishment of the card. As indicated previously, there are factors which will serve to reduce the likelihood and frequency of delays.

A private agency commented that, in reference to abolishment of the card, "To our U.S. citizen clients its importance is as great as the I–551 is to

a Legal Permanent Resident". The commenter further asserted that community members might, with abolishment of the card, challenge the Immigration and Naturalization Service in court, "if a citizen's rights are violated to free movement".

Any violation of a citizen's rights is subject to due process, including court challenges. But free movement is not jeopardized by abolishing the card. It is not a required document under any section of U.S. law. The burden of establishing to the satisfaction of the inspecting officer that an applicant for admission to the U.S. is eligible to enter as a citizen rests with the applicant. The fact that a convenient way of so doing is removed does not alter the burden of proof or the citizen's right to enter the U.S. after he or she has satisfied that burden. Nor is a citizen's rights violated when he or she fails to prove citizenship as required under the law. It is true that some delays and inconvenience may result initially, but their number should be limited by the common sense of the citizens affected and the judgment of officers involved. In no way will abolishment of the card affect any citizen's *right* to enter the U.S. once he or she has proven citizenship. At most, it will have a limited effect on convenient access to an acceptable document which demonstrates U.S. citizenship.

Four of the five commenters expressed their concern that alternative documents are not as convenient as the wallet-sized Form I-197, and are more susceptible to fraudulent use (primarily impersonation) and counterfeiting.

The statement that the U.S. Citizen Identification Card is less susceptible to fraudulent use is only partially true. The Service has intercepted, on a fairly regular basis, counterfeit and photo-substituted forms I-197. Although fewer cards have been intercepted than counterfeit birth certificates, it is obvious there are far fewer cards in circulation than birth certificates. Much like the birth certificate, there are no security checkpoints on the Form I-197. This may further explain why fewer are intercepted, and invalidates the argument that the card is "the most foolproof indicia of US. Citizenship."

Irrespective of the frequency with which documents are used fraudulently, the question is whether or not other documents may be used in place of the card. Every alternate document that is routinely used as proof of U.S. citizenship was promulgated by federal and state laws long before the ID card came into being, i.e., U.S. passports, naturalization certificates, and State birth certificates. The likelihood of fraudulent use of these documents may have a bearing on law enforcement capabilities, (e.g., detection of counterfeit documents or imposters) but it has no bearing on the citizen's use of acceptable documents in place of the identification card, other than convenience.

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

This rule will not be a major rule as defined in Section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 235

Aliens, Immigration, Inspections, U.S. citizens.

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

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Section 235.10 is revised to read as follows:

§ 235.10 U.S. Citizen Identification Card.

(a) *General.* The U.S. Citizen Identification Card, Form I-197, is no longer issued by the Service but valid existing cards will continue to be acceptable documentation of U.S. citizenship. Possession of the identification card is not mandatory for any purpose. A U.S. Citizen Identification Card remains the property of the United States. Because the identification card is no longer issued, there are no provisions for replacement cards.

(b) *Surrender and voidance*—(1) *Institution of proceeding under section 236, 242 or 342 of the Act.* A U.S. citizen identification card must be surrendered provisionally to a Service office upon notification by the district director that a proceeding under section 236, 242 or 342 of the Act is being instituted against the person to whom the card was issued. The card shall be returned to the person if the final order in the proceeding does not result in voiding the card under this paragraph. A U.S. Citizen Identification Card is automatically void if the person to whom it was issued is determined to be an alien in a proceeding conducted under section 236 or 242 of the Act, or if a certificate, document, or record relating to that person is cancelled under section 342 of the Act.

(2) *Investigation of validity of identification card.* A U.S. Citizen Identification Card must be surrendered provisionally upon notification by a district director that the validity of the card is being investigated. The card shall be returned to the person who surrendered it if the investigation does not result in a determination adverse to his or her claim to be a United States citizen. When an investigation results in a tentative determination adverse to the applicant's claim to be a United States citizen, the applicant shall be notified by certified mail directed to his or her last known address. The notification shall inform the applicant of the basis for the determination and of the intention of the district director to declare the card void unless within 30 days the applicant objects and demands an opportunity to see and rebut the adverse evidence. Any rebuttal, explanation, or evidence presented by the applicant must be included in the record of proceeding. The determination whether the applicant is a United States citizen must be based on the entire record and the applicant shall be notified of the determination. If it is determined that the applicant is not a U.S. citizen, the applicant shall be notified of the reasons, and the card deemed void. There is no appeal from the district director's decision.

(3) *Admission of alienage.* A U.S. Citizen Identification Card is void if the person to whom it was issued admits in a statement signed before an immigration officer that he or she is an alien and consents to the voidance of the card. Upon signing the statement the card must be surrendered to the immigration officer.

(4) *Surrender of void card.* A void U.S. Citizen Identification Card which has not been returned to the Service must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(c) *U.S. Citizen Identification Card previously issued on Form I-179.* A valid U.S. Citizen Identification Card issued on Form I-179 continues to be valid subject to the provisions of this section.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 101, 212, 213, 221, 234, 235, 236, 237, 238, 242, 66 Stat. 166, as amended, 182, as amended, 188, 191, as amended, 198, 200, 201, 202, 206, as amended; 8 U.S.C 1101, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252)

Dated: February 25, 1983.

Doris M. Meissner,

Executive Associate Commissioner, Immigration and Naturalization Service.

[FR Doc. 83-5796 3-4-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 112 and 113

[Docket No. 82-096]

Viruses, Serums, Toxins, and Analogous Products; Revision of Autogenous Biologics Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the requirements for autogenous biologics. Restrictions regarding these products are removed to permit recommendations for use in herds or flocks other than the one from which the organisms were isolated. Experience has shown that organisms from one herd or flock can be effectively used to prepare autogenous biologics to combat the diseases at other locations. Samples furnished for Veterinary Services testing are increased for serials authorized to be prepared in large quantities. The time for initiating preparation of a product is increased to 12 months from date of isolation. Maximum expiration date is increased to 18 months from harvest. Observation periods for purity and safety tests are increased to correspond to other licensed products, although shipment will continue to be permitted before tests are concluded.

EFFECTIVE DATE: This amendment becomes effective March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement of any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These revisions will reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action will result in a beneficial effect to licensed producers of autogenous biologics by enabling production of larger serials to be used over larger geographical areas.

Background

Current regulations restrict the volume of a serial of an autogenous biologic to 100,000 doses for poultry and 1,000 doses for other animals (9 CFR 113.98). The regulations also state that autogenous biologics must be made using isolates from the herd or flock in which the biologic will be used and prohibit label recommendations for use of the product in a herd or flock which is different from the one where the isolates were obtained (9 CFR 113.98 and 112.7).

This amendment provides a mechanism for allowing the use of autogenous biologics in herds or flocks which are different from those where the isolate was obtained. It also deletes the prohibition against labels recommending such use in different herds or flocks. Experience has shown that organisms from one herd or flock can be effectively used to prepare autogenous biologics to combat the diseases at other locations.

The 100,000 and 1,000 dose limitation for autogenous biologics are deleted since more doses might be needed if the product is used at additional locations. For similar reasons, this amendment extends the expiration dating of autogenous biologics from 6 months to 18 months. The maximum period permitted for use of a culture is extended from the current period of 30 days to 12 months since such longer period is necessary if cultures are used to make product to be used at more than one location.

Finally, in light of the other changes being proposed, this amendment adds a provision in 9 CFR 113.3 of the regulations which specifically provides for the sampling of autogenous biologics other than bacterins. This amendment also reduces the number of samples required if a serial of autogenous vaccine does not exceed 50 containers.

Comments Received

On July 16, 1982, a notice of proposed rulemaking was published in the **Federal Register** at 47 FR 31004 discussing this revision and soliciting comments.

Responses were received from one professional organization, seven licensed biologics producers (one currently licensed to produce an autogenous biologic), one private diagnostic laboratory, and one member of a university staff.

All except three responses gave unqualified approval. The university staff member approved but objected to possible use of live organisms. Products consisting of live organisms are prohibited in the first paragraph of 9 CFR 113.98, which has not been revised. Two licensed manufacturers, neither of which produce autogenous biologics, objected to revisions removing serial size limits and extending time for preparation and use. The objections were based on the premise that products meant for "emergency use" need not be produced in great amounts and should be used in a relatively short period of time. However, it is the Department's opinion that to continue the present restrictions on autogenous products would constitute an overly restrictive view of "emergency use" since such products may be needed in situations which are other than acute emergencies in a single herd. This has been effectively controlled in the past by requiring special authorization from the Deputy Administrator when large quantities are prepared, extended use of a culture is requested, or expiration dating is increased. This type of special authorization will continue to be required where extended use of an autogenous biologic is requested. State authorities' concurrence will be an additional factor in preventing improper application of such products where more extensive need is demonstrated.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Parts 112 and 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects

9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Transportation.

9 CFR Part 113

Animal biologics.

PART 112—PACKAGING AND LABELING

Section 112.7 (g) is revised to read:

§ 112.7 Special additional requirements.

* * * * *

(g) In the case of autogenous biologics, labels shall include the recommended dose, the number of repeat doses, if any, and the interval recommended between doses; *Provided,* That the label shall not show:

(1) The identity of the herd or flock from which the culture was isolated; or

(2) The name(s) of the person(s) responsible for making the isolations.

* * * * *

PART 113—STANDARD REQUIREMENTS

Section 113.3(b) (2) and (10) are revised to read:

§ 113.3 Sampling of biological products.

* * * * *

(b) * * *

(2) *Bacterins and bacterin-toxoids.* (i) Twelve samples of single-fraction bacterins and bacterin-toxoids.

(ii) Thirteen samples of double-fraction bacterins and bacterin-toxoids.

(iii) Fourteen samples of triple-fraction bacterins and bacterin-toxoids.

(iv) Fifteen samples of bacterins and bacterin-toxoids containing more than three fractions.

* * * * *

(10) *Autogenous biologics.* Two samples from each serial of autogenous biologics shall be selected; *Provided,* That, if the serial exceeds 50 containers, 12 samples shall be selected.

* * * * *

Section 113.98(a)(2), (b), and (c) are revised to read:

§113.98 Autogenous biologics.

(a) * * *

(2) Under normal circumstances, isolates from one herd or flock shall not be used to prepare an autogenous biologic for another herd or flock. However, the Deputy Administrator may authorize preparation of an autogenous biologic for use in adjacent herds or flocks which are considered to be at risk. The Deputy Administrator may authorize preparation of an autogenous biologic for use in other herds or flocks (not adjacent) which he considers to be at risk, with written concurrence from proper State authorities.

* * * * *

(b) Unless otherwise authorized by the Deputy Administrator, each serial of an autogenous biologic shall be subject to the following restrictions:

(1) Autogenous biologics shall be prepared for emergency use only. Organisms shall not be used for production more than 12 months from isolation.

(2) The expiration date shall not exceed 18 months from harvest.

(c) *Testing Requirements.* Final container samples of completed product from each serial and subserial shall be tested for purity as prescribed in § 113.26, and for safety as prescribed in § 113.33(b) or § 113.38 except that:

(1) Serials which are satisfactory after the third day observation of purity test cultures and safety test animals may be released for shipment to the customer and the tests continued throughout the required period; and

(2) Serials released on the basis of satisfactory results of third day observations shall be immediately recalled if evidence of contamination occurs in test cultures or if any of the safety test animals sicken or die during the observation period. (37 Stat. 832–833 (21 U.S.C. 151–158))

Done at Washington, D.C., this 1st day of March 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-5756 Filed 3-4-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 83-10]

Adjustable-Rate Mortgages

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is revising its adjustable-rate mortgage (ARM) regulation (12 CFR Part 29). The revisions increase the flexibility of national banks to design ARM instruments by eliminating: (1) Limits on the frequency of payment and interest rate adjustments and (2) limits on the magnitude of interest rate adjustments. The revised regulation removes the negative amortization cap and the requirement that the monthly payment be reset at a fully amortizing level at least once every five years. Instead, the revised regulation requires that the monthly payment be reset at a level sufficient to begin reducing the outstanding debt no later than during the 21st year. The revised regulation eliminates the reporting requirement associated with payment-capped mortgage plans. The revised regulation retains (1) the requirement that changes in the ARM interest rate be tied to changes in an interest rate index and (2) most of the existing disclosure requirements. The revised regulation is expected to increase the flow of bank funds into home mortgage lending.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: David Nebhut, Financial Economist, Economic and Policy Analysis Division, (202) 447–1924, Francis S. Path, Attorney, or Jerome L. Edelstein, Attorney, Legal Advisory Services Division, (202) 447–1880, or Judith Naiman, Industry and Public Affairs, (202) 447–0934, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Special Analyses

The Secretary of the Treasury has expressly exempted this regulation from the requirement of preparing a regulatory flexibility analysis because it will not have a significant economic impact on a substantial number of small entities. The revised regulation is expected to result in an increased flow of bank funds into home mortgage lending and will eliminate the reporting requirement associated with payment-capped mortgage plans. Any costs incurred by small banks as a result of the revisions are likely to result from adjustments in computer programs and employee training. Those costs are expected to be minimal.

The Office of the Comptroller of the Currency has determined that the regulation does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a regulatory impact analysis will not be prepared on the grounds that the revision (1) will not have an annual effect on the economy of $100 million or more, (2) will not result in a major increase in the cost of bank operations or government supervision nor is it likely to generate substantially higher payments for borrowers, and (3) will not have a significant adverse effect on competition, employment,

investment, productivity, innovation, or competition with foreign-based entities.

Two modifications of the regulation are the removal of the caps on interest rate adjustments and the removal of the limit on negative amortization. The March 27, 1982 ARM regulation permitted interest rate increases in excess of the periodic caps to be carried over to future time periods. Therefore, the removal of the interest rate caps should have a small effect on the overall amount that a borrower will pay over the life of the mortgage. The Office emphasizes that the removal of interest rate caps from the regulation does not preclude the imposition of caps by lenders. Lenders may choose to design instruments with interest rate caps in order to limit their credit risk.

The likely effect of the removal of the limit on negative amortization is more complicated to evaluate, but the Office believes that the removal of the limit will not substantially increase the borrower's cost of a loan relative to the amount actually borrowed. Negative amortization, in effect, means that the lender is advancing a portion of the interest due in a given month to the borrower. Therefore, higher payments on a loan that has had higher amortization are analogous to higher payments required to repay a larger principal balance. Further, increasing the amount of permissible negative amortization will facilitate the offering of adjustable-rate mortgages with reduced monthly payments early in the loan term.

Overall, the revision of the regulation will enhance the competitive position of national banks by permitting them to develop ARM instruments that are responsive to borrower needs.

Background and Analysis

On March 27, 1981 the Office adopted a final rule establishing a framework within which national banks may make or purchase mortgage instruments that are responsive to changing interest rates and to bank deposit structures. (46 FR 18932). Technical amendments to that regulation were made in April 1982. (47 FR 13775, April 1, 1982). The ARM regulation provided sufficient flexibility to accommodate most adjustable-rate mortgage lending programs then in existence. To promote continued innovation and experimentation, section 29.9 of the rule permitted national banks to submit for review by the Office of the Comptroller of the Currency adjustable-rate mortgage plans that offer borrowers sufficient protection against payment volatility and provide for timely repayment of the loan but do not necessarily conform to all of the limitations imposed by the regulation.

Under § 29.9, the Office has permitted approximately 40 national banks to offer adjustable-rate mortgages that incorporate features not authorized by the ARM regulation. Most of the nonconforming ARM programs contain no caps on interest rates or on negative amortization and some use interest rate indexes not authorized by the Office's regulation.

The ARM rule issued in 1981 was an interim measure intended to smooth the transition from a market involving almost exclusively level-payment, fixed-rate mortgage loans to a market with a varity of flexible mortgage instruments. The movement from standard fixed-rate mortgages to a variety of alternative mortgage instruments including ARMs, shared-appreciation mortgages, and mortgages designed to accelerate repayment of principal has occurred rapidly.

Several factors have been responsible for the rapid changes in the mortgage market. One factor is the increased flexibility under which other mortgage lenders operate. In April 1981 the Federal Home Loan Bank Bank Board (FHLBB) issued a regulation permitting federally chartered savings and loan associations to offer a wide variety of adjustable mortgage loan instruments. (46 FR 24148). In July 1981 the National Credit Union Administration issued a similar regulation governing ARM lending by federally chartered credit unions, and the FHLBB amended its regulation to permit graduated-payment adjustable mortgage loans (46 FR 38669 and 46 FR 37265). In August 1982 the FHLBB replaced its several regulations governing alternative mortgage lending by federally chartered savings and loan associations with a single regulation that broadly authorizes such institutions to make a variety of alternative mortgage loans. (47 FR 36612). A number of states now permit state-chartered financial institutions to make ARMs that are more flexible than those permitted by the Office's regulation. Most recently, Title VIII of Pub. L. 97-320, the Garn-St Germain Depository Institutions Act of 1982 (DIA), enacted in October 1982, authorized state-chartered financial institutions to offer any alternative mortgage loans that similar federally chartered institutions are authorized to offer. (The Office amended 12 CFR Part 29 in December 1982 to apply the ARM regulation to state-chartered banks. (47 FR 55911).)

A second factor contributing to the development of the ARM market has been the creation of a secondary market in adjustable-rate mortgages. In June 1981 the Federal National Mortgage Association (FNMA) announced plans to purchase eight different types of ARMs. In early 1982 FNMA announced plans to purchase graduated-payment versions of three of its ARM plans. Of FNMA's eleven plans, only two are consistent with the Office's March 27, 1981 ARM regulation. The Office has permitted national banks to offer seven of the nonconforming FNMA plans under § 29.9 of the March 27, 1981 ARM regulation.

On June 2, 1982 the Office published, in the **Federal Register**, proposed changes in the adjustable-rate mortgage regulation. (47 FR 23944). Key differences between that proposal and the March 27, 1981 ARM regulation are described below.

(1) The regulation (as amended in April 1982) limited banks to five interest rate indexes. The proposed regulation would permit banks to use as an interest rate index any interest rate that was readily available to and verifiable by borrowers, and was beyond the control of the bank.

(2) The regulation prohibited interest rate adjustments that occurred more frequently than once every six months. The proposal did not include that prohibition.

(3) The regulation limited the magnitude of interest rate adjustments to not more than one percentage point per six-month period between rate adjustments and to not more than five percentage points at any single rate adjustment. The proposal did not include those limitations.

(4) The proposal did not include the requirement that any periodic or aggregate limits on interest rate changes apply to both increases and decreases.

(5) The regulation limited negative amortization to one percent of the outstanding loan balance at the beginning of any fixed-payment period times the number of six-month periods between payment adjustments. It also required that payments be reset at a fully amortizing level at least once every five years. The proposal replaced those limitations with a requirement that the payment be set at a level sufficient to begin reducing the outstanding loan principal no later than during the 21st year of the loan term and to amortize the entire principal of the loan without a substantial balloon payment by the end of the 30th year.

(6) The regulation prohibited the charging of fees for interest rate or payment adjustments and permitted prepayment fees only up until 30 days before the first rate adjustment on an

ARM. The proposal did not include those restrictions.

(7) The proposal included modifications of the disclosure requirements of the March 27, 1981 regulation. Those modifications were designed to reflect the increased flexibility offered under the proposed regulation.

General Summary of Comments

The Office received 82 comment letters in response to the proposed revisions to 12 CFR Part 29. Letters were received from national and state-chartered banks, other mortgage lenders, a law firm, trade associations, a labor organization, state regulatory officials, community and consumer groups, and individuals.

The majority of commenters supported the proposed revisions to the regulation. The view was expressed that the increased flexibility permitted by the proposed revisions would enable national banks to compete effectively with other mortgage lenders. Opposing the revisions were those who voiced concern that the increased flexibility to design programs would add to borrower confusion and hamper their ability to shop for the most appropriate loan. They were concerned that the regulation would provide insufficient borrower protections and could raise the cost of housing. Opponents were further concerned that the regulation could have particularly unfavorable consequences for women and minorities seeking housing credit.

Specific Provision of the Revised Regulation

Definition

(a) *Scope of Definition.* The final rule retains the definition in the March 27, 1981 regulation. An ARM is defined as any loan made to finance or refinance the purchase of and secured by a lien on a one- to four-family dwelling that permits the lender to adjust the interest rate periodically.

Although the proposed revision did not change the definition of an ARM, the Office received a number of comments regarding what types of loans should be included under this regulation. Some stated that commercial mortgages or nonpurchase-money loans secured by real estate should be exempted; others felt that such loans should be included. Some argued that the regulation should apply only to owner-occupied dwellings; others felt that mortgages on investment properties and nonpurchase-money mortgages should be included in the regulation.

In most cases a bank's position on the scope of the definition reflected applicable state law. Banks in states with restrictions on nonpurchase-money adjustable-rate loans secured by real estate expressed a desire for the Office's preemption of state law to be extended to such loans. Conversely, banks making such loans without state-imposed restrictions desired a limited definition.

The regulation is intended to improve the availability of mortgage funds for purchasing residential property and to assure that borrowers are provided with information regarding the operation of their loans. It is not the Office's intent to regulate adjustable-rate loans made for other purposes and, therefore, the Office has retained the limited definition. The Office recognizes the concerns of banks subject to limits on adjustable-rate lending and is considering whether to act to expand the power of national banks to make nonpurchase-money loans secured by real estate regardless of any state-law limitations.

(b) *Clarification of Definition.* Refinancing includes any situation where there is a remaining balance on an outstanding mortgage loan and where the bank is issuing a new ARM loan which will in some manner supersede or relate to the outstanding mortgage loan. Refinancing includes situations where: (1) All or part of the ARM loan proceeds are used to pay off an original purchase-money mortgage loan, (2) an existing purchase-money mortgage loan is consolidated with the new mortgage loan to form a consolidated ARM loan, regardless of how the proceeds of any new advance are used, or (3) a second lien loan results in a recasting of the terms of the existing purchase-money loan. These examples are not an all-inclusive list.

An example of a situation that does not fall under the refinancing definition of Part 29 is when the purchase-money mortgage has been paid off and the homeowner is applying for a new loan secured by a lien on the existing dwelling.

The definition does not include mortgage loans made to a builder or real estate developer when the builder or real estate developer intends to resell the structure as soon as the construction is completed. Such a loan is made to finance the working capital needs of a construction business rather than the purchase of a dwelling. The expected source of repayment is the contemplated sale of the finished houses. If a loan to an individual is made solely to finance construction and is not made to finance the purchase of the newly constructed dwelling on a permanent basis, the loan would not be subject to the ARM regulation. This requires that the permanent, *i.e.*, purchase, financing be undertaken by either the construction lender or by some other financially responsible lender under a binding commitment entered into as of the time the construction financing commences. If such a binding take-out commitment is present, the construction phase of the financing is outside the scope of this regulation.

Interest Rate Index

(a) *Choice of Index.* The revised regulation adopts the provision of the proposed regulation and permits a national bank to use as an interest rate index any interest rate (or moving average thereof) that is readily available to and verifiable by borrowers and is beyond the control of the bank.

A majority of banks commenting on the proposal favored the expanded index choice. Several commenters, however, objected to the requirement that the interest rate index be beyond the control of the lender. They stated that the profitability of a bank's mortgage portfolio could be assured only if the bank were free to set the interest rate on an ARM entirely at its discretion.

The Office recognizes the desire of some banks to change interest rates on ARMs without reference to an external interest rate index. The Office believes, however, that the indexation requirement will serve to assure borrowers that interest rate changes on ARMs reflect credit market conditions and will thereby promote the acceptance of ARMs. The Office further believes that banks will be able to find an acceptable interest rate index among those permitted by the revised regulation.

Other commenters favored a uniform ARM index. Several community groups stated that the lack of a uniform index would make comparison shopping difficult. A number of banks also objected to the lack of a uniform index on the grounds that it would hinder the development of a single, widely accepted ARM instrument.

The Office believes that a broad choice of indexes is necessary if banks are to design ARM programs responsive to their own objectives and to their customers' needs. As banks' costs of funds become increasingly sensitive to market interest rates, banks will have to develop mortgage portfolios consistent with their funding strategies. Such strategies can vary across banks. Further, to the extent that banks act as mortgage bankers and originate loans for resale in the secondary market, they

will find it necessary to design instruments that meet the varied demands of secondary market investors. Finally, it would be incorrect to assume that a single interest rate index would serve the needs of all borrowers. Some homebuyers may prefer a longer term, more stable interest rate index; others may be willing to assume the risk of greater interest rate fluctuations.

(b) *Determination of the Initial Index Value.* The Office's March 27, 1981 ARM regulation required that the initial index value be determined at the date of loan closing. That requirement was amended in April 1982 to permit a bank to establish the initial index value either on the date of loan closing or on the date the bank made a binding commitment to lend at a specified initial interest rate. The proposed revision to the regulation would have required that the initial index value be determined at the time the lender committed to the initial interest rate on an ARM.

Several commenters expressed concern that that requirement could limit national banks' ability to sell ARMs on the secondary market. They stated that the typical secondary market forward commitment to purchase an ARM specifies a yield to be earned until the first rate adjustment and a spread over the interest rate index to be earned thereafter. Therefore, an ARM that was consistent with the proposed regulation would have to be sold at a discount if the value of the interest rate index increased between the time a bank obtained a secondary market commitment and the time it committed to the initial rate on an ARM to a homebuyer. Conversely, if the interest rate index decreased, the loan would be sold at a premium. The commenters argued that such uncertainty could raise the cost of ARMs to borrowers.

The revised regulation removes the requirement that the initial interest rate index be the most recently available value either at loan closing or when a bank commits to the initial interest rate on an adjustable-rate mortgage. Consequently, banks have total flexibility in determining the initial index value on an ARM.

The danger of not specifying when the initial index is to be determined is that a bank could select an index value that would enable it to attract borrowers with an unrealistically low initial interest rate. Borrowers might then be unprepared for what could be a sizable rate increase) unrelated to changes in current market rates— at the first rate adjustment. The Office emphasizes that this flexibility should not be used to attract borrowers by offering a short-term bargain rate of interest.

The revised regulation replaces the requirement of the March 27, 1981 regulation that changes in the interest rate index result in basis-point-for-basis-point changes in the interest rate with a requirement that the relationship between the interest rate index and the interest rate on an ARM be specified in the loan documents. This change will enable banks to express interest rates as a fraction or multiple of the interest rate index. The revised regulation also replaces the requirement that rate changes be based on the most recently available index value as of the date when borrowers are notified of impending interest rate changes with a requirement that the new interest rate be based on the most recently available index value at either the notification date or the interest rate change date, whichever is earlier. This revision will enable ARM rates to reflect changes in market interest rates more quickly.

Rules Relating to Interest Rate Changes

Although the revised regulation removes most of the restrictions on interest rate changes, it requires that interest rate changes be made in accordance with rules specified in the loan documents. Such rules must cover the method used to determine the index values to which interest rate changes will be tied and the manner in which changes in the index will be translated into changes in the interest rate (*i.e.*, whether changes in the index will result in equal basis-point changes in the interest rate or whether they will be linked in some other manner). The frequency of interest rate changes and the method for implementing rate changes (*i.e.*, through changes in the monthly payment, changes in the outstanding balance, or both) must also be stated in the loan documents. Additionally, the loan documents must specify any other rules regarding rate changes that the bank might impose, such as rules regarding rounding, limits on the magnitude of rate changes, carryover of changes in excess of such limits, and mandatory and optional interest rate adjustments.

The majority of comments generally favored the removal of restrictions on interest rate adjustments. Banks requested maximum flexibility in designing ARM instruments and stated that the marketplace would determine rate change frequencies and magnitudes.

Several commenters also stated that removing the requirement that increases and decreases be symmetrical would facilitate the design of ARMs that offer a discounted initial interest rate and contain provisions for phasing out the initial discount. Under the March 27, 1981 ARM regulation, national banks making such loans were required to originate the loan at the undiscounted interest rate and to provide a separate agreement that specified the provisions of the discount. The revised regulation eliminates the need for a separate agreement by permitting national banks to establish in the loan documents provisions for phasing out any such discount. The Office emphasizes the requirement that banks making such arrangements clearly disclose the nature of the interest rate discount and the relationship between the interest rate index and the interest rate for the remainder of the loan term.

Finally, a number of commenters stated that the March 27, 1981 regulation's rules regarding required and permitted interest rate changes (which were retained in the proposed revision) could be confusing and misleading in light of the proposal's increased flexibility regarding interest rate changes. To eliminate the confusion created by these provisions, the subsection, "Required and Permitted Rate Changes", has been deleted from the revised regulation. Banks may establish rules regarding mandatory and permitted rate changes that they consider appropriate.

Those who opposed the proposed changes in the rate-change rules stated that frequent rate changes would be disruptive and could cause serious budgeting problems for households, especially during periods of rapidly rising interest rates. Banks also stated that changing interest rates more frequently than once every six months would greatly increase the cost of administering ARMs. Other commenters opposed the removal of limits on the size of interest rate changes, arguing that the lack of such limits would make ARM loans too expensive. The Office emphasizes that the removal of these requirements does not prohibit banks from establishing limits on the frequency and magnitude of interest rate changes.

Amortization Requirements

The final regulation retains the proposal's requirement that installment payments be required for an adjustable-rate mortgage loan that are sufficient to reduce the outstanding principal and accrued interest on the loan beginning no later than during the twenty-first year and are sufficient to amortize the loan without a substantial balloon payment within thirty years. The Office believes this provision is necessary to assure that adjustable-rate mortgage loans comply with the amortization and maturity requirements of 12 U.S.C. 371

and 12 CFR 7.2125. However, under Title IV of the DIA, which, as of April 14, 1983, removes statutory restrictions on amortization and maturity, the Office is reviewing the current restrictions governing the maturity and amortization of real estate loans. Until new regulations are promulgated, the restrictions on amortization and maturity of ARM loans will remain in effect. Banks should be aware of such possible changes when designing ARM programs and documents.

Under Title VIII of the DIA, state-chartered banks may make ARM loans subject to the requirements of Part 29. For such banks, the requirement that ARM loans mature within 30 years is replaced with a requirement that the maturity period on ARM loans made by state-chartered banks conform to the requirements of state law.

The Office received many comments regarding the amortization and maturity requirements of the proposed revision of Part 29. Eight commenters expressed the view that amortization should be required prior to the twenty-first year. Alternative suggestions included requiring amortization after five years, ten years, or twelve years. The Office emphasizes that the provision that the loan need not be made fully amortizing until the twenty-first year does not require banks to wait until the twenty-first year to begin amortization of principal. The Office believes the provision gives national banks the flexibility to provide loans on terms that are appropriate to each borrower's circumstances.

Six commenters, including four banks, opposed permitting any negative amortization. Another commenter, a labor organization, expressed the view that negative amortization was based on assumptions that could be erroneous. The assumptions, the commenter stated, were that borrowers' earnings will increase to meet their increased debt obligations over time, that real estate values will rise as rapidly as unpaid interest will compound, and that interest rates will remain level or decline. The commenters opposed to negative amortization also thought that significant amounts of negative amortization could have a detrimental impact on future retirees. The Office recognizes the validity of such concerns and stresses that the regulation does not require the accrual of negative amortization for twenty-one years. Banks and borrowers must determine loan terms best suited for individual cases. Further, the flexibility permitted to various types of lending institutions will enable borrowers to shop for the loan terms best suited to their current needs and expectations.

Several commenters were concerned that the provisions regarding negative amortization could lead to redlining—discrimination in residential mortgage lending based on the location of the dwelling. Lenders are reminded that any loans made pursuant to this regulation must comport with laws prohibiting housing discrimination.

Others felt that unlimited negative amortization would create safety and soundness problems by causing the amount of the loan to far exceed the value of the underlying collateral. The Office will, of course, continue to review the procedures and decisions of bank loan departments and will act to ensure that any unsafe and unsound practices are corrected.

The view that there should be no restraints on negative amortization was supported by more than twenty commenters. Another commenter thought that amortization should only be required in the twenty-fourth year. It is the opinion of the Office, however, that the proposed amortization requirement is necessary to comply with 12 U.S.C. 371 and 12 CFR 7.2125 which set forth the amortization and maturity requirements for real estate loans made by national banks. As previously noted, these requirements are currently under review as part of a general review of national banks' real estate lending powers.

Nine commenters were concerned about the lack of a definition of the term "substantial balloon payment". The revised regulation states that amortization must begin in the twenty-first year so that the loans can be paid off in thirty years without a substantial balloon payment. This term must be construed in light of the provision of 12 U.S.C. 371 which provides that "installment payments shall be required which are sufficient to amortize *the entire principal of the loan* within a period of not more than thirty years" (emphasis added). While the Office does not believe that *de minimis* variations between the regular monthly payment of principal and the final payment violate the spirit of 12 U.S.C. 371 and 12 CFR 7.2125, any such variations should be easily affordable to the average homeowner without refinancing.

Fees

The revised regulation adopts the provision of the proposed regulation and does not prohibit fees for interest rate or payment adjustments. It also expands the authority of national banks to charge fees for prepayments. Lenders that plan to charge such fees are required to disclose how such fees will be determined.

Comments on permitting fees for rate and payment adjustments were mixed. A number of bankers opposed the charging of fees for rate adjustments on the grounds that making such adjustments is a normal part of their operations and that a charge for adjustments is implicit in the interest rate on an ARM. It was also argued that such fees could impose added burdens on borrowers when increases occur and similarly diminish the benefits of decreases.

Comments on the expanded authority to charge prepayment fees were also mixed. The argument was made by many that because an adjustable-rate mortgage can ensure that the loan rate is close to market rates, there is no reason for charging prepayment fees. On the other hand, some banks noted that permitting prepayment fees would encourage the development of ARMs with relatively slow-moving interest rate indexes and long adjustment periods.

Commenters were nearly unanimous in the view that prepayment fees should not be permitted when principal is repaid ahead of schedule because of features of the loan that govern payment changes. Such features include limits on decreases in the monthly payments and graduated-payment schedules that apply regardless of interest rate movements. There was similar opposition to permitting fees when a borrower makes a greater-than-required payment to avoid negative amortization. Accordingly, language has been added clarifying that prepayment fees are not permitted in such cases.

Disclosure

The ARM regulation reflects the Office's belief that the fundamental interests of both borrowers and lenders are best served by permitting lenders to compete freely in designing and pricing ARMs that will efficiently meet borrower demands. The efficient operation of the marketplace, however, requires that both buyers and sellers be well-informed about the transactions and fully understand the contractual agreements. A wide variety of mortgage instruments, including ARMs, presents borrowers with complex and unfamiliar borrowing options which may be difficult to evaluate. Lacking adequate disclosure, many borrowers contemplating an ARM may find it difficult to make an informed decision, thus interfering with the efficient functioning of the market to the detriment of individual borrowers and lenders.

To address this concern the regulation complements the flexibility of the permitted ARM instruments with relatively comprehensive borrower disclosure requirements. Disclosures serve the two-fold purpose of educating borrowers about the nature of ARMs and equipping them to shop for the appropriate mortgage instrument.

The revised regulation retains most of the disclosure requirements of the March 27, 1981 ARM regulation. The revision also includes several additional disclosure requirements reflecting the increased flexibility provided banks by the revised regulation. Differences between the disclosure requirements of the March 27, 1981 ARM regulation and the revised regulation are listed below.

(1) The revised regulation requires lenders to state, if appropriate, that the initial monthly payment differs from the fully amortizing payment.

(2) Because the revised regulation grants lenders broad authority to charge fees related to interest rate adjustments, payment adjustments, and prepayment, the revised regulation requires lenders to disclose on what basis such fees will be charged.

(3) The required example has been revised to accommodate ARM programs which do not tie interest rate changes basis-point-for-basis-point to index changes and to clarify that the example should show the payment schedule for the entire loan term.

(4) The revised regulation replaces the requirement that banks provide prior notice of interest rate changes with a requirement that notice of interest rate changes be sent to borrowers on the first business day after the implementation of any interest rate change and, if the interest rate change is accompanied by a payment change, at least 25 days before a payment at the new level is due.

(5) The revised regulation requires that for payment changes not accompanied by an interest rate change (*e.g.*, payment changes that result from a limit on negative amortization or a predetermined schedule of payment changes) the bank provide borrowers with a payment-adjustment notification at least 25 days before a payment at the new level is due.

(6) The revised regulation includes an explanation of banks' options regarding the required disclosure for short-term demand or balloon mortgages.

(7) The revised regulation does not include a model disclosure form.

(a) *Initial ARM Disclosure.* Comments on the proposed revision's required initial disclosure were generally favorable. A number of banks requested that the Office provide a model disclosure form. The Office reiterates its view that, in light of the increased flexibility inherent in the revised regulation, a single model form is inappropriate. The Office does, however, encourage banks to consider modifying the model form provided with the March 27, 1981 ARM regulation.

Several comments were received regarding the March 27, 1981 regulation's specification of an interest rate scenario for the required hypothetical example. (The proposed revision did not include such a specification.) Those opposed to the specification of an interest rate scenario argued that it could give borrowers an unrealistic impression of the performance of the loan over its life. Those in favor of an example based on a specified interest rate scenario emphasized the need for a common basis of comparison.

The Office has decided to retain the interest rate scenario specified in the March 27, 1981 regulation. Banks may provide additional examples showing both interest rate increases and decreases to aid potential borrowers in understanding the nature of their ARM program.

The proposed revision to Part 29 included a provision requiring banks using a cost-of-funds index to disclose that, because of the gradual elimination of deposit rate ceilings, the index would be likely to have an upward bias, regardless of movements in market interest rates. In light of banks' recently expanded authority to pay market rates for a variety of consumer deposit instruments, the Office has decided that such a disclosure is unnecessary.

(b) *Notification of Interest Rate and Payment Changes.* The majority of commenters agreed that it is important to notify borrowers when the interest rate or payment on an ARM changes. Some, however, suggested expanding the notification period from 30–45 days before a rate change to 15–60 days before a change. Other comments made the point that the requirement implies that by the time a rate change is implemented, the index upon which the change will be based is two months old. Two commenters expressed the view that notification of rate changes should be required only when an interest rate change will result in a payment change.

To enable banks to reduce the lag between the determination of the index value and implementation of an interest rate change, the Office has amended the notification requirement. The revised regulation requires that notification of a rate change be sent to the borrower not later than on the first business day following the implementation of an interest rate change and, if a payment change will accompany the interest rate change, at least 25 days before a payment at the new level is due. The revision offers banks wishing to provide such notices in accordance with the March 27, 1981 ARM regulation the flexibility to do so. In most cases, banks will be able to provide a single notice of an interest rate and payment change.

A number of banks requested clarification about when separate payment change notices are required. The proposal stated that such notices would be required when a payment change occurred at a different interval than an interest rate change. The revised regulation in § 29.7(c) clarifies that a separate notice is required only when a payment changes for a reason other than an interest rate change.

(c) *Disclosure for Short-term Demand and Balloon Mortgages.* Most commenters agreed with the disclosure requirements for short-term balloon and demand mortgages. Some, however, stated that the required language is too extreme. The Office emphasizes its concern that borrowers using short-term demand or balloon mortgages be fully informed of the possibility that they will have to seek a new source of financing at then-current market rates when such loans mature or are called. The disclosure requirement, therefore, has been retained. When appropriate, however, banks may add language that indicates that they will consider refinancing short-term demand or balloon loans.

Transition Period

Section 29.9 of the March 27, 1981 ARM regulation provided national banks the opportunity to offer ARM loans that do not conform to the limitations imposed by the rule if such loans contain meaningful limitations on the volatility of payment changes and provided for timely repayment of the loans. Some of the programs permitted under section 29.9 do not conform to the amortization requirement of the revised regulation. To avoid disrupting such banks' mortgage lending programs, the revised rule provides for a 120-day transition period during which those national banks may continue to make loans or binding commitments to lend in accordance with previously authorized programs. At the expiration of the transition period, those banks will be required to bring their programs into conformity with the revised regulation.

Assumption

The Office has deleted the section of the ARM regulation that preempted state-law prohibitions on the

enforcement of due-on-sale clauses. Section 341 of the DIA has rendered such provisions unnecessary by providing a statutory preemption of state laws prohibiting the enforcement of due-on-sale clauses by lenders and their assignees or transferees.

Applicability of Part 29 to Nonfederally Chartered Commercial Banks

Title VIII of the Depository Institutions Act of 1982 permits state-chartered banks to engage in adjustable-rate mortgage transactions under the regulations of this Office. Certain provisions of the regulation, however, are inapplicable to, and have been modified for the use of, state-chartered banks. The Office has made the following determinations regarding the applicability of the revised ARM regulation to state-chartered banks.

Section 29.2, which provides authority for national banks to make ARM loans, is inapplicable to state-chartered banks. State-chartered banks draw their authority from Title VIII of the DIA as reflected in § 29.9 of this regulation.

Section 29.5(a), which requires that no later than during the twenty-first year installment payments which are sufficient to amortize the entire debt of the loan without a substantial balloon payment by the end of the thirtieth year be made, is inapplicable to state-chartered banks. The specification of the thirtieth year is a result of the provisions of 12 U.S.C. 371 and 12 CFR 7.2125 requiring that real estate loans by national banks be fully repaid within thirty years. These provisions do not apply to state-chartered banks. For this reason, section 29.5(b), which replaces the thirty-year requirement with a requirement that the maturity period of an ARM loan conform to the requirements of state law, has been included.

Section 29.8, which establishes a transition period for banks with programs that do not conform to the revised regulation, is also inapplicable to state banks. Under Title VIII of the DIA, state-chartered banks may continue to make ARM loans under the provisions of state law which may not conform to 12 CFR Part 29. Consequently, no transition period is necessary.

Finally, the Office clarifies that 12 CFR Part 29 applies to the making or purchasing of loans secured by liens on mobile homes, even when such loans are characterized as "credit sales". National and state-chartered banks should read the term "loan" as "credit sale" whenever appropriate.

List of Subjects in 12 CFR Part 29

National banks, Mortgages.

Accordingly, for the reasons set forth above, Part 29 is revised as follows:

PART 29—ADJUSTMENT-RATE MORTGAGES

Sec.

Authority: 12 U.S.C. 1 *et seq;* 12 U.S.C. 93a; and 12 U.S.C. 371.

§ 29.1 Definition.

An adjustable-rate mortgage loan is any loan made to finance or refinance the purchase of and secured by a lien on a one- to four-family dwelling, including a condominium unit, cooperative housing unit, or a mobile home, where such loan is made pursuant to an agreement intended to enable the lender to adjust the rate of interest from time to time. Adjustable-rate mortgage loans include loan agreements where the note and/or other loan documents expressly provide for adjusting the interest rate at periodic intervals. They also include fixed-rate mortgage loan agreements that implicitly permit rate adjustment by having the note mature on demand or at the end of an interval shorter than the term of the amortization schedule unless the bank has clearly made no promise to refinance the loan (when demand is made or at maturity) and has made the disclosure specified in § 29.7(d) of this part.

§ 29.2 General rule.

National banks and their subsidiaries may make, sell, purchase, participate, or otherwise deal in adjustable-rate mortgage loans only if they conform to the conditions and limitations contained in this Part. National banks and their subsidiaries may make, sell, purchase, participate, or otherwise deal in adjustable-rate mortgage loans pursuant to this Part without regard to any limitations that otherwise would be imposed on adjustable-rate mortgage lending by the laws of any State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, or Guam, which limitations are hereby expressly preempted.

§ 29.3 Index.

Changes in the interest rate charged on an adjustable-rate mortgage loan shall be linked to changes in the index specified in the loan documents. A bank may use as an interest rate index any measure of market rates of interest that is readily available to and verifiable by the borrower and is beyond the control of the bank. The index for an adjustable-rate mortgage loan shall be either single values of the chosen measure or a moving average of the chosen measure calculated over a specified period.

§ 29.4 Rate changes.

Interest rate changes on an adjustable-rate mortgage shall be based on the most recently available index value as of either the date a notification of an impending interest rate change is sent to a borrower, or the date that an interest rate change is implemented, whichever is earlier. Such changes shall be made in accordance with rules specified in the loan documents including, but not limited to, rules governing the determination of index values upon which interest rate changes will be based, the relationship between the interest rate index and the interest rate on the loan, the frequency of interest rate changes, and the implementation of interest rate changes. If appropriate, the loan documents shall include rules covering such items as periodic or aggregate limits on the magnitude of interest rate changes, minimum increments of interest rate changes, procedures for rounding the interest rate, and provisions for carryover of untaken interest rate changes to subsequent adjustment periods.

§ 29.5 Amortization requirements.

In order for an adjustable-rate mortgage loan to be considered in compliance with any amortization requirements imposed by law, regulation, or ruling, installment payments shall be required that are sufficient to reduce the outstanding debt on the loan beginning no later than during the twenty-first year; and (a) In the case of national banks are sufficient to amortize the entire debt of the loan without a substantial balloon payment by the end of the thirtieth year; and (b) in the case of nonfederally chartered commercial banks are sufficient to amortize the entire debt of the loan without a substantial balloon payment by the end of any maximum loan term permitted by state law.

§ 29.6 Prepayment fees.

Banks offering or purchasing adjustable-rate mortgage loans may impose fees for prepayments regardless of any state-law prohibitions of, or

limitations on, such fees, which prohibitions or limitations are expressly preempted. For the purposes of this Part, prepayments shall not include: (a) Principal payments that would fully amortize the loan over the remaining loan term; or (b) principal payments in excess of those necessary to retire the outstanding debt over the remaining loan term at the then-current interest rate that are made in accordance with rules governing the determination of monthly payments contained in the loan documents.

§ 29.7 Disclosure.

(a) A bank offering adjustable-rate mortgage loans shall disclose in writing on the earlier of the date on which the bank first provides written information concerning adjustable-rate mortgage loans available from the bank or provides a loan application form to the prospective adjustable-rate mortgage borrower, the following items:

(1) The fact that the interest rate may change and a brief description of the general nature of an adjustable-rate mortgage loan;

(2) The index used and the name of at least one readily available source in which it is published;

(3) A 10-year historical series (or if a 10-year series of the index does not exist the longest available series) updated at least annually showing the values of the index on at least a semiannual basis, presented in a table. The table should show either single values of the measure of interest rates or an average of single values, consistent with the bank's adjustable-rate mortgage loan program;

(4) The frequency with which the interest rate and payment levels will be adjusted;

(5) A statement, if appropriate, that the initial monthly payment may differ from the fully amortizing payment and the effect of this difference on the loan's amortization schedule;

(6) Any rules relating to changes in the interest rate, installment payment amount, and/or increases in the outstanding loan balance;

(7) A description of the method by which interest rate changes will be implemented, including, if appropriate, an explanation of negative amortization and balloon payments;

(8) A statement, if appropriate, of the rules or conditions relating to refinancing of short-term and demand mortgage loans, prepayment, and assumption;

(9) A statement, if appropriate, that fees will be charged by the bank and/or any other persons in connection with the adjustable-rate mortgage loan, including fees due at loan closing;

(10) A statement, if appropriate, that fees will be charged for interest rate or payment adjustments or for prepayments of principal and a statement of when such fees will be charged and how they will be calculated;

(11) A schedule of the dollar amounts of the installment payments (principal and interest) and the outstanding loan balance at each payment adjustment date on the adjustable-rate mortgage loan assuming an initial loan balance of $10,000. The initial interest rate should be a commitment rate offered by the bank within the preceding 12-month period. The example should be based on interest rate index increases of one percentage point per six months for the first five years of the loan term and a constant interest rate index thereafter and should cover the entire loan term.

(b) Not later than one business day after an interest rate change is implemented, and, if such interest rate change is accompanied by a payment change, at least 25 days before a payment at the new level is due, the bank shall notify the borower in writing of the following items:

(1) The current and prior interest rate;

(2) The index values upon which the current and prior interest rates are based;

(3) The extent to which the bank has foregone any increase in the mortgage interest rate;

(4) The monthly payment due after implementation of the interest rate adjustment and/or other contractual effects of the rate change;

(5) The amount of the monthly payment, if different from that given in response to item 4, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(6) A statement, if appropriate, that a prepayment fee will be charged if the borrower chooses to prepay the loan.

(c) If under the bank's adjustable-rate mortgage program, a payment change may occur for reasons other than an interest rate change including, but not limited to, a limit on negative amortization, at least 25 days before any such payment change may take effect, the bank shall notify the borrower in writing of the following items:

(1) An explanation of the circumstances that have led to such a payment change;

(2) The monthly payment due after implementation of the payment adjustment;

(3) The amount of the monthly payment, if different from that given in response to item 2, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(4) A statement, if appropriate, that a prepayment fee will be charged if the borrower chooses to prepay the loan.

(d) For the purposes of this subsection the following definitions apply: a short-term mortgage loan is any loan to finance or refinance the purchase of, and secured by a lien on, a one- to four-family dwelling that is payable either without any interim amortization of the loan or at the end of a term that, including any terms for which the bank has promised to refinance the loan, is shorter than the term of the amortization schedule; a demand mortgage loan is any loan to finance or refinance the purchase of, and secured by a lien on, a one- to four-family dwelling that is payable on demand. A bank making short-term or demand mortgage loans shall include the following notice displayed prominently and in capital letters in or affixed to the loan application form and in or affixed to the loan note:

THIS LOAN IS PAYABLE IN FULL [ON DEMAND *or* (specify date or circumstances)]. [AT MATURITY *or* IF PAYMENT IS DEMANDED *or* (upon the specified date or circumstances)] YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER, WHICH MAY BE THE BANK YOU HAVE THIS LOAN WITH, WILLING TO LEND YOU THE MONEY. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME BANK.

The bank should choose the appropriate alternative language in brackets and supply any applicable information where there is a blank. To clarify the statement, the bank may insert "[the borrower]" after each occurrence of the word "you" or the name of the bank, in brackets, after each occurrence of the word "bank". The bank may also add an additional sentence or paragraph that further explains or clarifies the loan terms and may state that the bank will consider an application to refinance the balloon payment at the time payment is due on the same basis as all other new mortgage loan applications. Fixed-rate short-term loans and fixed-rate demand loans for which this notice has been

properly given will not be characterized as adjustable-rate mortgage loans.

(e) At the date on which the initial interest rate on an adjustable-rate mortgage loan is determined, the bank shall inform the borrower of the initial index value on which the initial interest rate will be based. This initial index value shall be included in the note that the borrower signs. The borrower must be given a copy of that note no later than at loan closing.

§ 29.8 Transition rule.

If on the effective date of this rule a national bank has already made a loan or a binding commitment to lend under an adjustable-rate mortgage loan program which would violate any of the provisions of this Part, the national bank may continue to make loans or binding commitments to lend under the program for 120 days from the effective date of this rule before the program must be brought into conformity with all of the provisions of this Part.

§ 29.9 Nonfederally chartered commercial banks.

Under authority granted by Pub. L. 97-320, the Garn-St Germain Depository Institutions Act of 1982, nonfederally chartered commercial banks may make adjustable-rate mortgages in accordance with the following provisions of this Part: §§29.1, 29.3, 29.4, 29.5, 29.6, and 29.7.

Dated: February 11, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-5797 Filed 3-4-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC is amending its regulations to incorporate certain provisions of the Garn-St Germain Depository Institutions Act of 1982. These provisions explicitly give FDIC authority to compromise, modify, or remit certain civil money penalties and provide for removal of a management official for any violation of the Depository Institution Management Interlocks Act.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: James L. Meador, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550-17th Street, N.W., Washington, D.C. 20429 (202) 389-4171.

SUPPLEMENTARY INFORMATION: The Garn-St Germain Depository Institutions Act of 1982 (the "Act") (Pub. L. No. 97-320; 96 Stat. 1469 (effective October 15, 1982)) includes eight titles containing 97 sections amending the Federal Deposit Insurance Act (the "FDI Act") and other financial institution regulatory legislation. In pertinent part, section 424 of the Act amends the FDI Act with respect to the assessment of civil money penalties for violations of any final order issued under subsection (b) or (c) of section 8 of the FDI Act and for violations of 23A and 22(h) of the Federal Reserve Act (12 U.S.C. 371c and 375b), and section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. § 1972(2)(F)(i)). The amendments state that FDIC has authority to remit or modify, as well as compromise, such civil money penalties.

Section 427 of the Act amends section 8(e) of the FDI Act to provide for removal from office of any director or officer of an insured bank who has committed any violation of the Depository Institutions Management Interlocks Act (12 U.S.C. 3201, *et seq.*). In contrast to the other grounds for removal, removal is permitted for such violations without agency determination that the management official's illegal conduct has caused or will probably cause the insured bank to suffer "substantial financial loss or damage," or has caused serious prejudice to the depositors' interests, or that the official has received any financial gain from the violations, and that the violation involved personal dishonesty or demonstrated "willful disregard" for the safety or soundness of the bank.

Regulatory Factors

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inoperative here because the amendments do not affect the recordkeeping or reporting burdens on any insured bank or other person.

The amendments are rules of FDIC practice and procedure. Public notice and procedure on them are impracticable and unnecessary because the Act became effective on October 15, 1982, and FDIC has no discretion other than to modify its rules of practice and procedure to reflect the current status of the law. Therefore, in accordance with the Administrative Procedure Act (5 U.S.C. 553), the Board of Directors suspends the requirements for notice of proposed rulemaking and public comment and delayed effective date.

Although the rules apply in adminstrative proceedings involving civil money penalties or removal of management officials, the substantive basis for such actions lies in public law. The amendments are merely rules of agency practice and procedure which govern during the adjudicative process.

List of Subjects in 12 CFR Part 308

Adminstrative practice and procedure, Penalties, Cease-and-desist orders, Directors, officers, employees, Termination of deposit insurance, Removal of management official.

PART 308—RULES OF PRACTICE AND PROCEDURES

Part 308 of Chapter III of Title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 308 reads as follows:

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94-29, 80 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203 Pub. L. No. 96-481, 94 Stat. 2325 (5 U.S.C. 504).

2. Section 308.40 is amended by adding a new paragraph (d) to read as follows:

§ 308.40 Grounds for removal or prohibition.

* * * * *

(d) The Board may issue and serve upon any director or officer of an insured nonmember bank a written notice of its intention to remove the individual from office in such bank when the Board determines that the individual has committed any violation of the Depository Institution Management Interlocks Act.

§ 308.71 [Amended]

3. Section 308.71 is amended by removing the word "reduce" in the ultimate sentence and inserting in its place the words "compromise, modify, or remit".

By order of the Board of Directors on February 28, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-5792 Filed 3-4-83; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-33-AD; Amdt. 39-4579]

Airworthiness Directives; Aerospatiale (SUD) Caravelle SE-210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Aerospatiale (SUD) Caravelle SE-210 airplanes which requires inspections of certain structural components to detect cracks/corrosion damage and repairs or replacement where necessary. This action was prompted by notification by the cognizant civil air authority that certain unsafe conditions may exist or develop which compromise the structural integrity of the wing and landing gear.

DATES: Effective April 11, 1983.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Societe Nationale Industrielle Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France, Attention: M. Roger Adam, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which required inspections for cracks/corrosion damage on wing and landing gear components of Aerospatiale (SUD) Caravelle SE-210 airplanes was published in the **Federal Register** (47 FR 23175) on May 27, 1982. The Director Generale de L'Aviation Civile (DGAC) has classified certain Aerospatiale (SUD) service bulletins mandatory which require the previously mentioned inspections/repairs or replacements in order to correct unsafe conditions which exist or may develop on Caravelle airplanes currently in operation.

Interested parties have been afforded an opportunity to participate in the making of this amendment. The one U.S. Caravelle operator stated that SUD Service Bulletin 57-40 gives the inspection interval for the I_3 and I_5 wing fittings to be the periods between major inspections for airplanes operating at a maximum takeoff weight of 52 tons or less. This operator recommends predicating the inspection interval required by the rule upon the FAA approved maintenance schedule in lieu of the NPRM proposed inspection interval of 4,000 hours time in service for all Caravelle airplanes regardless of maximum takeoff weight. The FAA concurs with the operator's comment and has revised the rule accordingly. No other comments were received. It is estimated that no airplanes will be immediately affected by this AD since the one known active operator is complying with all of the service bulletins. After a review of all of the available data including the above comments, the FAA has determined that safety in the public interest requires the adoption of the rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Aerospatiale (formerly SUD): Applies to all Caravelle SE-210 Models III and VIR airplanes, certificated in all categories.

1. To prevent structural failures, accomplish the following within the time in service or number of flights specified in each paragraph below after the effective date of this AD, unless already accomplished.

A. Compliance required in accordance with SUD Service Bulletin 32-86, Revision 7, and/or in accordance with SUD Service Bulletin 32-106, Revision 4, as noted;

(1) Replace P/N 210.41.10.011-01 main landing gear hinge shaft aft end screws with P/N 210.41.10.100-01 screws (Service Bulletin 32-86) or with P/N 210.41.10.652-01 screws and 210.41.10.648-01 plugs (Service Bulletin 32-106) within the next 500 landings.

(2) Inspect P/N 210.41.10.100-01 screws in accordance with Service Bulletin 32-86 within the next 500 landings or within 8,000 total landings, whichever occurs later, and thereafter at intervals not to exceed 5,000 landings.

(3) Inspect P/N 210.41.10.652-01 screws in accordance with Service Bulletin 32-106 within the next 500 landings or within 10,000 total landings, whichever occurs later, and thereafter at intervals not to exceed 5,000 landings.

B. Compliance required in accordance with SUD Service Bulletin No. 57-40, Revision 10;

(1) Inspect the lower wing center junction fitting I_3 and I_5 bores for corrosion, ovalization, or cracks within the next 200 hours time in service or within 15,000 hours total time in service, whichever occurs later, and thereafter at intervals not to exceed 10,500 hours time in service for airplanes with a maximum takeoff weight of 52 tons or less and 4,000 hours time in service for airplanes with a maximum takeoff weight of over 52 tons.

(2) Inspect the lower wing center junction fitting I_1, I_2, and I_4 bores for corrosion, ovalization, or cracks within the next 200 hours time in service or within 18,000 hours total time in service, whichever occurs later, and thereafter at intervals not to exceed 8,000 hours time in service.

(3) Repair or replace fittings per the service bulletin instructions.

C. Inspect wing rib 44 upper cap fittings within the next 200 landings in accordance with SUD Service Bulletin 57-47, Revision 6. If no cracks are found, reinspect at intervals not to exceed 2,000 landings thereafter. If cracks are found, repair as necessary per the service bulletin and reinspect at intervals not to exceed 1,000 landings thereafter.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a) (1).

This amendment becomes effective April 11, 1983.

(Secs. 313 (a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, and 1423); Sec. 6 (c), Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 11.89).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on February 24, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-5470 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-120-AD; Amdt. 39-4580]

Airworthiness Directives; British Aerospace Model HS/DH/BH 125 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) Amendment 39-3789, which requires repetitive inspections and rework or replacement of the bridge casting for the nose landing gear drag stay assembly on British Aerospace Model HS/DH/BH 125 airplanes. Since the issuance of the AD, the manufacturer has determined there is a need to clarify and expand the inspection instructions and accordingly has issued a revision to the applicable service bulletin. The AD is therefore being amended to include this revision.

DATE: Effective March 16, 1983.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 80-12-05, Revision 1, Amendment 39-3789, requires repetitive inspections of the bridge casting on the nose landing gear drag assembly. This AD was previously amended to extend certain inspection intervals; it is now being amended to specify Revision 3 to Service Bulletin 32-184 which contains specific instructions for the inspection of an alternate bridge casting (modification 252677).

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which amends AD 80-12-05, Amendment 39-4390 (47 FR 23696, June 1, 1982), to include the latest revision of British Aerospace Aircraft Group, Service Bulletin No. 32-184.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending AD 80-12-05, Amendment 39-3789 (45 FR 37179, June 2, 1980), as amended by Amendment 39-4390 (47 FR 23696, June 1, 1982) as follows:

1. In paragraph (c) replace "August 10, 1978 (Revision 1)" with "Revision 3, dated June 24, 1982."

2. Add a new paragraph (f) after paragraph (e) to read as follows: "Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective March 16, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on February 24, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-5471 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-8-AD; Amendment 39-4581]

Airworthiness Directives; Piper Model PA-38-112 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-38-112 airplanes which supersedes AD 80-11-09. The new AD requires replacement of all the main landing gear attach bolts. Failure of these bolts and resulting loss of the main landing gear have caused accidents. This action will provide stronger clamping action and increase the strength of the main landing gear attachment to the fuselage.

DATES: Effective date: March 14, 1983.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Aircraft Corporation Service Bulletin No. 673A, dated October 20, 1982, may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone 516-791-6221.

SUPPLEMENTARY INFORMATION: Loose, bent and cracked main landing gear attachment bolts were experienced on Piper Model PA-38-112 airplanes. These occurrences were attributed to the improper clamping action of the bolt installations. To assure proper clamping attachment of the landing gear struts, AD 80-11-09 (Amendment 39-3779) 45 FR 35308 was issued which changed the AN-5-13A bolts to bolts of shorter length to assure proper clamp up.

Although AD 80-11-09 has reduced the incidents of landing gear bolt

failures, the FAA continues to receive reports of loose, bent and cracked bolts. To prevent this condition, Piper Aircraft Corporation published Service Bulletin No. 673A dated October 20, 1982, which recommends changing the AN-5 bolts to stronger NAS-145 bolts. In addition, the FAA has received reports of bent or damaged AN 7-17A bolts which attach the inboard end of the main landing gear strut. If not removed from service, such bolts may compromise the integrity of the main landing gear attachment to the fuselage.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued, superseding AD 80-11-09, which requires mandatory installation of the NAS-145 bolts and replacement of the AN 7-17A bolts with new AN 7-17A bolts, installed with proper torque, on Piper Model PA-38-112 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to Model PA-38-112 (Serial Nos. 38-78A0001 thru 38-82A0110) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent possible bending, cracking or loosening of the main landing gear attachment bolts, accomplish following:

(a) Within the next 50 hours time-in-service after the effective date of this AD:

(1) Replace the (4) landing gear AN 5 attachment bolts and AN 960 washers with (4) NAS 145-22 bolts and (4) MS20002-C5 washers, in accordance with the *Instructions* section of Piper Service Bulletin 673A dated October 20, 1982, and

(2) Replace the (2) AN 7-17A bolts which attach the inboard ends of the main landing gear legs with new AN 7-17A bolts and torque to 450-500 inch-pounds or 37-41 foot-pounds.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) Upon submittal of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA (see address below) may adjust the compliance time specified in this AD.

(d) An equivalent method of compliance with this AD may be used, if approved, by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment supersedes AD 80-11-09, Amendment 39-3779.

This amendment becomes effective on March 14, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

Issued in Kansas City, Missouri, on February 24, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-5474 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-11]

Alteration of Control Zone; Mobile, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Brookley Airport Control Zone, Mobile, Alabama, by revising the coordinates of the airport and changing the hours during which the zone is effective. Brookley Airport Traffic Control Tower has extended its hours of operation from 0800 to 1900 hours local time to 0700 to 1900 hours local time. It is necessary to revise the effective hours of the control zone to coincide with the new hours of the control tower.

DATES: Effective date: 0901 G.mt., April 14, 1983. Comments must be received on or before April 1, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revising the geographical coordinates of Brookley Airport and extending the effective hours of the control zone by one hour and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to properly reflect the geographical coordinates of Brookley Airport and extend the effective hours of the control zone to coincide with the new operating hours of the Brookley Airport Traffic Control Tower. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need for a regulation to list the correct coordinates of the airport and revise the effective hours of the control zone. The adjustments are so minor and nonsubstantive, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, April 14, 1983, as follows:

Mobile Brookley Airport, AL [Amended]

By deleting the words, ". . . (lat. 30°37'08.5" N., long. 88°03'57.2" W.) . . . and ". . . 0800 . . .", and substituting for them the words, ". . . (Lat. 30°38'27" N., Long. 88°04'23" W.) . . ." and ". . . 0700 . . .". (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on February 22, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-5682 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23549; Amdt. No. 1237]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at east 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the effected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending,

suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending Part 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective April 14, 1983*

Joliet, IL—Joliet Park District, VOR Rwy 12, Amdt. 9
St. Jacob, IL—Shafer Metro East, VOR-A, Amdt. 1
Michigan City, IN—Michigan City, VOR-A, Original
Detroit, MI—Detroit Metropolitan-Wayne County, VOR Rwy 9, Amdt. 10
Detroit, MI—Willow Run, VOR Rwy 5R, Amdt. 8
Detroit, MI—Willow Run, VOR Rwy 23L, Amdt. 6
Grand Rapids, MI—Kent County Intl, VOR Rwy 18, Amdt. 4
Grand Rapids, MI—Kent County Intl, VOR Rwy 36, Amdt. 9
Lexington, MO—Lexington Muni, VOR Rwy 22, Original
Moberly, MO—Omar N. Bradley, VOR/DME-A, Amdt. 1
St. Louis, MO—Lambert-St. Louis Intl, VOR or TACAN Rwy 12L, Amdt. 10
St. Louis, MO—Lambert-St. Louis Intl, VOR or TACAN Rwy 12R, Amdt. 20
New Bern, NC—Simmons-Nott, VOR Rwy 4, Amdt. 3
New Bern, NC—Simmons-Nott, VOR Rwy 22, Amdt. 1
Springfield, OH—Springfield Muni, VOR Rwy 6, Amdt. 6
Springfield, OH—Springfield Muni, VOR Rwy 24, Amdt. 6
Chambersburg, PA—Chambersburg Muni, VOR/DME-B, Original
Norfolk, VA—Norfolk Intl, VOR/DME Rwy 5, Amdt. 2

** * * Effective March 31, 1983*

Grand Rapids, MN—Grand Rapids Itasca County, VOR Rwy 34, Amdt. 8
* * * Effective March 17, 1983
Concord, CA—Buchanan Field, VOR Rwy 19R, Amdt. 11

** * * Effective February 16, 1983*

Madison, WI—Dane County Regional/Truax Field, VOR Rwy 13, Amdt. 16
Madison, WI—Dane County Regional/Truax Field, VOR Rwy 18, Amdt. 15
Madison, WI—Dane County Regional/Truax Field, VOR Rwy 31, Amdt. 17

2. By amending Part 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective April 14, 1983*

Wrangell, AK—Wrangell, LDA/DME-C, Amdt. 6
Wrangell, AK—Wrangell, LDA/DME-D, Amdt. 5
Americus, GA—Souther Field, LOC Rwy 22, Original
St. Louis, MO—Lambert-St. Louis Intl, LOC BC Rwy 6, Amdt. 26, cancelled
Laconia, NH—Laconia Muni, LOC Rwy 8, Amdt. 7
New Bern, NC—Simmons-Nott, LOC Rwy 4, Amdt. 3

** * * Effective March 17, 1983*

Concord, CA—Buchanan Field, LDA Rwy 19R, Amdt. 4

3. By amending Part 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective April 14, 1983*

Ketchikan, AK—Ketchikan Intl, NDB/DME-A, Amdt. 4
Americus, GA—Souther Field, NDB Rwy 22, Original
Americus, GA—Souther Field, NDB Rwy 22, Amdt. 7, cancelled
Wabash, IN—Wabash Muni, NDB Rwy 27, Amdt. 7
Cadillac, MI—Wexford County, NDB Rwy 7, Amdt. 9
Cadillac, MI—Wexford County, NDB Rwy 25, Amdt. 4
Grand Rapids, MI—Kent County Intl, NDB Rwy 26L, Amdt. 16
Ava, MO—Bill Martin Memorial, NDB Rwy 31, Original
Moberly, MO—Omar N. Bradley, NDB Rwy 13, Amdt. 2
Moberly, MO—Omar N. Bradley, NDB Rwy 31, Amdt. 2
Laconia, NH—Laconia Muni, NDB Rwy 8, Amdt. 6
Springfield, OH—Springfield Muni, NDB Rwy 24, Amdt. 12
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, NDB-A, Amdt. 14
Osceola, WI—L. O. Simenstad Muni, NDB Rwy 28, Amdt. 6

** * * Effective March 31, 1983*

Grand Rapids, MN—Grand Rapids Itasca County, NDB Rwy 34, Amdt. 4

** * * Effective February 17, 1983*

Le Mars, IA—Le Mars Muni, NDB Rwy 18, Amdt. 7

** * * Effective February 16, 1983*

Madison, WI—Dane County Regional/Truax Field, NDB Rwy 36, Amdt. 25

4. By amending Part 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective April 14, 1983*

Ketchikan, AK—Ketchikan Intl, ILS/DME-1 Rwy 11, Amdt. 3
Detroit, MI—Willow Run, ILS Rwy 5R, Amdt. 10
Detroit, MI—Willow Run, ILS Rwy 23L, Amdt. 1
Grand Rapids, MI—Kent County Intl, ILS Rwy 8R, Amdt. 2
Grand Rapids, MI—Kent County Intl, ILS Rwy 26L, Amdt. 17
State College, PA—University Park, ILS Rwy 24, Amdt. 3
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, ILS Rwy 4, Amdt. 30
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, ILS Rwy 22, Amdt. 2

** * * Effective March 31, 1983*

Grand Rapids, MN—Grand Rapids Itasca County, MLS Rwy 34 (Interim), Original
Grand Rapids, MN—Grand Rapids Itasca County, MLS Rwy 34 (Interim), Amdt. 3, cancelled

** * * Effective March 17, 1983*

Astoria, OR—Port of Astoria, ILS Rwy 26, Original

** * * Effective February 16, 1983*

Madison, WI—Dane County Regional/Truax Field, ILS Rwy 18, Amdt. 3
Madison, WI—Dane County Regional/Truax Field, ILS, Rwy 36, Amdt. 25

5. By amending Part 97.31 RADAR SIAPs identified as follows:

** * * Effective April 14, 1983*

King Salmon, AK—King Salmon, RADAR-1, Amdt. 7
St. Louis, MO—Lambert—St. Louis Intl, RADAR-1, Amdt. 29
New Bern, NC—Simmons-Nott, RADAR-1, Amdt. 2
Pittsburgh, PA—Greater Pittsburgh Intl, RADAR-1, Amdt. 22

Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, RADAR-1, Amdt. 10

** * * Effective April 16, 1983*

Madison, WI—Dane County Regional/Truax Field, RADAR-1, Amdt. 10

6. By amending Part 97.33 RADAR SIAPs identified as follows:

** * * Effective April 14, 1983*

Joliet, IL—Joliet Park District, RNAV Rwy 12, Amdt. 10
Cadillac, MI—Wexford County, RNAV Rwy, 7, Amdt. 3
Cadillac, MI—Wexford County, RNAV Rwy, 25, Amdt. 2
St. Louis, MO—Lambert-St. Louis Intl, RNAV Rwy 6, Original
Pittsburgh, PA—Greater Pittsburgh Intl, RNAV Rwy 14, Amdt. 4, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on February 25, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 83-5469 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6452; 34-19542; 35-22862; IC-13047; FR-10; S7-947]

Qualifications and Reports of Accountants; Amendment of Rules Regarding Accountants' Independence

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission announces the adoption of revisions to § 210.2-01(b) which redefine the term "member" (as the term is used in that section) and clarify the Rule's intent in certain minor respects. Appropriate changes are made in the Commission's published independence interpretations to conform such interpretations to the more limited application of § 210.2-01(b) resulting from the revised definition of the term "member".

EFFECTIVE DATE: April 6, 1983, with earlier implementation permitted.

FOR FURTHER INFORMATION CONTACT: Clarence M. Staubs (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announces the adoption of an amendment to 17 CFR 210.2-01(b) which redefines the term "member", as used in that rule, and thereby removes certain non-managerial professional employees of accounting firms from the Rule's application. In addition, certain minor changes have been made to clarify the intent of the Rule, and the related published independence interpretations [1] have been appropriately deleted or revised to conform to the requirements of the amended Rule.

Discussion

On October 14, 1982, the Commission published for comment [2] proposed amendments to 17 CFR 210.2-01(b), which would revise the definition of the term "member", as used in that rule, and make minor clarification changes in that rule.

The principal effect of the changes is to remove from the application of § 210.2-01 any non-managerial, professional employee not involved in providing professional services to the subject client or any of its affiliates. However, a professional employee having managerial responsibilities and located in the engagement office or an office of the firm which participates in a significant portion of the audit, as well as all partners, shareholders and other principals in the accounting firm continue to be subject to the requirements of § 210.2-01. The term "member", as defined prior to the changes effected by these amendments, encompassed all professional employees located in an office of the firm participating in a significant portion of the audit. The Commission has concluded that the previous definition of "member" was unnecessarily broad.

The amendments also clarify the Rule's provisions about the effect on a firm's independence when a former officer or employee of an audit client becomes an employee of or principal in the accounting firm. Prior to these amendments, the Rule was unclear as to whether the exception in the Rule applied to a person who became a principal in the firm. The revision to the Rule in that respect codifies an administrative practice which permitted such associations without an impairment of independence.

Twelve letters were received in response to the Commission's invitation to comment on the proposed changes. Eleven of the letters were from accounting firms or professional associations of accountants. The other letter was from a company which has securities registered with the Commission. All commentators favored the proposed changes. However, several respondents expressed the view that the Commission should reconsider certain of its independence interpretations, especially those dealing with the employer/employee relationships between the relatives of a "member" and audit clients of the member's firm.

One commentator opposed application of the Commission's independence requirements to all professional employees involved in providing professional services to a client. That commentator and two others objected to including managerial, professional employees who are not involved in providing services to the subject audit client in the definition of "member". No changes in the Rule have been made in response to these comments because the Commission believes that the perception of independence demands application of these requirements to all such employees.

This action of the Commission removes certain nonmanagerial, professional employees from application of the Commission's independence requirements. Except as set forth in the "Codification Update" section below, the Commission's published interpretations (including those regarding both dependent and nondependent relatives) remain in effect. The Commission's staff expects to review the existing independence interpretations regarding the impact of the activities of family members and former partners on the independence of a "member", as defined in § 210.2-01(b), in the near future.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) (47 FR 21028) is updated to:

1. Add the following subcaption at the end of § 602.01:

FRR 10

2. Include the second and third paragraphs of the "Discussion" section of this release.

3. Revise the introductory paragraph to § 602.02.d to read: Rule 2-01(b) states that, "* * * an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates * * * with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he, or his firm, or a member of his firm was connected as a promoter, underwriter, voting trustee, director, officer, or employee. A firm's independence will not be deemed to be affected adversely where a former officer or employee of a particular person is employed by or becomes a partner, shareholder or other principal in the firm and such individual has completely disassociated himself from the person and its affiliates and does not participate in auditing financial statements of the person or its affiliates covering any period of his employment by the person."

4. Revise the conclusion in Example 8 in § 602.02.d to add the following sentence:

[1] *See*, Section 602 of the Codification of Financial Reporting Policies, announced by the Commission in Financial Reporting Release No. 1 (April 15, 1982) (47 FR 21028.)

[2] *See*, Securities Act Release No. 33-6430 (47 FR 47265).

A professional employee of an accounting firm, acting individually or otherwise, may not enter into any arrangement or relationship with an audit client of his or her employer involving an activity which, if engaged in as an employee of the accounting firm, would adversely affect the firm's independence.

5. Delete Example 10 in § 602.02.h, and renumber Example Nos. 11, 12 and 13 as Nos. 10, 11 and 12, respectively.

This Codification is a separate publication issued by the Commission. It will not be published in the Federal Register/Code of Federal Regulations System.

List of Subjects in 17 CFR Part 210

Accounting, Reporting requirements, Securities, Utilities.

Text of Final Rules

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising paragraph (b) of § 210.2–01 to read as follows:

§ 210–2–01 Qualifications of accounts.

* * * * *

[b] The Commission will not recognize any certified public accountant or public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates [1] in which, during the period of his professional engagement to examine the financial statements being reported on or at the date of his report, he, his firm, or a member of his firm had, or was committed to acquire, any direct financial interest or any material indirect financial interest; [2] with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he, his firm, or a member of his firm was connected as a promoter, underwriter, voting trustee, director, officer, or employee. A firm's independence will not be deemed to be affected adversely where a former officer or employee of a particular person is employed by or becomes a partner, shareholder or other principal in the firm and such individual has completely disassociated himself from the person and its affiliates and does not participate in auditing financial statements of the person or its affiliates covering any period of his employment by the person. For the purposes of § 210.2–01(b), the term "member" means [i] all partners, shareholders, and other principals in the firm, [ii] any professional employee involved in providing any professional service to the person, its parents, subsidiaries, or other affiliates, and [iii] any professional employee having managerial responsibilities and located in [the engagement office] or other office of the firm which participates in a significant portion of the audit.

* * * * *

(Secs. 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78/, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79t of the Public Utility Holding Company Act of 1935; Sections 8, 30, 31(c) and 38(a) 15 U.S.C. 80a–8, 80a–29, 80a–30, (c), 60a–37 (a)) of the Investment Company Act of 1940)

By the Commission.

George A. Fitzsimmons,

Secretary.

February 25, 1983.

[FR Doc. 83-5705 Filed 3-4-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 279

[Release No. IA–840]

Amendments to Investment Adviser Requirements Concerning the Application for Registration

AGENCY: Securities and Exchange Commission.

ACTION: Permanent adoption of amendments to form.

SUMMARY: The Commission is adopting on a final basis certain temporary amendments relating to the registration requirements under the Investment Advisers Act of 1940. The amendments simplify the registration requirements for investment advisers subject to registration by deleting certain items from the investment adviser registration form.

EFFECTIVE DATES: April 6, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur E. Dinerman, Esq., Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 5–2, Washington, D.C. 20549, (202) 272–3021.

SUPPLEMENTARY INFORMATION: The Commission is announcing the permanent adoption of certain temporary amendments to Part I of Form ADV [17 CFR 279.1], the investment adviser registration form.[1] The temporary amendments were adopted on May 14, 1982 to simplify the form by deleting certain items from it.[2] Specifically, the temporary amendments, which were to have been in effect until March 31, 1983, deleted Items 5(b), 7(b), 13(b), 15(i), 15(iii), 16(i) and 16(iii) from Part I of Form ADV. In its release adopting the temporary amendments, the Commission invited public comments as to whether the temporary amendments should be made permanent.

The Commission received two letters in response to its invitation for comments. One letter supported adoption of the amendments and urged that the temporary amendments be made permanent. The other letter urged retention of Item 13(b), stating that the item would enable the Commission and interested persons to determine whether an applicant is permitted under Section 208 of the Advisers Act [15 U.S.C. 80b–8]

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[1] It should be noted that the changes to Form ADV which are the subject of this action relate only to Part I of Form ADV and not to Part II of the form which contains the information required to be furnished to clients and prospective clients under Rule 204–3 [17 CFR 275.204–3], the "brochure rule". In a recent decision in the District Court of the Eastern District of New York *(SEC v. Christopher Lowe,* 82 Civ. 1616, February 1, 1983) the court denied injunctive relief to the Commission on its claim that the defendants violated the antifraud provisions of Section 206 of the Advisers Act by failing to disclose to subscribers of their investment advisory newsletters that Lowe had been criminally convicted of misappropriating client funds and that he had been barred by the Commission from the investment advisory business. The court concluded that the Commission's authority to require disclosure derives from Section 204 of the Advisers Act and that no Commission rule under that section requires such disclosure of past misconduct to clients and prospective clients. The Commission wishes to emphasize that its action today should not be taken as any indication of its views with respect to the court's conclusions regarding the inter-relationship, if any, of the requirements of the brochure rule with the disclosure obligations which are imposed on investment advisers by virtue of the anti-fraud provisions contained in Section 206 of the Advisers Act [15 U.S.C. 80b–6]. The Commission has not determined whether to appeal those portions of the court's decision denying the relief sought by the Commission. The Commission notes, moreover, that paragraph (e) of Rule 204–3 [17 CFR 275.204–3(e)] specifically provides that nothing in that rule shall relieve an investment adviser from any obligation pursuant to, among other things, any provision of the Advisers Act to disclose any information to clients or prospective clients not specifically required under the brochure rule. An investment adviser is required under Section 206 of the Advisers Act to disclose all material facts to clients and prospective clients. *See, SEC v. Capital Gains Research Bureau, Inc.,* 375 U.S. 180 (1963).

[2] Release No. IA–805, May 14, 1982 [47 FR 22505, May 25, 1982 and 47 FR 29652, July 8, 1982].

to use the term "investment counsel" as descriptive of its business. Item 13(b) asked whether a substantial part of the applicant's investment advisory business consists of rendering "investment supervisory services." Section 208(c) of the Advisers Act prohibits an adviser from using the term "investment counsel" unless his or its principal business consists of acting as investment adviser and a substantial part of his or its business consists of rendering "investment supervisory services." It is true that Item 13(b) was intended to elicit a response that would have a bearing on whether an investment adviser could properly use the term "investment counsel." However, as stated in Release No. IA-805, Item 13(b) partially duplicated another item of Form ADV. Moreover, whether or not an adviser may properly use the term "investment counsel" is dependent on the actual facts and may not be determined solely on the basis of responses to a form. Accordingly, the Commission does not believe that its ability to make such determinations will be impaired by deletion of Item 13(b).

For the reasons discussed in Release No. IA-805, the Commission has determined to adopt the amendments on a permanent basis. The Commission has determined that the information contained in the deleted items, although generally useful to the Commission in its understanding of the investment advisory industry, is not sufficiently important to justify the costs of continued use of the items.

List of Subjects in 17 CFR Part 279

Investment advisers, Reporting requirements, Securities.

Text of Amendment

The Commission hereby amends Part 279 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

By amending Part I of Form ADV required by § 279.1 as follows:

(i) Item 5 of Part I is amended by deleting part (b) in its entirety and by deleting the designation "(a)".

(ii) Item 7 of Part I is amended by deleting part (b) in its entirety and by deleting the designation "(a)".

(iii) Item 13 of Part I is amended by deleting part (b) in its entirety and by deleting the designation "(a)".

(iv) Item 15 of Part I is amended by deleting parts (i) and (iii) in their entirety and by deleting the designation "(ii)".

(v) Item 16 of Part I is amended by deleting parts (i) and (iii) in their entirety and by deleting the designation "(ii)".

Statutory Authority

The Commission amends Form ADV pursuant to the authority contained in Sections 203, 204 and 211(a) of the Act [15 U.S.C. 80b-3, 80b-4 and 80b-11(a)].

Dated: February 28, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5703 Filed 3-4-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1002-83]

Organization of the Department of Justice

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Revisions to Subparts H, I and K of Part 0 of 28 CFR, Organization of the Department of Justice, to reflect the transfer of the Consumer Affairs Section from the Antitrust Division to the Civil Division and the transfer of certain civil litigation arising under the Immigration and Nationality Act and related laws from the Criminal Division to the Civil Division.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: J. Paul McGrath, Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Room 3143, Washington, D.C. 20530. Telephone: (202) 633-3301.

SUPPLEMENTARY INFORMATION: This order is not a rule within the meaning of either Executive Order 12291 section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 28 CFR Part 0

Government employees, Organization of functions (Government agencies) and Authority delegations (Government agencies).

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

§0.40 [Amended]

1. In § 0.40 of Subpart H, Antitrust Division, paragraph (j) is removed.

§0.41 [Amended]

2. In § 0.41 of Subpart H, Antitrust Division, paragraph (b) is removed.

3. In § 0.41 of Subpart H, Antitrust Division, paragraphs (c), (d), (e), (f) and (g) are redesignated as paragraphs (b), (c), (d), (e) and (f) respectively.

4. In § 0.41, paragraph (g), redesignated as paragraph (f) is amended by changing "paragraphs (a) through (f)" to "paragraphs (a) through (e)" and by removing the words "and judgments rendered upon review of Federal Trade Commission orders by courts of appeals."

5. In § 0.41 of Subpart H, Antitrust Division, paragraph (h) is removed.

6. In § 0.41 of Subpart H, Antitrust Division, paragraph (i) is redesignated as paragraph (g).

§0.45 [Amended]

7. A new § 0.45(j) is added to Subpart I, Civil Division, to read as follows:

* * * * *

(j) Consumer Litigation—All civil and criminal litigation and grand jury proceedings arising under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Fair Packaging and Labeling Act (15 U.S.C. 1451 *et seq.*), the Automobile Information Disclosure Act (15 U.S.C. 1231 *et seq.*), the odometer requirements section and the fuel economy labeling section of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1981 *et seq.*), the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 *et seq.*), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*), the Federal Caustic Poison Act (15 U.S.C. 401 note), the Consumer Credit Protection Act (15 U.S.C. 1611, 1681q and 1681r), the Wool Products Labeling Act of 1939 (15 U.S.C. 68), the Fur Products Labeling Act (15 U.S.C. 69), the Textile Fiber Products Identification Act (15 U.S.C. 70 *et seq.*), the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*), the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), the Refrigerator Safety Device Act (15 U.S.C. 1211 *et seq.*), Title I of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 *et seq.*), the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*), and Section 11(1) of the Clayton Act (15 U.S.C. 21(1)) relating to violations of orders issued by the Federal Trade Commission. Upon appropriate certification by the Federal Trade Commission, the institution of criminal

proceedings, under the Federal Trade Commission Act (15 U.S.C. 56(b)), the determination whether the Attorney General will commence, defend or intervene in civil proceedings under the Federal Trade Commission Act (15 U.S.C. 56(a)), and the determination under the Consumer Product Safety Act (15 U.S.C. 2076(b)(7)), whether the Attorney General will initiate, prosecute, defend or appeal an action relating to the Consumer Product Safety Commission.

To effect the transfer of certain civil litigation arising under the Immigration and Nationality Act and related laws from Assistant Attorney General, Criminal Division, to the Assistant Attorney General, Civil Division, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C 509 and 510, Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

§ 0.45 [Amended]

1. Add a new paragraph (k) to 28 CFR 0.45 to read:

* * * * *

(k) All civil litigation arising under the passport, visa and immigration and nationality laws and related investigations and other appropriate inquiries pursuant to all the power and authority of the Attorney General to enforce the Immigration and Nationality Act and all other laws relating to the immigration and naturalization of aliens except all civil litigation, investigations, and advice with respect to forfeitures, return of property actions, Nazi war criminals identified in 8 U.S.C. 1182(a)(33), 1251(a)(19) and civil actions seeking exclusively equitable relief which relate to national security within the jurisdiction of the Criminal Division under § 0.55 (d), (f), (i) and § 0.61(d).

§ 0.55 [Amended]

2. Revise § 0.55(d) to clarify the initial clause and to qualify the words "the Immigration and Nationality Act."

* * * * *

(d) Forfeiture or civil penalty actions (including petitions for remission or mitigation of forfeitures and civil penalties, offer in compromise and related proceedings) under the Federal Aviation Act of 1958, the Contraband Transportation Act, the Copyrights Act, the customs laws (except those assigned to the Civil Division which involve sections 592, 704(i)(2) or 734(i)(2) of the Tariff Act of 1930), the Export Control Act of 1949, the Federal Alcohol Administration Act, the Federal Seed Act, the Gold Reserve Act of 1934, the Hours of Service Act, the Animal Welfare Act, the Immigration and Nationality Act (except civil penalty actions and petitions and offers related thereto) the neutrality laws, laws relating to cigarettes, liquor, narcotics and dangerous drugs, other controlled substances, gambling, war materials, pre-Columbian artifacts, coinage, and firearms, locomotive inspection (45 U.S.C. 22, 23, 28–34), the Organized Crime Control Act of 1970, prison-made goods (18 U.S.C. 1761–1762), the Safety Appliance Act, standard barrels (15 U.S.C. 231–242), the Sugar Act of 1948, and the Twenty-Eight Hour Law.

* * * * *

3. Revise § 0.55(f) to read:

* * * * *

(f) All criminal litigation and related investigations and inquiries pursuant to all the power and authority of the Attorney General to enforce the Immigration and Nationality Act and all other laws relating to the immigration and naturalization of aliens; all advice to the Attorney General with respect to the exercise of his parole authority under 8 U.S.C. 1182(d)(5) concerning aliens who are excludable under 8 U.S.C. 1182(a)(23), (28), (29), or (33); and all civil litigation with respect to the individuals identified in 8 U.S.C. 1182(a)(33), 1251(a)(19).

* * * * *

4. Revise § 0.55(i) to read:

* * * * *

(i) All civil proceedings seeking exclusively equitable relief against Criminal Division activities including criminal investigations, prosecutions and other criminal justice activities (including without limitation, applications for writs of habeas corpus not challenging exclusion, deportation or detention under the immigration laws and coram nobis), except that any proceeding may be conducted, handled, or supervised by another division by agreement between the head of such division and the Assistant Attorney General in charge of the Criminal Division.

* * * * *

Dated: February 23, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-5690 Filed 3-4-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 0

[Order No. 1003-83]

Delegation of the Attorney General's Authority With Respect to Export Trade Certificates of Review

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: This rule delegates all of the Attorney General's functions with respect to determinations concerning export trade certificates of review to the Assistant Attorney General for Antitrust. It also delegates to the Assistant Attorney General for Antitrust the authority to defend the Secretary of Commerce and the Attorney General, or their delegates, in actions brought before federal district courts and courts of appeals to set aside a determination with respect to export trade certificates of review.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart M. Chemtob, Attorney, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530. Tel. (202) 633–3718.

SUPPLEMENTARY INFORMATION: This order deals with agency management. It is not required to be and has not been published in proposed form for comment under 5 U.S.C. 553(b). It is not a rule within the meaning of or subject to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Likewise, it is not a rule within the meaning of or subject to Executive Order No. 12291 ("Federal Regulation").

List of Subjects in 28 CFR Part 0

Government employees, Organization and functions (Government Agencies), Authority delegations (Government Agencies).

PART 0—[AMENDED]

Accordingly, by virtue of the authority vested in me as Attorney General by 28 U.S.C. 510, it is hereby ordered as follows:

1. A new paragraph (k) is added to 28 CFR 0.40 to read as follows:

§ 0.40 General functions.

* * * * *

(k) As the delegate of the Attorney General, performance of all functions which the Attorney General is required or authorized to perform by Title III of Pub. L. 97–290 (15 U.S.C. 4011–4021) with respect to export trade certificates of review.

2. A new paragraph (j) is added to 28 CFR 0.41 to read as follows:

§ 0.41 Special functions.

* * * * *

(j) Defending the Secretary of Commerce and the Attorney General, or their delegates, in actions to set aside a determination with respect to export trade certificates of review under Section 305(a) of Pub. L. 97–290 (15 U.S.C. 4015(a)).

Dated: February 23, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-5700 Filed 3-4-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 0

[Order No. 1001-83]

Redelegation of Authority To Operate and Maintain Buildings

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Administrator of the General Services Administration has delegated to the Attorney General the authority to operate and maintain the Main Justice Building and the J. Edgar Hoover Building. This order redelegates the operation and maintenance authority over these buildings, and any future such authority as delegated to the Attorney General by the General Services Administration, to the Assistant Attorney General for Administration.

EFFECTIVE DATE: February 26, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. McElroy, Assistant Director for Facilities Management, Administrative Services Staff, Justice Management Division, Department of Justice, Room 6312, 10th and Constitution Avenue, NW., Washington, D.C. 20530 ((202) 633-4405).

SUPPLEMENTARY INFORMATION: This order deals with agency management. Therefore, it is not required to be and has not been published in proposed form for comment. This order is not a rule within the meaning of either Executive Order No. 12291 or of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, and Organization and functions (Government agencies).

Accordingly, by virtue of the authority vested in me as Attorney General by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, it is hereby ordered that Part 0 of Title 28, Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

1. In § 0.76, a new paragraph (u) is added, reading as follows:

§ 0.76 Specific functions.

* * * * *

(u) Perform functions with respect to the operation, maintenance, repair, preservation, alteration, furnishing, equipment and custody of buildings occupied by the Department of Justice as delegated by the Administrator of the General Services Administration.

2. Section 0.77 is amended by revising paragraph (g) to read as follows:

§ 0.77 Operational functions.

* * * * *

(g) Implementing and administering programs for procurement, personal property, supply, motor vehicle, space management, and operations and management of buildings as delegated by the Administrator of the General Services Administration.

* * * * *

Dated: February 26, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-5606 Filed 3-4-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Removal of Conditions of Approval of the Utah Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 944 to remove two of the Secretary's conditions of approval of the Utah permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Utah submitted provisions to OSM on December 8, 1982, intended to satisfy the two conditions of approval. OSM has reviewed these amendments and determined they satisfy the Secretary's conditions.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481-70510). The State of Utah resubmitted the program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After thoroughly reviewing the program resubmission and providing an opportunity for the public to comment, the Secretary of the Interior determined that the Utah program, including the resubmission did, with minor exceptions, meet the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899-5915).

Information pertinent to the general background, revision, modifications, and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899-5915).

In accepting the Secretary's conditional approval, Utah agreed to satisfy conditions "a"-"e" by December 1, 1981, and conditions "f"-"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f", "g", and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983 (47 FR 234155-234156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"-"e", "g" and "i"-"l".

On June 22, 1982 (47 FR 26827-26831), the Assistant Secretary for Energy and Minerals announced his decision to remove conditions "a"-"e", "j" "l" and to grant Utah until September 1, 1982, to submit modifications to satisfy conditions "g", "i" and "k". In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct by January 1, 1983, a deficiency

in the State program which had come to OSM's attention.

On August 26, 1982, Utah adopted and submitted to OSM regulatory modifications intended to satisfy conditions "f", "g", "i" and "k". Following OSM's review of these amendments as outlined in 30 CFR 732, the Secretary removed conditions "f", "g", "i" and "k" (47 FR 55672, December 13, 1982).

On December 8, 1982, Utah submitted amendments to satisfy conditions "h" and "m". On December 30, 1982, OSM announced receipt of these amendments in the **Federal Register** (47 FR 58303–58305) and invited public comment through January 31, 1983, on the adequacy of the provisions submitted in satisfying conditions "h" and "m". A public hearing scheduled for January 25, 1983, was cancelled, as no one indicated an interest in presenting testimony at the hearing.

Secretary's Determinations

Following are the Secretary's findings on the amendments submitted by Utah on December 3, 1982 to meet conditions "h" and "m".

1. Condition "h" of the Secretary's approval of Utah's program stipulates that Utah must submit to the Secretary by January 1, 1983, copies of fully enacted regulations specifying that underdrains are required in all valley fills unless a waiver is granted with an experimental practice approved by OSM, in accordance with UMC 817.72(b)/SMC 816.72(b) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c) or otherwise amends its program to accomplish the same result.

Utah has amended UMC 817.72/SMC 816.72 subpart (b) to require that the underdrain requirement is not waived except with the approval of the Director of OSM after a demonstration that the waiver qualifies under the requirements for experimental practice set forth under UMC/SMC 785. Also UMC 817.72(c) and SMC 816.72(c) have been modified to require that spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the Division in lifts no greater than four feet or less, unless approved by the Director of the Office of Surface Mining as an experimental practice in accordance with UMC 785.13. The Secretary has determined that these amended provisions satisfy condition "h" of his approval of Utah's program.

2. Condition "m" of the Secretary's approval of Utah's program stipulates that Utah must submit copies of fully enacted regulations deleting the provision at UMC/SMC 785.19(c) which allows a waiver of the requirements of subsections (d) and (e) of UMC/SMC 785.19 and of UMC/SMC 822 or otherwise amends its program to be consistent with 30 CFR 785.19 (c) and (d).

Utah has submitted an amended version of UMC/SMC 785.19(c)(3)(ii) which provides that if the Division makes a finding that the area of the alluvial valley floor to be affected is insignificant to farming it may waive all or any of the requirements of paragraphs (d) and (e) of section 785.19 and of section 822 provided any waiver granted shall not negate the requirements necessary for the protection of essential hydrologic functions.

With respect to the Federal requirements for insuring that the surface mining operation does not materially damage the quantity or quality of water, Judge Thomas Flannery ruled (In re: Permanent Surface Mining Regulation Litigation, Civil No. 79–114–D.D.C. May 16, 1980) that the material damage requirements only apply to alluvial valley floors that are significant to farming. Hence, although OSM's regulations do not explicitly allow a waiver to the material damage requirements at 30 CFR Parts 785 and 822, under Judge Flannery's decision the regulatory authority cannot require an operator to comply with those requirements if a determination has been made that the alluvial valley floor is insignificant to farming. Regardless of the regulatory authority's determination with respect to the alluvial valley floor's significance to farming, the permit applicant must submit adequate information and analysis to allow the regulatory authority to determine that the operation will preserve the essential hydrologic functions of the alluvial valley floor, and must comply with the performance standards at 30 CFR Part 822 relative to the protection of the essential hydrologic function of the alluvial valley floor.

As stated above, Utah's amended version of UMC/SMC 785.19(c)(3)(ii) allows the Division to waive any or all of the requirements of UMC/SMC section 785.19 and 822 except the requirements pertaining to the protection of essential hydrologic functions if the Division finds that the area of the alluvial valley floor to be affected is not significant to farming.

OSM has determined that Utah's waiver provision at UMC/SMC 785.19(c)(3)(ii) is consistent with the Federal rules as interpreted by the Court. Thus, the Secretary removes condition "m".

Public Comment

The Bureau of Mines commented that Utah's underdrain requirement at UMC 817.72(b)(4)/SMC 816.72(b)(4) may be impossible to meet. This provision requires that underdrains for valley fills shall consist of nondegradeable, nonacid, or toxic-forming rock such as natural sand and gravel, sandstone, limestone, or other durable rock that will be free of coal, clay, or shale. This requirement is virtually identical to OSM's provision at 30 CFR 817.72(b)(4). Thus, the Secretary finds the State's provision consistent with the Federal standard.

The National Park Service (NPS) stated that Utah's amended regulations at UMC 817.72/SMC 816.72 appear to contain an internal contradiction. Specifically, NPS commented that paragraph (b)(3) of this section which specifies that "Underdrains * * * will be free of coal, clay or shale" contradicts paragraph (b)(4) which precludes the use of shale as a predominant type of fill material. OSM has determined that NPS may be confusing the allowable fill material with the allowable construction material for the underdrain itself. OSM has determined that the State's requirements for underdrains and its procedures for placement of excess spoil in valley fills are consistent with the Federal rules at 30 CFR 817.72.

The Soil Conservation Service, the Bureau of Land Management and the Fish and Wildlife Service commented that they had reviewed the amended provisions of UMC/SMC 785.19 and UMC 817. 72/SMC 816.72 and had no objections to the State's revised rules.

Removal of Conditions

Accordingly, 30 CFR Part 944 is hereby amended to indicate approval of the provisions submitted by the State on December 8, 1982, and removal of the two remaining conditions of the Secretary's approval of Utah's program, conditions "h" and "m".

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibililty Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *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 3507.

On February 16, 1983, the Environmental Protection Agency transmitted its written concurrence on the December 8, 1982, Utah program amendments.

List of Subjects in 30 CFR Part 944

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

Accordingly, Part 944 of Title 30 is amended as set forth herein.

Dated: February 28, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 944—UTAH

§ 944.11 [Removed]

1. 30 CFR 944.11 is removed.

2. 30 CFR 944.15 is amended by adding paragraph (d) to read as follows:

§ 944.15 Approval of amendments to State regulatory program.

* * * * *

(d) The amendments to the following sections were adopted.

November 30, 1982, are approved effective March 7, 1983.

(i) SMC 816.72/UMC 817.72 subparts (b) and (c).

(ii) UMC/SMC 785.19 subpart (c)(3)(ii).

[FR Doc. 83-5816 Filed 3-4-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-10-FRL 2299-8]

Designation of Areas for Air Quality Planning Purposes: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this notice, EPA redesignates Port Angeles, Washington, from "nonattainment" for the secondary National Ambient Air Quality Standards for total suspended particulates (TSP) to "attainment." This redesignation is based on documentation submitted by the Department of Ecology pursuant to section 107(d) of the Clean Air Act. The data indicates that the Port Angeles area has been attaining secondary TSP standards since 1979 and thus qualifies for an attainment designation.

EFFECTIVE DATE: This action is effective on May 6, 1983 unless notice is received before April 6, 1983 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period on this action.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A-82-21), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224 Sixth Avenue, SE, Rowe Six, Building #4, Lacey, Washington 98504

Copy of State Submittal may be Examined at: The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20460.

Comments Should be Addressed to: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1985, FTS: 399-1985.

SUPPLEMENTARY INFORMATION: On March 3, 1978, EPA designated, pursuant to the requirements of Section 107(d) of the Clean Air Act (as amended), all areas of the country as "attainment," "nonattainment," or "unclassifiable" in terms of meeting National Ambient Air Quality Standards. At that time, Port Angeles, Washington, was designated "nonattainment" for secondary TSP standards.

On December 7, 1982, the State of Washington Department of Ecology (DOE) submitted a request for EPA to redesignate Port Angeles to "attainment" for TSP. The State submittal described area source dust controls that were implemented and contained documentation that no TSP standards have been violated in Port Angeles since 1979. With more than two years of data showing attainment of standards, EPA is redesignating the Port Angeles area to "attainment."

The public should be advised that this action will be effective on May 6, 1983. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on those revisions and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, petition for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 1983. This action may not be challenged later in civil proceedings to enforce its requirements (See section 307(b)(2) of the Clean Air Act).

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that area redesignations under section 107 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709; January 27, 1981). This action constitutes a redesignation under Section 107 within the terms of the January 27, 1981 certification.

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

(Secs. 107 and 301(a) of the Clean Air Act (42 U.S.C. 7407 and 7601(a))

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: February 18, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.348, the table for Total Suspended Particulate is revised as follows:

§ 81.348 Washington.

WASHINGTON—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Seattle—that area including the north portion of the Duwamish industrial area, and extending to the southern boundary of the CBD.	X			
Seattle—an area of the Duwamish Valley extending approximately 2½ miles further south than the above area.		X		
Renton		X		
Kent		X		
Tacoma—that area including the Tide Flats industrial area, east end of the CBD and the north end of South Tacoma Way corridor.	X			
Port Angeles—small area of the CBD				X
Longview—industrial area		X		
Vancouver—small portions of the industrial port area	X			
Spokane	X			
Clarkston	X [1]			
Remainder of State				X

[1] EPA designation replaces State designation.

* * * * * * *

[FR Doc. 83-4967 Filed 3-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-6620.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Louisiana: Tangipahoa Parish	Unincorporated areas	220206B	February 2, 1983, suspension withdrawn	Jan. 17, 1975 and Nov. 29, 1977.
Maryland: Kent	Betterton, town of	240095A	do	Jan. 24, 1975.
Michigan:				
Calhoun	Bedford, township of	260052B	do	Aug. 16, 1974 and Aug. 6, 1976.
LeeLanau	Elmwood, township of	260113C	do	Mar. 5, 1976, Sept. 28, 1979 and Sept. 20, 1974.
Antrim	Milton, township of	260637B	do	July 8, 1977.
Oakland	Charter Twp. of Waterford	260284B	do	Aug. 16, 1974 and June 4, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Mississippi: Rankin	Richland, city of	280299B	do	Apr. 26, 1978.
Missouri: Chariton	Brunswick, city of	290074B	do	Mar. 29, 1974 and Jan. 16, 1976.
New Jersey:				
Cape May	Lower, township of	340153B	do	July 19, 1974.
Sussex	Sussex, borough of	340457B	do	June 14, 1974 and Mar. 5, 1976.
Ohio:				
Jefferson	Brilliant, village of	390297B	do	Jan. 9, 1974 and May 28, 1976.
Licking	Pataskala, village of	390336A	do	Oct. 8, 1976.
Oklahoma: Grady	Alex, town of	400063A	do	Nov. 26, 1976.
Pennsylvania: Blair	Snyder, township of	421393B	do	Jan. 10, 1975 and Dec. 23, 1977.
Rhode Island: Newport	Newport, city of	445403C	do	July 1, 1974, Nov. 21, 1975 and June 17, 1970.
New York: Allegany	Alfred, town of	360019A	do	June 18, 1976.
New Jersey:				
Camden	Clementon, borough of	340130A	do	Feb. 6, 1976.
Salem	Pittsgrove, township of	340421A	do	Dec. 3, 1976.
New York: Nassau	Laurel Hollow, village of	360475B	May 8, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended; Feb. 4, 1983, reinstated.	June 28, 1974 and July 9, 1976.
Mississippi: Humphreys	Unincorporated areas	280192B	Jan. 14, 1974, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended; Feb. 9, 1983, reinstated.	Apr. 14, 1978.
New York: Montgomery	Palatine Bridge, village of	360454B	Dec. 24, 1975, emergency; Nov. 17, 1982; regular; Nov. 17, 1983, suspended; Feb. 9, 1983, reinstated.	Feb. 15, 1974 and June 18, 1976.
New Jersey: Cumberland	Vineland, city of	340176B	Dec. 17, 1971, emergency; July 5, 1982, regular; July 5, 1982, suspended; Feb. 11, 1983, reinstated.	May 4, 1973 and July 22, 1977.
New Mexico: Chaves	Unincorporated areas	350125B	Feb. 2, 1983, emergency; Feb. 2, 1983, regular.	June 13, 1978.
Arkansas: Union	do	050205A	Feb. 7, 1983, emergency	Dec. 13, 1977.
Oklahoma:				
Ottawa	Commerce, city of	400156	do	June 4, 1976.
Johnston	Milburn, town of	400308	do	
Arkansas: Ashley	Unincorporated areas	050003B	Feb. 7, 1983, emergency; Feb. 7, 1983, regular.	Nov. 15, 1977 and Nov. 17, 1982.
Colorado: Prowers	Lamar, city of	080146B	Apr. 8, 1975, emergency; Nov. 17, 1982, regular; Nov. 17, 1982, suspended; Feb. 11, 1983, reinstated.	Mar. 22, 1974 and Aug. 13, 1976.
Arkansas: Van Buren	Unincorporated areas	050566	Feb. 8, 1983, emergency	Do.
Pennsylvania: Northumberland	McEwensville, borough of	421935	Feb. 14, 1983, emergency	Dec. 27, 1974.
Utah: Salt Lake	West Valley City, city of	490245	do	Do.
Oklahoma: Custer	Butler, town of	400266	Feb. 15, 1983, emergency	Nov. 5, 1976.

(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: February 22, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5536 Filed 3-4-83; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte No. 326 (Sub-3); Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures; Regulations Governing the Transfer of General Increases From Master Tariffs Into the Individual Tariffs of Railroads or Rail Ratemaking Organizations

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice; extension of time.

SUMMARY: The Commission is extending the time period under 49 U.S.C. 10762 (d) (2) and 49 CFR 1300.32 for rail carriers and their agents to transfer into basic tariffs the quarterly cost recovery increases taken pursuant to Ex Parte No. 290 (Sub-No. 2) (46 FR 22594, April 20, 1981) and published in master tariffs. The extension applies only where these increases are published in single, cumulative master tariffs on a yearly basis. The time period in this situation is being extended until the second year following the end of the third quarter of each year in which such an increase is effective. The Commission is granting the extension to allow rail carriers to have the benefit of the entire two-year statutory time period so that the carriers can continue to publish these increases in a single tariff on a yearly basis.

EFFECTIVE DATE: April 6, 1983.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer (202) 275–7245

or

Richard Armstrong (202) 275–6430

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 and Constitution Ave., NW., Washington, DC 20423; (202) 289–4357—DC metropolitan area; (800) 424–5403—Toll free for outside the DC area.

Decided: February 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5716 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 45
Monday, March 7, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Definition of Small Business for Preferential Treatment in Purchase of Special Salvage Timber Sales (SSTS)

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: A notice was published in the **Federal Register** of August 23, 1982, proposing a change to the size standard for the eligibility of small business concerns for preferential award of special salvage timber sales (SSTS). Based on comments received, on that proposal, the Small Business Administration (SBA) hereby proposes that: (1) A significant portion of the logging of an SSTS timber sale sold through preferential bidding to a logger, must be performed by the employees of the purchaser, and (2) that a manufacturer who is preferentially awarded an SSTS sale, must perform a significant portion of log manufacture with its own employees but may subcontract the logging to concerns that are eligible for the preferrential award of an SSTS sale.

DATE: Comments are invited on or before April 6, 1983.

ADDRESS: Address comments to: Andrew Canellas, Director, Office of Industry Analysis, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Joseph E. Kernan, Director, Office of Natural Resource Sales Assistance, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416, Telephone: (202) 653–6078.

SUPPLEMENTARY INFORMATION:

General

In connection with sale of Government-owned special salvage timber designated by the U.S. Forest Service (USFS) as SSTS, by regulation, a small business is a concern that:

(1) Is primarily engaged in the logging or forest products industry;

(2) Is independently owned and operated;

(3) Is not dominant in its field of operations; and

(4) Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months.

(5) Other regulatory restrictions are also applicable depending upon the eventual use to be made of timber. (See 13 C.F.R. 121.3–9(c) (1), (2) and (3).

The SBA/USFS joint SSTS program is separate and distinct from the regular small business set-aside program involving USFS timber.

On August 23, 1982 (47 FR 36651), SBA published a proposed rule change to the size standard definition of a small business concern for eligibility for preferential award of an SSTS sale. Interested parties were given 60 days in which to submit comments.

Intent of Rule Change

Individuals or concerns qualifying as a small business under the current SBA size standard for purchase of SSTS timber, have been purchasing SSTS set-aside sales and in some cases have been subcontracting all or significant portions of the contractual tasks and obligations to concerns that are larger than the SSTS size standard. For example, SBA has received and analyzed complaints that involved sixteen SSTS sales in one State, alleging the purchaser did not use any of its employees on the sale. Some subcontractors on the sales have had less than 25 employees, other subcontractors have had more than 25 employees. The objective of the program is to provide salvage timber for preferential bidding and logging by SSTS qualified concerns. The intent of this proposed rule change is to require that: a significant portion of the logging of an SSTS timber sale sold through preferential bidding to a logger, must be performed by the employees of the purchaser; and that a manufacturer who is preferentially awarded an SSTS sale must perform a significant portion of log manufacture with its own employees but may subcontract the logging to concerns that are eligible for the preferential award of an SSTS sale. The rule change will define and limit the conditions under which subcontractors may be used for harvest of SSTS timber, thereby more adequately responding to small business logging and manufacturing firms. It will also eliminate the obtaining of contracts under the program by brokers who do not participate in the actual performance of the contracts.

The subcontractor problem was mentioned in a recent General Accounting Office Report (GAO/CED/82–88 of June 23, 1982). One recommendation in that report stated:

Strengthen the special salvage timber sale program regulations to prevent small timber companies from acting as brokers or agents for large companies. This might be achieved by requiring purchasers to perform some or all of the logging on such sales.

Summary of Comments

Most comments received, in response to the initial proposed rule, supported the SSTS program and the 25-employee criteria. There were concerns expressed, however about some aspects of the proposal. Several respondents pointed out that in some instances it may be necessary to subcontract an element of logging. The proposed policy provides that a significant portion of the logging operation, exclusive of hauling, be performed by employees of the purchaser of the SSTS sale. Where the logger does not ordinarily perform lesser portions of the logging operation or lacks special equipment to meet contract logging requirements, operation of the SSTS program will permit the purchaser of an SSTS sale to subcontract to concerns eligible for preferential award of an SSTS sale.

Some respondents expressed concern that wood products manufacturers with less than 25 employees usually do not perform their own logging. Several manufacturers suggested that the size standard require that the employees of the purchaser of a preferentially awarded SSTS sale be involved in either the logging or manufacturing of the SSTS timber. The second proposed rule provides that a manufacturer who is preferentially awarded an SSTS sale, must perform a significant portion of log manufacture with its own employees, but may only subcontract the logging to concerns that are eligible for the preferential award of an SSTS sale.

SBA hereby certifies that the proposed rule does not constitute a major rule for the purpose of Executive Order 12291. In addition, this proposed

rule will not have a significant economic impact on a substantial number of small entities for the purpose of the Regulatory Flexibility Act. In this regard, the regulation will merely clarify that: (1) The SSTS program is intended to benefit small businesses; (2) that small businesses are required to perform SSTS contracts which they are awarded; and (3) that the program is not intended to permit large businesses to benefit as a result of subcontracts. Thus there will be no adverse impact upon small entities as a result of this regulation.

List of Subjects in 13 CFR Part 121

Small business.

PART 121—SMALL BUSINESS SIZE STANDARDS

Accordingly, pursuant to sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), 13 CFR 121.3–9 is proposed to be amended as follows:

* * * * *

1. Paragraph (c)(2) would be amended by adding the following new paragraph:

§ 121.3–9 [Amended]

(c) * * *

(2) * * *

(iii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following elements: (A) Felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS sale logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS sale.

(2) Paragraph (c)(3) is amended by revising paragraph (ii) and adding (iii) to read as follows:

(c) * * *

(3) * * *

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at the minimum, a breakdown of the log into the rough cut of the finished product. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(iii) It further agrees that it will accomplish the logging of the SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

Dated: February 15, 1983.

James C. Sanders

Administrator.

[FR Doc. 83-5600 Filed 3-4-83; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 108

Loans to State and Local Development Companies

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking.

SUMMARY: SBA proposes to amend 13 CFR 108.503–4(c) to limit SBA participation with tax-exempt financing under the program authorized by section 503 of the Small Business Investment Act, 15 U.S.C. 697. Under the proposed rule, SBA would participate in the financing of a project which is also financed by tax-exempt obligations provided the repayment of the proceeds of SBA guaranteed financing is not subordinate to the repayment of the tax-exempt financing. This amendment would be in accordance with existing Federal policy which prohibits Federal agencies from directly or indirectly providing a guarantee to tax-exempt obligations.

DATE: Comments must be received on or before May 6, 1983.

FOR FURTHER INFORMATION CONTACT: William Hogbin, Chief, Development Company Branch, Office of Lender Relations and Certification, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, telephone (202) 653–6423.

SUPPLEMENTARY INFORMATION: In a typical financing arrangement pursuant to section 503 of the Small Business Investment Act, an amount of money generally not to exceed 40 percent of the cost of a fixed assets project is made available to a small business by a certified development company. That money comes from the proceeds of the sale of a development company debenture, the timely payment of the interest and principal of which is guaranteed to the purchaser by SBA. Ten percent of the cost of the project is generally made available by the development company. The remaining 50 percent of the cost of the business project is supplied by another source.

Pertinent legislative history of the Small Business Investment Act contains the following language with regard to tax-exempt financing and SBA's 503 Certified Development Company Program:

> SBA should not disapprove the guarantee of any debenture or any loan made with the proceeds of a debenture issue, solely because the proceeds would be used in a project whose other sources of financing include, or are collateralized by, tax-exempt industrial revenue or development bonds.

SBA responded to this instruction by publishing regulations which provide in part that loans made by Certified Development Companies with the proceeds of debentures guaranteed by SBA pursuant to Section 503 may be subordinated to other financing for the project which may be from tax-exempt obligations.

Subsequently, SBA has determined that the regulation is not consistent with a Government-wide policy which precludes the guarantee of tax-exempt obligations, directly or indirectly. Therefore, SBA is proposing that in the section 503 Program, Certified Development Companies may finance projects with the proceeds of SBA guaranteed debentures and tax-exempt obligations only if the latter are on a parity level or subordinated to the repayment of the former. The proposed rule will affect only those small concerns receiving assistance under the program which propose to obtain the non-Federal portion of their financing through the issuance of obligations the income of which is exempt from Federal income taxes. Such small concerns thus

remain eligible for program assistance within the proposed rule, but that assistance would be made available on different terms than under present SBA regulations.

For purposes of the Regulatory Flexibility Act, this proposed rule, if promulgated in final form, will not have a significant economic impact on a substantial number of small business concerns. Our own estimate, based upon this Agency's experience with the program to date, and budgetary resources available for the program, indicates that no more than 1,100 loans for a total of $250 million will be made to small business concerns pursuant to the entire section 503 program in Fiscal Year 1983. Of the 1,100 potential small business recipients, no more than 100 would be affected by this rule.

In addition, this rule, if published in final form, would not constitute a major rule for the purposes of E.O. 12291.

Finally, this proposed rule, if promulgated in final form would not impose any special reporting or recordkeeping requirements on the small businesses that avail themselves of this assistance.

List of Subjects in 13 CFR Part 108

Equal employment opportunity, Loan programs—Business, Small businesses.

PART 180—[AMENDED]

Accordingly, pursuant to authority contained in section 308(c) of the Small Business Investment Act of 1958, 15 U.S.C. 687(c), 13 CFR Part 108 is amended as follows:

Section 108.503–4(c) is revised to read.

§ 108.503–4 Financing.

(a) * * *

(b) * * *

(c) *Participation with tax-exempt obligations.* A 503 company may use 503 debenture proceeds to make loans for projects also financed through obligations the income of which is exempt from Federal income taxes: *Provided, however,* That loans made from 503 debenture proceeds may not be subordinated to loans made from the proceeds of such tax-exempt obligations.

(Catalog of Federal Domestic Assistance No. 59.013 State and Local Development Company Loans)

Dated: February 16, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-5708 Filed 3-4-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ANM-23]

Transition Area Rifle, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 700 transition area to provide controlled airspace for aircraft executing a new NDB/DME instrument approach to Garfield County Airport, Rifle, Colorado. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received before May 5, 1983.

ADDRESSES: Send comments to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office and an informal docket may be examined in the Airspace & Procedures Office at the same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, ANM-533. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ANM-23." The postcard will be date/time stamped and returned to the commenter. All Communications received before May 5, 1983 will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

PART 71—[AMENDED]

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) because development of an NDB/DME approach procedure requires a transition area 700 feet above ground level to contain the new procedure within controlled airspace.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing the following transition area:

Rifle, Colorado [New]

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Garfield County Airport (Latitude 39°31'40"N., Longitude 107°43'25"W.); and that airspace extending upward from 1200 feet above the surface bounded by a line beginning at Latitude 39°19'30"N., Longitude 108°00'00"W.; Latitude 39°43'30"N., Longitude 108°00'00"W.; to Latitude 30°50'00"N., Longitude 107°04'15"W.; to Latitude 39°25'30"N, Longitude 107°04'15"W.; thence to point of beginning, excluding that portion which overlies the Eagle, Colorado transition area.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); [Sec 6 (c), Department of Transportation Act (49 U.S.C. 1655(c)]; [Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on February 24, 1983.

Charles R. Forster,

Director, Northwest Mountain Region.

[FR Doc. 83-5472 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-22]

Alteration of Transition Area Lewistown, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 1200 foot transition area at Lewistown, Montana, to provide additional controlled airspace for the 10 mile DME arc northwest to the VOR Runway 7 approach. This additional controlled airspace will also accommodate fuel conserving routes between Havre City and Lewistown, Montana; and reduce pilot/controller workload.

DATES: Comments must be received on or before May 5, 1983.

ADDRESS: Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office and an informal docket may be examined in the Airspace & Procedures Branch at the same address.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM-535. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ANM-22." The postcard will be date/time stamped and returned to the commenter. All communications received before May 5, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1200 foot transition area located at Lewistown, Montana. This proposal is necessary to provide additional controlled airspace for aircraft operating to the Lewistown, Montana Airport.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§71.181 Lewistown, Montana

Delete all words following " * * * "10.5 miles west of the VORTAC;" and insert "* * * that airspace extending upwards from 1200 feet above the surface within 15 miles north and 9.5 miles south of the Lewistown VORTAC 286° radial extending via the 18.5 mile radius west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC."

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on February 24, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-5473 Filed 3-4-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13048; File No. S7-962]

Exemptive Relief for Separate Accounts To Impose a Deferred Sales Load on Variable Annuity Contracts Participating in Such Accounts and To Deduct From Such Contracts in Certain Instances an Annual Fee for Administrative Services That is Not Prorated

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment another in a series of proposals that would provide registered insurance company separate accounts with exemptive relief from various provisions of the Investment Company Act of 1940 with respect to variable annuity contracts participating in such accounts. The proposed rule would codify the standards that the Commission has developed in processing individual applications filed by separate accounts and related persons seeking exemptive relief to the extent necessary to permit them to impose a deferred sales load on such contracts. The proposed rule would also provide relief for separate accounts to permit them to deduct from the value of any variable annuity contract, upon total redemption of the contract before the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that day. If adopted, the proposed rule would eliminate the need for separate

accounts and related persons to file individual applications and obtain individual orders in connection with these matters. The Commission is also proposing related technical amendments to one of the general rules under the Act.

DATE: Comments must be received by April 29, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-962. All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Special Counsel (202) 272-2061, or Mary K. Crook, Attorney (202) 272-3010, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for public comment proposed rule 6c-8 under the Investment Company Act of 1940 [15 U.S.C 80a-1 et seq.] ("Act"), another in a series of proposals that would codify existing standards that the Commission has developed in connection with certain types of exemptive applications filed by registered insurance company separate accounts (sometimes referred to as "separate accounts" or "applicants") [1] that offer or sell variable annuity contracts.[2] The exemptions would also be available for any depositor of or underwriter for such accounts ("related persons," and, together with separate accounts, sometimes referred to as "applicants"). Proposed rule 6c-8 would codify the standards that the Commission has developed with respect to applications filed by separate accounts and related persons seeking exemptive relief from various provisions of the Act to the extent necessary to permit them to impose a "deferred sales load" [3] on variable annuity contracts participating in such accounts. The proposed rule would also provide relief to the extent necessary to permit separate accounts to deduct from the value of any variable annuity contract, upon total redemption of the contract on other than the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that day. The proposed rule is one of several rules which the Commission has proposed codifying the standards that it has developed in connection with certain types of applications filed by separate accounts for so-called "start-up" exemptive relief and for other relief under the Act.[4] Finally, the Commission is also proposing related technical amendments to rule 0-1(e) [17 CFR 270.0-1(e)] of its General Rules and Regulations under the Act.

Background

Section 6(c) of the Act [15 U.S.C. 80a-6(c)] broadly authorizes the Commission to grant exemptions from the Act "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]." Pursuant to that provision a number of separate accounts and related persons have sought exemptive relief from various provisions of the Act prior to offering their variable annuity contracts to the public. Frequently, the underlying legal issues are resolved in the initial exemptive applications and subsequent applications typically do not raise novel issues of law or fact. Therefore, the Commission generally grants such subsequent applications on a routine basis provided that applicants satisfy certain conditions which the Commission's experience has indicated as appropriate in light of the standards for relief prescribed by section 6(c).

The Commission now believes that it would be appropriate to propose rule 6c-8, which would codify generally the standards that the Commission has developed in connection with applications filed by separate accounts and related persons seeking exemptive relief from the Act to the extent necessary to permit them to impose a deferred sales load on contracts and to permit them to deduct a full annual fee for administrative services under certain circumstances. If adopted, the rule should benefit existing and future securityholders by eliminating certain expenses and delays presently incurred in obtaining individually certain routine orders of the Commission and should benefit the Commission by reducing the amount of staff time devoted to routine applications. A complete discussion of the proposed rule is set forth below.

Discussion

1. *Deferred Sales Load Relief.* Since 1979, a substantial number of separate accounts and related persons have filed exemptive applications seeking relief from various provisions of the Act to the extent necessary to permit them to impose a deferred sales load on variable annuity contracts participating in such accounts.[5] Unlike the more traditional "front-end" sales load—a sales load which is deducted from a securityholder's purchase payments before they are invested in a separate account—a deferred sales load is a sales load that is deducted when part or all of a securityholder's interest in a separate account is redeemed from the separate account or is converted to an annuity [collectively, "redemption or annuitization"]. In some cases the deferred sales load is reduced or eliminated entirely if redemption or annuitization does not occur before a specified period of time. This is commonly referred to as a "contingent" deferred sales load. The proposed rule is intended to provide exemptive relief to

[1] Section 2(a)(37) of the Act [15 U.S.C. 80a-2(a)(37)] defines "separate account" to mean "an account established and maintained by an insurance company pursuant to the laws of any state or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company." A substantially identical definition of "separate account," as that term is used in various rules and regulations under the Act, is contained in rule 0-1(e)(1) under the Act [17 CFR 270.0-1(e)(1)]. The term "insurance company" is defined in section 2(a)(17) of the Act [15 U.S.C. 80a-2 (a)(17)]. A separate account may be registered under the Act either as a unit investment trust ("trust account") or as an open-end management company ("management account").

[2] As used herein, the term "variable annuity contract" includes any variable accumulation or annuity contract, any portion thereof, or any participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the income, gains, or losses of the separate account in which the contract participates. The Commission is proposing to add this definition to rule 0-1(e)(e) of the General Rules and Regulations under the Act (*see* discussion *infra*).

[3] Paragraph (a) of the proposed rule defines the term "deferred sales load" as any sales load, including a contingent deferred sales load, that is deducted upon redemption or annuitization of amounts representing all or a portion of a securityholder's interest in a registered separate account. *See* notes 5 and 6 and accompanying discussion, *infra*.

[4] *See* Investment Company Act Rel. No. 12675 [Sept. 20, 1982] [47 FR 42344, Sept. 27, 1982] (proposed rule 11a-2); Investment Company Act Rel. No. 12745 (Oct. 18, 1982) [47 FR 47860, Oct. 28, 1982] (proposed rule 6c-7 and proposed amended rule 14a-2).

[5] The first contingent deferred sales load application was filed on behalf of the MFS Variable Account of Nationwide Life Insurance Company. A notice of this filing was issued on January 15, 1979 (Investment Company Act Rel. No. 10557) [44 FR 4067, Jan. 19, 1979] and an order was issued on February 12, 1979 (Investment Company Act Rel. No. 10590).

the extent necessary to permit the imposition of either of these types of sales loads (*see* note 3, *supra*), and the discussion below relating to a deferred sales load is intended to apply to both types of sales loads.[6]

Applicants seeking individual exemptive relief in order to impose a deferred sales load typically request relief from two categories of the Act's provisions. First, they seek an exemption from section 2(a)(35) of the Act [15 U.S.C. 80a–2(a)(35)], which defines the term "sales load" for purposes of the Act,[7] and from several other relevant provisions of the Act.[8] Relief is necessary because the literal language of these provisions contemplates that any sales load imposed on a security of a registered investment company be a front-end sales load, and the deduction of a sales load upon redemption or annuitization is inconsistent with these provisions.

Second, applicants typically seek an exemption from section 2(a)(32) of the Act [15 U.S.C. 80a–2(a)(32)], which defines the term "redeemable security" for purposes of the Act,[9] and from various other provisions of the Act relating to redeemable securities.[10] These provisions generally require that upon redemption a security-holder must receive his proportionate share of the separate account's assets.

Typically, applicants argue in effect that a deferred sales load is intended to reimburse a company for the same expenses for which the more traditional front-end sales load is used, *i.e.*, sales and distribution. A deferred sales load would seem to impose no greater burden on an investor than a front-end load of the same amount. It can also be argued, as many applicants have, that a deferred sales load is more advantageous to investors than a front-end sales load, because the amount of investors' money available for investment is not reduced as in the case of a front-end sales load. On the basis of these considerations, the Commission has routinely granted the requested exemptions. In light of this experience, the Commission now believes it would be appropriate to adopt a rule codifying this relief, and, accordingly, it is proposing to do so in rule 6c–8, as discussed *infra*.

2. *Relief for Deduction in Certain Instances of an Annual Fee for Administrative Services that is Not Prorated.* Many separate accounts deduct a fixed-dollar fee each year from the value of variable annuity contracts participating in such accounts in order to compensate them for the expenses associated with the annual administration of such contracts (the "annual fee"). The timing of the imposition of the annual fee varies among contracts. Under some contracts, the fee is assessed prospectively, *i.e.*, on the first day of the year in order to cover expenses expected to be incurred during that year. Under other contracts, the fee is assessed retrospectively, *i.e.*, on the last day of the year in order to cover expenses incurred during that year.[11]

In the case of the latter type of fee, a number of separate accounts and related persons have filed applications with the Commission seeking exemptive relief from various provisions of the Act to the extent necessary to permit them to deduct, upon total redemption of a contract on other than the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that day. In such instances, relief from the provisions of the Act relating to redeemable securities is necessary because, as discussed above (*see* notes 9 and 10 and accompanying text, *supra*), these provisions require that upon redemption a securityholder must receive his proportionate share of the assets of the separate account, and the imposition of an administrative fee that is not prorated is inconsistent with this requirement.[12]

In support of the requested relief, applicants typically have argued that many of the annual administrative expenses they incur are of a fixed nature and therefore are incurred regardless of whether services are provided for part or all of a year. In addition, applicants point out that relief to impose a fee that is not prorated is appropriate because they incur a variety of administrative expenses in connection with a total redemption in addition to the fixed expenses noted above. Again, the Commission has found these arguments persuasive and routinely granted the requested relief, and it now seems appropriate to eliminate the need for such routine applications by codifying the relief in proposed rule 6c–8.

Proposed Rule and Related Technical Amendments

1. *Proposed Rule 6c–8.* Paragraph (a) of proposed rule 6c–8 defines the term deferred sales load (*see* note 3 *supra*). Paragraph (b) of proposed rule exempts any registered separate account, and any depositor of or principal underwriter for such account, from various provisions of the Act relating to sales load and redeemable securities to the extent necessary to permit them to impose a deferred sales load on variable annuity contracts participating in such account. This relief is conditioned in two respects. First, paragraph (b)(1)

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[6] It should be noted that the Commission believes it would be misleading to characterize a contract subject to either of these types of sales loads as a "no-load" contract. Moreover, the Commission believes that it would be misleading for sales literature or a prospectus to characterize a deferred sales load as "contingent" when imposition of the sales load, or at least part of it, is not subject to any contingency.

[7] Section 2(a)(35) defines the term sales load as "the difference between the price of a security to the public and the portion of the proceeds from its sale which is received and invested or held for investment by the issuer * * *," less certain administrative and other fees not properly chargeable to sales or promotional activities.

[8] In addition to requesting relief from section 2(a)(35), trust accounts and other persons seek relief from section 26(a)(2)(C) of the Act [15 U.S.C. 80a–26(a)(2)(C)]. Furthermore, separate accounts issuing periodic payment plan certificates (*see* section 2(a)(27) of the Act [15 U.S.C. 80a–2(a)(27)]) seek relief from the provisions of section 27(c)(2) [15 U.S.C. 80a–27(c)(2)], which makes applicable to such persons the requirements of section 26(a). It has been the Commission's position that a variable annuity contract is a periodic payment plan certificate for purposes of section 27 if it is permitted to be paid for with more than one purchase payment. Sections 26(a)(2)(C) and 27(c)(2), in pertinent part, concern payments to the depositor of or principal underwriter for a separate account of certain other persons and would, in the absence of exemptive relief, prohibit the imposition of a deferred sales load, although they do not preclude the imposition of a front-end sales load.

[9] Section 2(a)(32) defines the term redeemable security as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer or to a person designated by the issuer, is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof."

[10] In addition to section 2(a)(32), applicants seek exemptive relief from sections 22(c), 27(c)(1), and 27(d) of the Act [15 U.S.C. 80a–22(c), 80a–27(c)(1), and 80a–27(d)] and rule 22c–1 under the Act [17 CFR 270.22c–1], which require generally that upon redemption a securityholder must receive his proportionate share of the separate account's assets. Absent exemptive relief, these provisions would prohibit the imposition of a deferred sales load.

[11] The relevant year for either a prospective or retrospective fee may be a calendar year, wherein the fee is deducted from the interest of all securityholders on the same day each year, or a contract year, wherein the fee is deducted from the interest of each securityholder on a day each year that typically corresponds to the anniversary of the day the particular securityholder's initial purchase payment was received by the separate account.

[12] Proposed rule 6c–8 would not eliminate the need for applicants to obtain the exemptive relief from section 26(a)(2)(C) or section 27(c)(2) of the Act necessary to permit the deduction of the annual fee, irrespective of whether it is prorated, from the assets of the separate account. *See generally Variable Annuity Life Insurance Company of America*, 39 SEC 680, 702–703 (1960). The Commission will shortly consider another start-up rule intended to codify this relief. Because that rule will not involve the redeemability provisions of the Act, however, the Commission believes that the annual fee relief relating to redemptions is more properly included in proposed Rule 6c–8.

provides that the amount of any such sales load imposed, when combined with any sales load previously paid on any such contract, shall not exceed 9 percent of purchase payments made for such contract to date.[13] This condition is analogous to the requirement of section 27(a)(1) of the Act [15 U.S.C. 80a-27(a)(1)] [14] that any sales load imposed on a periodic payment plan certificate not exceed 9 percent of total purchase payments to be made thereon, and reflects the terms of Commission orders in this area.

Second, paragraph (b)(2) provides that the terms of any offer to exchange another contract for the contract for which proposed rule 6c-8 provides exemptive relief must be in compliance with the requirements of paragraph (d) or (e) of proposed rule 11a-2.[15] This condition is necessary because use of a deferred sales load presents the possibility of certain abuses which are addressed by conditions in proposed rule 11a-2.[16]

Paragraph (c) of the proposed rule exempts any registered separate account, and any depositor of or principal underwriter for such account, from various provisions of the Act relating to redeemable securities to the extent necessary to permit them to deduct from the value of any variable annuity contract participating in such account, upon total redemption of the contract on other than the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that date.[17]

As proposed, rule 6c-8 would provide deferred sales load relief only for investment companies that are insurance company separate accounts offering variable annuity contracts. Only one non-separate account has requested the exemptive relief necessary to use a deferred sales load.[18] The Commission specifically requests comments on whether, and under what conditions, the proposed rule should be expanded to include deferred sales load relief for securities of investment companies that are not separate accounts.

2. *Proposed Technical Amendments to Rule 0-1(e).* Rule 0-1 of the General Rules and Regulations under the Act defines various terms used in certain of those rules. Rule 0-1(e) defines the term "separate account" and sets forth conditions for availability of exemptive relief for separate accounts pursuant to these rules. The Commission is proposing to amend rule 0-1(e) to include rule 6c-8 as one of the rules listed therein.

In addition, the Commission is proposing to amend rule 0-1(e) to include therein a definition of the term "variable annuity contract" as used in the rules under the Act. This definition, which would be added to paragraph (1) of the rule and would be applicable to all existing and future rules relating to variable annuity contracts, would codify the existing interpretation of that term.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting requirements, Securities.

Text of Proposed Rule 6c-8 and Proposed Amendments to Rule 0-1(e)

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. By revising paragraphs (e), (e)(1), and (e)(2) of § 270.0-1 to read as follows:

§ 270.0-1 Definition of terms used in this part.

* * * * * *

(e) Definition of separate account and variable annuity contract and conditions for availability of exemption under §§ 270.6c-6, 270.6c-8, 270.14a-2, 270.15a-3, 270.16a-1, 270.22d-3, 270.22e-1, 270.27a-1, 270.27a-2, 270.27a-3, 270.c-1, and 270.32a-2 of this chapter.

(1) As used in the Rules and Regulations prescribed by the Commission pursuant to the Investment Company Act of 1940, unless otherwise specified or the context otherwise requires the term "separate account" shall mean an account established and maintained by an insurance company pursuant to the laws of any state or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credit to or charged against such account without regard to other income, gains or losses of the insurance company and the term "variable annuity contract" shall mean any accumulation or annuity contract, any portion thereof, or any participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the income, gains or losses of the separate account in which the contract participates.

(2) As conditions to the availability of exemptive rules 6c-6, 6c-8, 14a-2, 15a-3, 16a-1, 22d-3, 22e-1, 27a-1, 27a-2, 27a-3, 27c-1, and 32a-2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding § 270.6c-8 to read as follows:

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[13] In this regard, the proposed rule, does not provide an exemption from any provision of the Act which may limit the rate of sales load to be imposed on a contract to less than 9 percent, such as section 12(d)(1)(F) of the Act [15 U.S.C. 80a-12(d)(1)(F)], nor does it provide relief from any other applicable limitation that, for example, may be imposed on members of the National Association of Securities Dealers.

[14] Section 27(a)(1) of the Act provides that:

It shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter for such company to sell any such certificate, if—

(1) The sales load on such certificate exceeds 9 per centum of the total payments to be made thereon * * *.

[15] *See* Investment Company Act Rel. No. 12675 (Sept. 20, 1982) [47 FR 42344, Sept. 27, 1982].

[16] For purposes of the following explanation, the "acquired contract" is the contract for which proposed rule 6c-8 would provide exemptive relief while the "exchanged contract" is the predecessor contract which has been exchanged for the acquired contract. Incorporation of paragraph (d) of proposed rule 11a-2 requires the "tacking" of time for the purpose of calculating the amount of any deferred sales load if the exchanged security was subject to a deferred sales load, *i.e.*, the sales load must be calculated both as if the owner of the acquired contract had been the owner of that contract from the date on which he became the owner of the exchanged contract and as if purchase payments made for the exchanged contract had been made for the acquired contract on the date on which they were made for the exchanged contract. Incorporation of paragraph (e) of proposed rule 11a-2 requires that if a front-end sales load was paid on the exchanged contract, then any deferred sales load imposed on the acquired contract may not be imposed on purchase payments made for the exchanged contract or appreciation attributable to purchase payments made for the exchanged contract that are transferred in connection with the exchange. This condition is basically intended to avoid the possibility of an investor being assessed two sales loads on the same purchase payments.

[17] It must be emphasized that the proposed rule's exemptive relief is limited to the deduction of a customary annual administrative fee and is not intended to provide relief for the imposition of an additional withdrawal or redemption charge.

[18] *See* Application of E. F. Hutton Investment Series, Inc., Investment Company Act Rel. No. 12079 (Dec. 4, 1981) [46 FR 60703, Dec. 11, 1981] (notice); Investment Company Act Rel. No. 12135 (Jan. 4, 1982) (order).

§ 270.6c-8 Exemptions for registered separate accounts to impose a deferred sales load and to deduct certain administrative charges.

(a) As used in this section "Deferred sales load" shall mean any sales load, including a contingent deferred sales load, that is deducted upon redemption or annuitization of amounts representing all or a portion of a securityholder's interest in a registered separate account.

(b) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from the provisions of sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) of the Act [15 U.S.C. 80a-2(a)(32), 80a-2(a)(35) 80a-22(c), 80a-26(a)(2)(C), 80a-27(c)(1), 80a-27(c)(2), and 80a-27(d), respectively] and rule 22c-1 under the Act [17 CFR 270.22c-1] to the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account, *Provided*, That:

(1) The amount of any such sales load imposed, when added to any sales load previously paid on such contract, shall not exceed 9 percent of purchase payments made to date for such contract; and

(2) The terms of any offer to exchange another contract for the contract are in compliance with the requirements of paragraph (d) or (e) of [proposed] rule 11a-2.

(c) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from sections 2(a)(32), 22(c), 27(c)(1), and 27(d) of the Act [15 U.S.C. 80a-2(a)(32), 80a-22(c) 80a-27(c)(1), and 80a-27(d), respectively] and rule 22c-1 under the Act [17 CFR 270.22c-1] to the extent necessary to permit them to deduct from the value of any variable annuity contract participating in such account, upon total redemption of the contract prior to the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that date.

Statutory Authority

Proposed rule 6c-8 is promulgated pursuant to the provisions of sections 6(c) and 38(a) of the Act [15 U.S.C. 80a-6(c) and 80a-37(a)]. The proposed amendments to rule 0-1(e) [17 CFR 270.0-1(e)] are promulgated pursuant to the provisions of section 38(a) of the Act [15 U.S.C. 80a-37(a)].

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Chairman of the Commission has certified that the rule proposed herein will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Paperwork Reduction Act

The proposed rule is not subject to the Act because it does not impose an information collection requirement.

By the Commission.

Dated: February 28, 1983.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 6c-8 under the Investment Company Act of 1940, if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for the certification is that there are few, if any, registered insurance company separate accounts that qualify as "small entities" as that has been defined in the Commission's rules. Moreover, the reduction in costs to such separate accounts, if any, resulting from the proposed rule's elimination of their need to file certain exemptive applications will not have a significant economic impact on any such separate accounts.

Dated: February 28, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83-5704 Filed 3-4-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 229, 230, 239, 240 and 249

[Release Nos. 33-6453; 34-19543; File No. S7-961]

Technical Amendments to Rules, Forms and Schedules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment actions relating to various rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934. Such actions clearify certain language and correct technical omissions and errata.

DATE: Comments must be received on or before March 25, 1983.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7-961. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: V. Gerard Comizio, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment proposed technical actions relating to various rules, forms and schedules under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq. (1976 and Supp. IV 1980)) and the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976 and Supp. IV 1980)). The following rules, forms and schedules are affected by these amendments: Items 401, 503 and 601 of Regulation S-K (17 CFR 229); Securities Act Industry Guides 4 and 5 (17 CFR 229.801); Securities Act Rules 134, 175, 432 and 494 (17 CFR 230); Securities Act Forms C-2 (17 CFR 239.4), D-1 (17 CFR 239.6), D-1A (17 CFR 239.7), S-1 (17 CFR 239.11), S-2 (17 CFR 239.12), S-3 (17 CFR 239.13), S-8 (17 CFR 239.16), S-14 (17 CFR 239.23) and S-15 (17 CFR 239.29); Exchange Act Rules 3b-6, 13a-13 and 13e-3 (17 CFR 240); and Exchange Act Forms 8-K (17 CFR 249.308) and 10-K (17 CFR 249.310).

I. Background and Introduction

Over the past year, the Commission has adopted several amendments to its rules, forms and schedules under both the Securities Act and the Exchange Act. In particular, Release No. 33-6383 [1] (the "Integrated Disclosure Release") announced a comprehensive revision to the rules, forms and schedules governing the registration of securities under the Securities Act and numerous conforming changes to the rules, forms and schedules under the Exchange Act. The following proposals are intended to correct technical omissions and errata and to clarify certain language.

This release describes the general nature of the technical changes which are proposed today and the reasons therefor in order to provide a framework for understanding the proposed text of the technical amendments set forth below. Attention is directed to the text of the proposals for a more complete understanding.

II. Synopsis

The following amendments are proposed to be made to the various

[1] Release No. 33-6383 (March 3, 1982) (47 FR 11380, March 16, 1982).

rules, forms and schedules under both the Securities Act and the Exchange Act:

1. Instruction 3 to paragraph (b) of Item 401 of Regulation S–K, regarding information about executive officers and directors, is proposed to be revised for purposes of clarification. Currently, Instruction 3 specifically permits registrants relying on General Instruction G of Form 10–K to omit the information regarding executive officers elicited by Item 401(b) from their proxy statement only when such information is included in Part I of their Form 10–K. The staff, however, has interpreted that Instruction to permit omission of all the information regarding executive officers required to be disclosed by any paragraph of Item 401. Accordingly, Instruction 3 is proposed to be amended to codify such interpretation.

2. Paragraph (d) of Item 503 of Regulation S–K, regarding disclosure of the ratio of earnings to fixed charges, is proposed to be amended to clarify how earnings and fixed charges should be computed by clarifying the treatment of preferred stock dividend requirements of majority-owned subsidiaries and fifty-percent-owned persons, guarantees of debt of less than fifty-percent-owned persons; and any allowance for funds used during construction by public utilities.

3. Paragraph (b)(8) of Item 601 of Regulation S–K, Opinion re tax matters, is proposed to be amended to clarify that requirement. Currently, this paragraph requires that an opinion of counsel or a revenue ruling from the Internal Revenue Service be filed as an exhibit in certain cases. This requirement may be satisfied by an opinion of an independent public or certified public accountant. The Commission proposes to amend paragraph (b)(8) accordingly.

4. Securities Act Industry Guide 5, Preparation of registration statements relating to interests in real estate limited partnerships, is proposed to be amended to rescind Item 18, Capitalization. That item requires disclosure in accordance with Forms S–1 and S–11 and such forms no longer require a capitalization table.

5. Paragraph (b)(2) of Securities Act Rule 175, Liability for certain statements by issuers, is proposed to be amended to insert references to Item 9 of Form 20–F (17 CFR 249.220f) and Rule 3–20(c) of Regulation S–X (17 CFR 210.3–20(c)) that were inadvertently omitted from Release No. 33–6444, supplemental disclosure of oil and gas producing activities.[2]

6. Paragraph (e) of Securities Act Rule 494, Newspaper prospectuses, is proposed to be revised to change the reference to § 230.426 in paragraph (e) to Item 502(d) of Regulation S–K.

7. The rescission of three seldom used Securities Act registration forms was announced in the Integrated Disclosure Release; implementing language relating to this rescission is proposed. These forms are: Form C–2, for certain types of certificates of interest in securities; Form D–1, for certificates of deposit; and Form D–1A, for certificates of deposit issued by issuers of securities called for deposit.

8. Item 12(a) of Form S–2, Incorporation of certain information by reference, is proposed to be amended to clarify certain language. The Item permits registrants to incorporate by reference those portions of their annual or quarterly reports to security holders that are specifically set forth in paragraphs (a)(3) and (a)(4) of Item 12. The proposed amendment makes clear that the registrant, if it wishes, may incorporate its entire annual or quarterly report to security holders in lieu of the specified portions thereof.

9. Item 12(b) of Form S–2 is proposed to be amended to make clear that those documents listed in paragraphs (a) (1) and (2) of Item 12 are required to be incorporated by reference into the registration statement in their entirety. Registrants are permitted to state that those portions of their annual or quarterly reports to security holders not specifically required to be incorporated by paragraphs (a) (3) and (4) of Item 12 are not part of the registration statement.[3]

10. General Instruction A.(1)(a) to Form S–8 is proposed to be revised to refer to the definition of "employee benefit plan" which is now in Rule 405 of Regulation C.

11. Note 1 to General Instruction C of Form S–8 is proposed to be revised to clarify that registrants may add additional persons, who have acquired or will acquire registered securities pursuant to the plan, to the list of selling shareholders after the effective date of a reoffer prospectus, by means of a propectus filed pursuant to Rule 424(c). Currently, the Form indicates that such persons must be added to the list of selling shareholders by means of a post-effective amendment.

12. The Instruction to Item 5 of Form S–8, securities to be offered and employees who may participate in the plan, is proposed to be amended to delete the definition of executive officer. Such definition is now in Rule 405 of Regulation C.

13. Item 15 of Form S–8, incorporation of certain documents by reference, is proposed to be amended to clarify that only those documents filed pursuant to paragraphs (a) and (c) of Section 13 of the Exchange Act, rather than all of Section 13, are required to be incorporated by reference into the registration statement. Such amendments would conform the requirements of Form S–8 to the requirements of Form S–3 in this regard.

14. The signature provision of Form S–8 is proposed to be revised to reflect prevailing practice that, where interests in an employee benefit plan are being registered, the signature required with respect to the plan is that of any person who is authorized to sign on the plan's behalf.

15. Paragraph (c)(1) of Exchange Act Rule 13a–13, Quarterly reports on Form 10–Q, is proposed to be revised to amend the reference to Item 12, paragraph (a)(1)(i) of § 229.20 to Item 302(a)(5)(i) of Regulation S–K.

16. Instruction 2(a) to paragraph (e) of Exchange Act Rule 13e–3, Going private transactions by certain issuers or their affiliates, is proposed to be revised to set forth the specific items of summary information which must be included in a Schedule 13e–3. Such amendment is required to be made because of the rescission of Guide 59 and would conform the summary information required by Schedule 13e–3 to that required by Schedule 13e–4.

17. Item 7 of Exchange Act Form 8–K is proposed to be revised in accordance with amendments previously made to that Item in Release No. 33–6405, Revisions to Securities Act Industry Guide 5.[4] Such amendments were inadvertently rescinded by Release No. 33–6413, instructions for the presentation and preparation of pro forma financial information and requirements for financial statements of businesses acquired or to be acquired.[5]

18. General Instruction I to Form 10–K, regarding registrants filing on Form S–18, is proposed to be amended in order to conform the listing of certain

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[2] Release No. 33–6444 (December 15, 1982) (47 FR 57911, December 29, 1982). The same amendment is proposed to be made to paragraph (b)(2) of Exchange Act Rule 3b–6, Liability for certain statements by issuers.

It should be noted that the revisions to Rules 175 and 3b–6 which were adopted in Release No. 33–6444 are available for those registrants who comply with the revised rules for supplemental oil and gas disclosure prior to their mandatory effectiveness for fiscal years beginning on or after December 15, 1982.

[3] The same amendment is proposed to be made to Item 12(b) of Form S–15.

[4] Release No. 33–6405 (June 3, 1982) (47 FR 25120 June 10, 1982).

[5] Release No. 33–6413 (June 24, 1982) (47 FR 29832, July 9, 1982).

specified item numbers of Form S–18 with the revised Form. Form S–18 was amended in June 1982,[6] and such changes were not made at that time.

19. Finally, the following rules, forms and schedules are proposed to be amended to correct typographical errors that were made in the Integrated Disclosure release:

a. Instruction 3 to Paragraph (b) of Item 401 of Regulation S–K;

b. Paragraph (b)(25) of Item 601 of Regulation S–K;

c. Paragraphs 1 and 11 of Securities Act Industry Guide 4;

d. Paragraph (a)(14)(ii) of Securities Act Rule 134;

e. Securities Act Rule 432;

f. Paragraph (b) of Item 16 of Securities Act Form S–1;

g. Paragraph (a)(3)(i) of Item 12 of Securities Act Form S–2;

h. Paragraph (b) of Item 11 of Securities Act Form S–3;

i. The heading of Part II of Securities Act Form S–14.

III. Request for Comment

Any interested person wishing to submit written comments on the proposed amendments, as well as on any other technical changes, is requested to do so. The Commission also solicits comment as to whether the proposed amendments would have an adverse effect on competition. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

List of Subjects in 17 CFR 229, 230, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

IV. Text of Proposals

[Attention—The text of the following amendment use ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions.]

In accordance with the foregoing, it is proposed to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

1. By revising Instruction 3 to Paragraph (b) in § 229.401 to read as follows:

§ 229.401 (Item 401) Directors and executive officers.

* * * * *

Instructions to Paragraph (b) of Item 401.

* * * * *

3. The information regarding executive officers called for by this [paragraph (b)] ►Item◄ need not be furnished in proxy or information statements prepared in accordance with Schedule 14A under the Exchange Act (§ 240.14a–101 of this chapter) by those registrants relying on General Instruction G of Form 10–K under the Exchange Act (§ 249.310 of this chapter). *Provided,* That such information is furnished in a separate item captioned "Executive officers of the registrant," and included in Part ►III◄ [I] of the registrant's annual report on Form 10–K.

* * * * *

2. By revising paragraphs (d)(3)(i), (3)(v), (4)(i) and the first sentence of (4)(ii) and adding a new paragraph (d)(3)(vi) to § 229.503 to read as follows:

§ 229.503 (Item 503) Summary information, risk factors and ratio of earnings to fixed charges.

* * * * *

(d) Ratio of earnings to fixed charges.

* * * * *

(3) * * *

(i) Add to pretax income the amount of fixed charges computed pursuant to paragraph (d)(4) of this section, ►adjusted to exclude (A) the amount of any ◄ interest capitalized during the period ►and (B) the actual amount of any preferred stock dividend requirements of majority-owned subsidiaries and fifty-percent-owned persons which were included in such fixed charges amount but not deducted in the determination of pretax income.◄ [shall be excluded from the fixed charge amount.]

* * * * *

(v) Registrants other than public utilities may add to earnings the amount of previously capitalized interest amortized during the period. [In the case of]

►(vi)◄ A registrant which is a rate-regulated public utility [interest charges] shall not ►reduce fixed charges (see paragraph (4) below)◄ [be reduced] by any allowance for funds used during construction, ►but rather, shall include◄ [the "borrowed-funds" component of] any such allowance [shall be included in earnings.] ►in the determination of earnings under this paragraph.◄

(4)(i) The term "fixed charges" shall mean the total of (A) interest, whether expensed or capitalized; (B) amortization of debt expense and discount or premium relating to any indebtedness, whether expensed or capitalized; (C) such portion of rental expense as can be demonstrated to be representative of the interest factor in the particular case; and (D) preferred stock dividend requirements of majority-owned subsidiaries ►and fifty-percent-owned persons,◄ excluding in all cases items which would be or are eliminated in consolidation.

(ii) If the registrant is a guarantor of debt of ►a less than fifty-percent-owned person or of ◄ an unaffiliated person (such as a supplier), the amount of fixed charges associated with such debt should not be included in the computation of the ratio unless the registrant has been required to satisfy the guarantee or it is probable that the registrant will be required to honor the guarantee and the amount can reasonably be estimated.

* * * * *

3. By revising the first sentence of paragraph (b)(8) and by adding a period after the word "filed" and capitalizing the word "Where" in paragraph (b)(25) in § 229.601 to read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) *Description of exhibits.*

* * * * *

(8) *Opinion re tax matters*—For filings on Form S–11 under the Securities Act (§ 239.18) or those to which Securities Act Industry Guide 5 applies, an opinion of counsel ►or of an independent public or certified public accountant◄ or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

* * * * *

(25) *Power of attorney*—If any name is signed to the registration statement or report pursuant to a power of attorney, manually signed copies of such power of attorney shall be filed.

* * * * *

§ 220.801 [Amended]

4. By amending Securities Act Industry Guide 4 in § 229.801 to revise subparagraph 1 of Item 1 and Item 11 to read as follows (Securities Act Industry Guide 4 does not appear in the Code of Federal Regulations):

Guide 4. Prospectus Relating to Interests in Oil and Gas Programs.

1. * * *

[6] Release No. 33–6406 (June 4, 1982) (47 FR 25126, June 10, 1982).

(1) Terms of Offering: State the title and general nature of the securities (interests in the proposed program) being offered; the maximum aggregate amount of the offering; the minimum aggregate amount necessary to initiate the program; the disposition of the funds raised if they are not sufficient for that purpose; the minimum subscription price; the period of the offering; any provisions for additional assessments; and a brief description of the proposed method of distribution, inlcuding the amount of any commission to be paid. If funds received from investors are not to be held in trust or in special account pending expenditure in the program, appropriate disclosures should be set forth including when appropriate reference to exposure to claims of creditors of the custodian of the funds.

The tabular presentation specified in Item ►501(c)(7) of Regulation S–K (§ 229.501(c)(7))◄ [501(g)] may be omitted;

* * * * *

11. *Manogement.* ►Furnish the information◄ [Include the disclosures] required by Items 401 through 403 of Regulation S–K ►(§§ 229.401 through 403)◄ as to [, respectively,] the management and operating companies.

* * * * *

5. By amending Securities Act Industry Guide 5 in § 229.801 to delete paragraph 18 and to renumber paragraphs 19 through 21 as paragraphs 18 through 20 (Securities Act Industry Guide 5 does not appear in the Code of Federal Regulations).

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

6. By revising paragraph (a)(14)(ii) in § 230.134 to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(a) * * *

(14) * * *

(ii) For the purpose of paragraph ►(a)(14)(i)◄ [(14)(a)(i)] of this section, the term "nationally recognized statistical rating organization" shall have the same meaning as used in Rule 15c–3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (17 CFR 240.15c3–1(c)(2)(vi)(F).

* * * * *

7. By revising paragraph (b)(2) introductory text and paragraph (b)(2)(i) in § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q (§ 249.308a of this chapter) or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 (§§240.14a–3 (b) and (c) or 240.14a–3 (a) and (b) of this chapter) and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) ►or Item 9 of Form 20–F (§ 249.220f of this chapter)◄, "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), or

* * * * *

8. By revising § 230.432 to read as follows:

§ 230.432 Additional information required to be included in prospectuses relating to tender offers.

Notwithstanding the provisions * * * not otherwise required to be included therein, required by Rule 14d–6 ►(e)(1)◄ [(c)(1)] (§ 240.14d–6 ►(e)(1)◄ [(c)(1)] of this chapter) to be included in all such tender offers, requests or invitations, published or sent or given to the holders of such securities.

9. By revising paragraph (e) in § 230.494 to read as follows:

§ 230.494 Newspaper prospectuses.

* * * * *

(e) If the registrant or any of the underwriters knows or has reasonable grounds to believe that it is intended to stabilize the price of any security to facilitate the offering of the registered security, there shall be placed in the newspaper prospectus, in capital letters, the statement required by ►Item 502(d) of Regulation S–K (§ 229.502(d) of this chapter)◄ [§ 230.426] to be included in the full prospectus.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.4 [Amended]

10. By removing § 239.4, Form C–2, for certain types of certificates of interest in securities.

§ 239.6 [Amended]

11. By removing Form D–1, for certificates of deposit, in § 239.6.

§ 239.7 [Amended]

12. By removing Form D–1A, for certificates of deposit issued by issuer of securities called for deposit, in § 239.7.

13. By amending Item 16 of Form S–1 in § 239.11 to revise paragraph (b) to read as follows (Form S–1 does not appear in the Code of Federal Regulations):

§ 239.11 Form S–1 [Amended]

* * * * *

Item 16. Exhibits and Financial Statement Schedules.

* * * * *

(b) Furnish the financial statement schedules required by Regulation S–X (17 CFR Part 210) and Item 11 ►(e)◄ [(a)(5)] of this Form. These schedules shall be lettered or numbered in the manner described for exhibits in paragraph (a).

* * * * *

14. By amending Item 12 of Form S–2 in § 239.12 by revising the introductory paragraph (a) and paragraphs (a)(3)(i) and (b) to read as follows (Form S–2 does not appear in the Code of Federal Regulations):

§ 239.12 Form S–2 [Amended]

* * * * *

Item 12. *Incorporation of Certain Information by Reference.*

(a) The documents listed in (1), (2), and, if applicable, the portions of the documents listed in (3) and (4) below, shall be specifically incorporated by reference into the prospectus, by means of a statement to that effect in the prospectus listing all such documents. ►In lieu of incorporating portions of the documents listed in (3) and (4) below, the registrant may incorporate by reference its entire annual or quarterly report to security holders.◄

* * * * *

(3) * * *

(i) description of business furnished in accordance with the provisions of Rule 14a–3(b) ►(6)◄ [(5)] under the Exchange Act (§ 240.14a–3(b)(6) of this chapter);

* * * * *

(b) The registrant may also state, if it so chooses, that specifically described portions of ►its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a) (3) and (4) above,◄ [documents which are incorporated by reference] are not part of the registration statement. In such case, the description of portions which are not incorporated by reference or which are excluded shall

be made with clarity and in reasonable detail.

* * * * *

15. By amending Item 11 of Form S–3 in § 239.13 to revise paragraph (b) to read as follows (Form S–3 does not appear in the Code of Federal Regulations):

§ 239.13 Form S–3 [Amended]

Item 11. *Material changes*

* * * * *

(b) Include in the prospectus, if not incorporated by reference therein from the reports filed under the Exchange Act specified in Item 12(a), a proxy or information statement filed pursuant to Section 14 of the Exchange Act, a prospectus previously filed pursuant to Rule 424 ►(b) or (c)◄ under the Securities Act ►(§ 230.424(b) or (c) of this chapter)◄ or a Form 8–K filed during either of the two preceeding fiscal years: (i) Information required by Rule 3–05 and Article 11 of Regulation S–X (17 CFR Part 210); (ii) restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction in an error where such change or correction requires a material retroactive restatement of financial statements; (iii) restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consumated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b), or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

* * * * *

16. By revising Form S–8 in § 239.16 to delete the instruction to Item 5; and to revise subparagraph (1)(a) of General Instruction A; Note 1 to General Instruction C; the introductory paragraph and paragraph (b) of Item 15; and the signature provision; and Instruction 1 to the signature provision to read as follows (Form S–8 does not appear in the Code of Federal Regulations):

§ 239.16 Form S–8 [Amended]

General Instructions

A. Rule as to use of Form S–8.

(1) * * *

(a) Securities of such issuer to be offered to its employees, or to employees of its subsidiaries or parents, pursuant to any employee benefit plan. ►(See Rule 405 of Regulation C (§ 230.405 of this chapter) defining "employee benefit plan").◄ [(See General Instruction B defining "plan").]

* * * * *

C. Unavailability of the Form S–8 Prospectus for Reoffers or Resales.

* * * * *

Notes.—1. Registered securities may be included in a reoffer prospectus if they have been or will be acquired by the selling security holder pursuant to the plan. If after the effective date the issuer wishes to add any person who has acquired or will acquire any registered securities pursuant to the plan to the list of selling shareholders, the issuer may do so by filing a post-effective amendment[.] ►or by use of a prospectus filed pursuant to Rule 424(c) under the Securities Act (§ 230.424(c) of this chapter).◄

* * * * *

PART I—INFORMATION REQUIRED IN THE PROSPECTUS

* * * * *

Item 15. Incorporation of Certain Documents by Reference.

The issuer and, where interests in the plan are being registered, the plan, shall incorporate by reference into the prospectus the documents listed in (a) through (c) below and shall state that all documents subsequently filed by them pursuant to Sections 13 ►(a), 13(c)◄, 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the prospectus and to be a part thereof from the date of filings of such documents. Copies of these documents are not required to be filed with the registration statement.

* * * * *

(b) All other reports filed pursuant to Sections 13 ►(a)◄ or

15(d) of the Securities Exchange Act of 1934 since the end of the fiscal year covered by the annual reports or the prospectus referred to in (a) above.

Signatures

* * * * *

The Plan. Pursuant to the requirements of the Securities Act of 1933, the plan has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ————, State of ————, on the ——— day of 19—.

(The Plan)
By ————————————
(Signature and Title)

[Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capabilities and on the dates indicated.]

* * * * *

[ ]
(Signature)
[ ]
[(Title)]
[ ]
[(Date)]

Instructions. 1. The registration statement shall be signed by the registrant [(and where interests in the plan are being registered, by the plan)], [their] ►its◄ principal executive officer or officers, [their] ►its◄ controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. ►Where interests in the plan are being registered, the registration statement shall be signed by the plan.◄ If the signing person is a foreign person, * * *

17. By amending the heading of Part II of Form S–14 in § 239.23 to read as follows:

§ 239.23 Form S–14 [Amended]

Part II. Information ►Not◄ Required in Prospectus

18. By amending Item 12 of Form S–15 in § 239.29 to revise paragraph (b) to read as follows (Form S–15 does not appear in the Code of Federal Regulations):

§ 239.29 Form S–15 [Amended]

* * * * *

Item 12. Incorporation of Certain Information by Reference

* * * * *

(b) The issuer may also state, if it so chooses, that specifically described portions of ►its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a)(i) and (iv) above,◄ [documents which] are not part of the registration statement. In such case, the description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

19. By revising the introductory text to paragraph (b)(2) and paragraph (b)(2)(i) in § 240.3b–6 to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in

Part I of a quarterly report on Form 10–Q (§ 249.308a of this chapter) or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 (§§ 240.14a–3 (b) and (c) or 240.14c–3 (a) and (b) of this chapter) and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§229.303 of this chapter) ►or Item 9 of Form 20–F (§ 249.220f of this chapter)◄, "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," ►or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter)◄ or

* * * * *

20. By amending paragraph (c)(1) of § 240.13a–13 to read as follows:

§ 240.13a–13 Quarterly reports on Form 10–Q (§ 249.308a of this chapter).

* * * * *

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 20, 1983, if they do not meet the test specified in Item ►302(a)(5)(i) of Regulation S–K (§ 229.302 of this chapter)◄ [12, paragraph (a)(1)(i), of § 229.20]; or

* * * * *

21. By revising Instruction 2(a) to paragraph (e) of § 240.13e–3 to read as follows:

§ 240.13e–3 Going private transactions by certain issuers or their affiliates.

* * * * *

(e) *Disclosure of certain information.* * * *

Instructions. * * *

2. * * *

(a) ►The following◄ summary financial information for [equivalent to that required by paragraph (e) of Guide 59 of the Guides for the Preparation and Filing of Registration Statements] (i) the two most recent fiscal years and (ii) the latest year-to-date interim period and corresponding interim period of the preceding year:

►Income Statement:

Net sales and operating revenues and other revenues
Income before extraordinary items
Net Income

Balance Sheet (at end of period):

Working capital
Total assets
Total assets less deferred research and development charges and excess of cost of assets acquired over book value
Shareholder's equity

Per Share: [1]

Income per common share before extraordinary items
Extraordinary items
Net income per common share (and common share equivalents, if applicable)

* * * * *

Net income per share on a fully diluted basis◄

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

22. By amending Item 7 of Form 8–K in § 249.308 to redesignate paragraph (a)(3) as paragraph (a)(4); to add a new paragraph (a)(3); and to revise paragraph (b)(2) to read as follows (Form 8–K does not appear in the Code of Federal Regulations):

§ 249.308 Form 8–K [Amended]

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(a) * * *

(3)►[With regard to the acquisition of one or more real estate properties, the financial statements and any additional information specified by Rule 3–14 of Regulation S–X shall be filed.◄

(b) * * *

(2) The provisions of►(a)(4)◄ [(a)(3)] above shall also apply to pro forma financial information relative to the acquired business.

* * * * *

23. By revising General Instruction I of Form 10–K in § 249.310 to read as follows (Form 10–K does not appear in the Code of Federal Regulations):

§ 249.310 Form 10–K [Amended]

* * * * *

I. Registrants filing on Form S–18.

If the registrant is subject to the reporting requirements of Section 15(d) of the Exchange Act and such obligation arises solely because the registrant has filed a registration statement on Form S–18 (§ 239.28 of this chapter) which has become effective during the last fiscal year, the registrant may comply with the disclosure requirements of Form S–18 Item►16► [6], Description of Business; Item ►18◄ [13], Interest of Management and Others in Certain Transactions; and Item ►20◄ [10], Remuneration of Directors and Officers, in lieu of complying with the disclosure requirements of Item 1, Business; Item 11, Management Remuneration; and Item 13, Certain relationships and related transactions, herein. Item 6 of this Form, Selected Financial Data, may be omitted at the election of such registrant.

* * * * *

Statutory Authority

These amendments are being proposed pursuant to authority in Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3–5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 781, 78m, 78n, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

February 25, 1983.

[FR Doc. 83–5878 Filed 3–4–83; 8:45 am]

BILLING CODE 8010–01–M

[1] ►Average number of shares of common stock outstanding during each period was ——— (as adjusted to give effect to stock dividends or stock splits).◄

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 906, 931, 938, and 950

Permanent State Regulatory Programs of Colorado, New Mexico, Pennsylvania and Wyoming

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadlines for States to meet one condition of their approved State permanent regulatory programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These States are Colorado, New Mexico, Pennsylvania, and Wyoming. This condition relates to the award of costs and expenses in administrative proceedings.

DATE: Comments must be received by March 22, 1983 at the address below, no later than 4:00 p.m.

ADDRESSES: Written comments must be mailed or hand-delivered to the Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, Interior South Building, Room 210, 1951 Constitution Avenue, NW., Washington, D.C. 20240, (202) 343-5361.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(1), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The curing of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and SMCRA and the time required for changes to be adopted under State procedures or legislative schedules.

Since the Secretary's conditional approval of several western States' programs, the Secretary has received a petition from three western States. The petition requests the deletion of the requirement in 30 CFR 840.15 that each State program provide for public participation which is no less effective than that at 43 CFR 4.129(b) which permits the award of costs and expenses in administrative proceedings, including attorney fees, from OSM to any person other than a permittee. In OSM's view, the importance of the attorney fees issue requires further study. OSM intends to issue a notice of proposed rulemaking to solicit public comment on the attorney fees issue and the petition of the western States.

The Secretary is thus considering whether to revise the permanent program rules relating to costs and expenses in administrative proceedings. The above four States with conditionally approved programs may be expending valuable time pursuing program amendments to meet Federal requirements which may change.

Colorado condition (mm), relating to costs and expenses in administrative proceedings is to be satisfied on or before May 20, 1983. The Secretary proposes to allow the State until August 1, 1984, to meet this condition.

New Mexico condition (e), relating to costs and expenses in administrative proceedings, is to be satisfied on or before March 15, 1983. The Secretary proposes to allow the State until March 15, 1984, to meet this condition.

Pennsylvania condition (i), relating to costs and expenses in administrative proceedings, is to be satisfied on or before August 1, 1983. The Secretary proposes to allow the State until August 1, 1984, to meet this condition.

Wyoming condition (c), relating to costs and expenses in administrative proceedings, is to be satisfied on or before May 20, 1983. The Secretary proposes to allow the State until May 20, 1984, to meet this condition.

The Secretary is continuing to review with the States all of the outstanding program conditions. A final rule implementing these proposed extensions may, in response to public comment, be different than those proposed in this notice.

Additional Information

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. 3507.

National Environmental Policy Act. The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

List of Subjects in 30 CFR Parts 906, 931, 938, and 950

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

Dated: February 25, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

The following are proposed amendments to 30 CFR, Chapter VII, Subchapter T:

PART 906—COLORADO

§ 906.11 Amended.

30 CFR 906.11(mm) is proposed to be amended by substituting "August 1, 1984," for May 20, 1983 each time it appears.

PART 931—NEW MEXICO

§ 931.11 Amended.

30 CFR 931.11(e) is proposed to be amended by substituting "March 15, 1984," for March 15, 1983 each time it appears.

PART 938—PENNSYLVANIA

§ 938.11 Amended.

30 CFR 938.11(i) is proposed to be amended by substituting "August 1, 1984," for August 1, 1983 each time it appears.

PART 950—WYOMING

§ 950.11 Amended.

30 CFR 950.11(c) is proposed to be amended by substituting "May 20, 1984," for May 20, 1983 each time it appears.

[FR Doc. 83-5706 Filed 3-4-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 12-83-01]

Marine Parade; Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay

Correction

In FR Doc. 83-3611 beginning on page 6135 in the issue of Thursday, February 10, 1983, make the following correction:

On page 6136, first column, § 100.35-1201, the second line of paragraph (c)(1), "shall he parade" should have read "shall follow the parade".

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Spain and Tunisia

AGENCY: Postal Service.

ACTION: Proposed International Express Mail Service to Spain and Tunisia.

SUMMARY: Pursuant to agreements with the postal administrations of Spain and Tunisia, the Postal Service proposes to begin International Express Mail Service with Spain and Tunisia at postage rates indicated in the tables below. The proposed services are scheduled to begin on May 9, 1983.

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

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn (202) 245–4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Federal Register, 39 CFR 10.1. Additions to the manual needed to introduce the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed International Express Mail Service to Spain and Tunisia at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

SPAIN—INTERNATIONAL EXPRESS MAIL

Custom designed service [1]—up to and including		On demand service [2]—up to and including—	
Pounds	Rate	Pounds	Rate
1	$27.00	1	$19.00
2	29.90	2	21.90
3	32.80	3	24.80
4	35.70	4	27.70
5	38.60	5	30.60

SPAIN—INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1]—up to and including		On demand service [2]—up to and including—	
Pounds	Rate	Pounds	Rate
6	41.50	6	33.50
7	44.40	7	36.40
8	47.30	8	39.30
9	50.20	9	42.20
10	53.10	10	45.10
11	56.00	11	48.00
12	58.90	12	50.90
13	61.80	13	53.80
14	64.70	14	56.70
15	67.60	15	59.60
16	70.50	16	62.50
17	73.40	17	65.40
18	76.30	18	68.30
19	79.20	19	71.20
20	82.10	20	74.10
21	85.00	21	77.00
22	87.90	22	79.90
23	90.80	23	82.80
24	93.70	24	85.70
25	96.60	25	88.60
26	99.50	26	91.50
27	102.40	27	94.40
28	105.30	28	97.30
29	108.20	29	100.20
30	111.10	30	103.10
31	114.00	31	106.00
32	116.90	32	108.90
33	119.80	33	111.80
34	122.70	34	114.70
35	125.60	35	117.60
36	128.50	36	120.50
37	131.40	37	123.40
38	134.30	38	126.30
39	137.20	39	129.20
40	140.10	40	132.10
41	143.00	41	135.00
42	145.90	42	137.90
43	148.80	43	140.80
44	151.70	44	143.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

TUNISIA—INTERNATIONAL EXPRESS MAIL

Custom designed service [1]—up to and including—		On demand service [2]—up to and including—	
Pounds	Rate	Pounds	Rate
1	$26.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00

TUNISIA—INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1]—up to and including—		On demand service [2]—up to and including—	
Pounds	Rate	Pounds	Rate
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of this number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-5582 Filed 3-4-83; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 542, 543, and 544

[General Order 40; Docket No. 83-13]

Financial Responsibility For Water Pollution

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: 46 CFR Parts 542, 543, and 544 establish the methods by which foreign and domestic vessel operators may demonstrate financial responsibility in compliance with section 311(p)(1) of the Federal Water Pollution Control Act, section 204(c)(1) of the Trans-Alaska Pipeline Authorization Act and section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978, respectively. Apparently, as a result of the Panama Canal treaties, the Panama Canal can no longer be considered the navigable waters of the United States. The Federal Maritime Commission therefore is proposing to delete from 46 CFR 542, 543, and 544 all reference to the Panama Canal. The primary result would be that vessel operators who use the Canal would no longer be required to demonstrate to the Commission their financial ability to pay for the removal

of oil and certain other pollutants spilled into the waters of the Canal.

DATE: Comments (Original and 15 copies) on or before April 1, 1983.

ADDRESS: Comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert M. Skall, Deputy Director, Bureau of Certification and Licensing, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5840.

SUPPLEMENTARY INFORMATION: Section 311(p)(1) of the Federal Water Pollution Control Act as amended by the Clean Water Act (33 U.S.C. 1321(p)(1)) applies to vessel operators whose vessels use any port or place in the United States or the navigable waters of the United States. As a precondition to the use of such waters, vessel operators are required to maintain insurance coverage or to otherwise demonstrate their financial ability to repay the U.S. Government for the costs of removing discharges of oil and hazardous substances and for the costs of restoration of natural resources damaged as result of such discharges.

The definition of "United States" in 33 U.S.C. 1321(a)(5) includes "the Canal Zone." Accordingly, the definition of "United States" in 46 CFR 542, which implements 33 U.S.C. 1321(p)(1), also includes "the Canal Zone." In order to comply with 46 CFR 542, therefore, a vessel operator whose vessel uses the Panama Canal must apply for and obtain a Certificate of Financial Responsibility (Water Pollution). Such certificate is obtained by maintaining on file with the Federal Maritime Commission evidence of insurance or other satisfactory evidence of financial responsibility for the purpose stated above.

By memorandum of March 17, 1981, the then Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, concluded that 33 U.S.C. 1321 no longer applies to any portion of the former Canal Zone. This conclusion is based on treaties between the Republic of Panama and the United States signed in 1977, as well as the implementing legislation (the Panama Canal Act of 1979, 22 U.S.C. 3601–3871).

In addition, on or about July 7, 1982, the Panama Canal Commission issued "Marine Director's Notice to Shipping No. 10–82." That notice removes the prior requirement to present a Certificate of Financial Responsibility (Water Pollution) to Canal boarding officials.

In view of the above mentioned legal opinion and the termination of the prior requirement to present a Federal Maritime Commission Certificate of Financial Responsibility as a precondition to use of the Panama Canal, the following changes to 46 CFR 542 are being proposed:

(1) Delete the words "the Canal Zone" from the definition of "United States" in 46 CFR 542.2(w).

(2) Delete the words ", including the Panama Canal" from item 5 of Form FMC–321, Application for Certificate of Financial Responsibility (Water Pollution), appended to 46 CFR 542.

Those two changes to the rules implementing 33 U.S.C. 1321(p)(1) would relieve vessel operators of the no longer enforced requirement to obtain Certificates of Financial Responsibility as a precondition to use of the Canal.

The Panama Canal treaties also would appear to have some impact on the rules implementing section 204(c)(1) of the Trans-Alaska Pipeline Authorization Act and section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978. Those rules (46 CFR Parts 543 and 544, respectively) refer to the Canal Zone in 46 CFR 543.2 and 46 CFR 544.2(x), the definitions of "United States". It is therefore appropriate to delete the references to the Canal Zone in those two definitional paragraphs of the rules as well.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission certifies that the rule revisions proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities. The proposed revisions would not require reports or records, and are based entirely on the 1977 treaties between the United States and the Republic of Panama. Any economic impact which might occur will occur as a direct result of the treaties (e.g., transit toll increases to offset cleanup costs), regardless of whether these proposed revisions are adopted or not.

List of Subjects in 46 CFR Parts 524, 543, and 544

Maritime carriers.

Therefore, pursuant to 5 U.S.C. 553, section 311(p) of the Federal Water Pollution Control Act (33 U.S.C. 1321(p)), section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), section 305(a) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1815), section 3 of Executive Order 11735, section 1–201 of Executive Order 12123, and section 3 of the Panama Canal Act of 1979 (22 U.S.C. 3602), the following provisions of Title 46, Code of Federal Regulations, are proposed to be amended as follows:

PARTS 542, 543 AND 544—[CORRECTED]

(1) 46 CFR 542.2(w), 46 CFR 543.2(n) and 46 CFR 544.2(x): delete the words "the Canal Zone,"

(2) First sentence of Item 5, Form FMC–321, Application for Certificate of Financial Responsibility (Water Pollution) appended to 46 CFR 542: delete the words ", including the Panama Canal"

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–5788 Filed 3–4–83; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13, 17 and 21

Implementation of the Endangered Species Act Exemption for Certain Raptors; Raptor Propagation Permits; Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; consideration of comments.

SUMMARY: The Service published a proposed rule that appeared at pages 1325–1332 in the **Federal Register** on January 12, 1983 (48 FR 1325), concerning pre-Act "exempt" status for certain raptors (bird of prey) under the Endangered Species Act of 1973, raptor propagation permits, and the possession of captive-bred Harris' hawks by Apprentice Class falconers under the Federal falconry standards. The comment period on the proposal ended February 11, 1983. However, a number of comments were submitted after the deadline. The Service will consider these comments and any others submitted before March 7, 1983. To the extent that it is feasible to do so, comments submitted after March 7, 1983 will be considered.

ADDRESSES: Comments may be mailed to Director (LE), Fish and Wildlife Service, P.O. Box 28006, Washington D.C. 20005, or delivered weekdays to the Division of Law Enforcement, Fish and Wildlife Service, 3rd Floor, 1375 K Street, N.W., Washington, D.C., between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 21–02–13. All materials received may be

inspected weekdays during normal business hours at the Service's Division of Law Enforcement, 3rd Floor, 1375 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John T. Webb or William B. Zimmerman, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343-9242.

Dated: March 1, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-5531 Filed 3-4-83; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 23

Foreign Proposals To Amend Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of proposed amendments to appendices.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international shipment of certain wildlife and plant species, which are listed in appendices to this treaty. Any nation that is a Party to CITES may propose amendments to Appendix I or II for consideration by the other Parties.

This notice announces proposals submitted by Parties other than the United States, and invites information and comments on them in order to develop negotiating positions for the United States delegation. The proposals will be considered in April 1983 at the fourth regular meeting of the Parties.

DATE: The Service will consider all comments received by March 31, 1983, in developing negotiating positions. The Service plans to publish a notice of its decisions on the positions prior to the meeting of the Parties.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 537, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 635-5948.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and interested intergovernmental bodies and communicate their responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

Information Sought

The purpose of this notice is to announce proposals submitted by Parties other than the United States for consideration at the forthcoming meeting of the Parties. Proposals by the United States were announced in two recent **Federal Register** notices (47 FR 51772, November 17, 1982; 47 FR 57524, December 27, 1982). This notice also sets forth tentative negotiating positions of the United States delegation on the foreign proposals.

It is nether practical nor in the best interests of the United States to establish inflexible negotiating positions on the proposals in advance of the meeting. However, the Service will develop guidance for the delegation on the basis of the best available biological and trade information, including comments received in response to this notice.

Indications in this notice of support for, or opposition to, proposals are based on a review of information presented in the proposals in terms of criteria adopted by the Parties for the addition, deletion, and transfer of species in Appendices I and II. The Service is seeking further information that might help in determining if the proposals are appropriate.

Proposals

The proposals by Parties other than the United States are listed in the following table. Tentative negotiating positions and the basis for them also are indicated. The complete text of each proposal is available for public inspection at the Service's Office of the Scientific Authority (see address above).

Species	Proposed amendment	Proponent	Tentative U.S. position [1]
PRIMATES *Lagothrix flavicauda* (yellow-tailed wooly monkey)	Transfer from II to I	Peru	Support (1).
CETACEA spp. (all whales for which catches are regulated by International Whaling Commission)	do	Seychelles	Oppose (2).
Balaenoptera edeni (Brydes whale)	do	Ecuador	Oppose (2).
Berardius spp. (beaked whales)	do	Seychelles	Oppose (2).
Hyperoodon spp. (bottle-nosed whales)	do	do	Oppose (2).
CARNIVORA *Canis lupus* (gray wolf)	Remove Canadian population from II.	Canada	Support (1).
Vulpes velox hebes (northern swift fox)	Remove from I	do	Support (1).
Ursus arctos (brown bear)	Add European population except U.S.S.R. to II.	France, Switzerland	Support (1).
Ursus arctos (grizzly bear)	Remove Canadian population from II.	do	Support (1).
Lutra canadensis (river otter)	Retain in II for similarity in appearance to other otters.	do	Support (1).
Lynx canadensis (lynx)	Remove Canadian population from II.	do	Support (1).

Species	Proposed amendment	Proponent	Tentative U.S. position [1]
Lynx rufus (bobcat)	....do	....do	Support (1).
Panthera pardus (leopard)	Tranafer Mozambican population from I to II.	Mozambique	Oppose (2, 3).
Panthera pardus	Transfer eastern and central African populations from I to II.	Zimbabwe	Oppose (2, 3, 4).
Phocidae (seals)	Add to II all species not already listed.	Federal Republic of Germany	Oppose (2, 5).
PERISSODACTYLA *Equus africanus* (African wild ass)	Add to I	Israel	Support (1).
ARTIODACTYLA *Addax nasomaculatus* (addax)	Transfer from II to I	Niger	Oppose (2, 3).
Ammotragus lervia (aoudad, Barbary sheep)	....do	....do	Oppose (2, 3).
Cephalophus dorsalis (bay duiker)	Add to II	Federal Republic of Germany	Oppose (2, 3, 4).
Cephalophus jentinki (Jentink's duiker)	Add to I	....do	Oppose (2, 3, 4).
Cephalophus ogilbyi (Ogilby's duiker)	....do	....do	Oppose (2, 3, 4).
Cephalophus sylvicultor (yellow-backed duiker)	Add to II	....do	Oppose (2, 3, 4).
Cephalophus zebra (zebra-banded duiker)	Add to I	....do	Oppose (2, 3, 4).
Gazella dama (addra or dama gazelle)	....do	Niger	Oppose (2, 3).
Moschus spp. (musk deer)	Add populations of Afghanistan, Bhutan, Burma, India, Nepal, and Pakistan to I.	United Kingdom	Support (1).
Moschus spp.	Add all other populations to II	....do	Support (1).
Oryx dammah (scimitar-horned oryx)	Transfer from II to I	Niger	Oppose (2, 3).
Ovis canadensis (bighorn sheep)	Remove Canadian population from II.	Canada	Support (1).
STRUTHIONIFORMES			
Struthio camelus camelus (N. African ostrich)	Add to I	Niger	Oppose (2, 3).
PELECANIFORMES *Pelecanus crispus* (Dalmatian pelican)	Transfer from II to I	France, Switzerland	Support (1).
CICONIIFORMES *Phoenicopteridae* spp. (flamingos)	Add to II	United Kingdom	Support (1).
ANSERIFORMES *Oxyura leucocephala* (white-headed duck)	....do	....do	Support (1).
GRUIFORMES *Anthropoides virgo* (Demoiselle crane)	....do	....do	Support (1).
CHARADRIIFORMES *Numenius tenuirostris* (slender-billed curlew)	Transfer from II to I	France, Switzerland	Support (1).
PSITTACIFORMES *Ara caninde* (caninde macaw)	....do	United Kingdom	Support (1).
Ara rubrogenys (red-fronted macaw)	....do	....do	Support (1).
Ognorhynchus icterotis (yellow-cheeked conure)	....do	....do	Support (1).
TESTUDINATA *Chelonia mydas* (green sea turtle)	Transfer populations of Tromelin and Europe Islands from I to II (ranching).	France	Support (1).
Chelonia mydas	Transfer population of Surinam from I to II (ranching).	Surinam	Support (1).
CROCODYLIA *Crocodylus niloticus* (Nile crocodile)	Remove Malagasy population from I.	Malagasy Republic	Oppose (2, 3).
Crocodylus niloticus	Transfer Mozambican population from I to II.	Mozambique	Oppose (2, 3).
Crocodylus niloticus	Transfer entire species from I to II	Togo, Zambia, Zimbabwe	Oppose (2, 3, 4).
Crocodylus niloticus	Transfer Zimbabwe population from I to II (ranching).	Zimbabwe	Support (1).
Crocodylus porosus (saltwater crocodile)	Transfer Australian population from I to II (ranching).	Australia	Support (1).
ACIPENSERIFORMES *Acipenser brevirostrum* (shortnose sturgeon)	Transfer from I to II	Canada	Oppose (4).
Acipenser fulvescens (lake sturgeon)	Remove from II	....do	Oppose (4).
Acipenser sturio (Baltic sturgeon)	Transfer from II to I	France, Switzerland	Support (1).
SALMONIFORMES *Coregonus alpenae* (longjaw cisco)	Remove from I	Canada	Support (1).
PERCIFORMES *Stizostedion vitreum glaucum* (blue pike)	....do	....do	Support (1).
VENEROIDA *Tridacna dorsea and T. gigas* (giant clams)	Add to II	Australia	Support (1).
ARHYNCHOBDELLIFORMES *Hirudo medicinalis* (medicinal leech)	....do	United Kingdom	Support (1).
PLANTS: BYBLIIDACEAE *Byblis* spp. (rainbow plants)	Remove from II	Australia	Oppose (2, 3).
CEPHALOTACEAE *Cephalotus follicularis* (West Australian pitcher plant)	....do	....do	Oppose (2, 3).
CHLOANTHACEAE spp. (lambs tails)	Remove populations of Australia from II.	....do	Oppose (2, 3).
CUPRESSACEAE *Fitzroya cupressoides* (Chilean false larch, Alerce)	Remove dead specimens from I	Chile	Serious reservations (2, 3, 6).
HAEMODORACEAE *Anigozanthos* spp. (kangaroo paws)	Remove from II	Australia	Oppose (2, 3).
MYRTACEAE *Verticordia* spp. (feather flowers)	....do	....do	Do.
PINACEAE *Abies nebrodensis* (Tronco nudo)	Remove from I	France, Switzerland	Support (1).
PROTEACEAE *Banksia* spp. (Banksias)	Remove from II except for *B. laricina*.	Australia	Oppose (2, 3).
Conospermum spp. (smoke bushes)	Remove from II	....do	Oppose (2, 3).
Dryandra formosa (showy dryandra)	....do	....do	Oppose (2, 3).
Dryandra polycephala	....do	....do	Oppose (2, 3).
Xylomelum spp. (Woody pears)	....do	....do	Oppose (2, 3).
RUTACEAE *Boronia* spp.	....do	....do	Oppose (2, 3).
Crowea spp.	....do	....do	Oppose (2, 3).
Geleznowia verrucosa	....do	....do	Oppose (2, 3).
SAXIFRAGACEAE *Ribes sardoum*	Remove from I	France, Switzerland	Support (1).
THYMELAEACEAE *Pimelea physodes* (*qualup bell*)	Remove from II	Australia	Oppose (2, 3).
ULMACEAE *Celtis aetnensis*	Remove from I	France, Switzerland	Support (1).

[1] The basis for the tentative negotiating position on each proposal is indicated by number in the table: (1) Listing or delisting of the species, as proposed, appears to be justified by information presented in the proposal; (2) the proposal does not present adequate information on population status to justify listing or delisting the species; (3) the proposal does not present adequate information on trade status to justify listing or delisting the species; (4) the proposal does not present information on the status of the species throughout its range, which needs to be considered; (5) the proposal does not adequately document a need to list the species for the purpose of controlling trade in other species due to similarity in appearance; (6) the proposal does not appear to be consistent with the present provisions of CITES.

Certain of these proposals would transfer populations of Appendix I species to Appendix II in order to allow commercial international trade in ranched specimens. Ranching has been defined by the Parties to mean the rearing in a controlled environment of specimens taken from the wild. The Service sought public comment on the ranching proposals by France and Surinam in relation to a special rule prohibiting the importation of maricultured green sea turtle products under the Endangered Species Act of 1973 (48 FR 43; January 3, 1983). Information and comments received in response to that notice also will be considered in determining the United States negotiating positions on these proposals.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

This notice is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884, as amended). It was prepared by Richard L. Jachowski, Office of the Scientific Authority.

Dated: February 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-3688 Filed 3-4-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) announces a public meeting on proposed revisions to the rules governing the domestic Atlantic bluefin tuna fishery. NOAA anticipates publishing the proposed rules in the **Federal Register** prior to the conduct of this meeting.

DATES: Individuals or organizations wishing to comment may do so at a public meeting to be held as follows: March 16, Uniondale, New York.

ADDRESS: A public meeting on the proposed revisions to Subparts A and B of CFR 285 will be held on the date and time, and at the location listed below.

HEARING LOCATION:

Date: March 16.

Location: Marriot Hotel, 101 James Doolittle Blvd., Uniondale, LI, NY 11553, Tel: 516/794-3800.

Time: 7 p.m.-9:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Jerome, Jr., 617-281-3600, extension 325; or Mr. David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: The Atlantic Tunas Convention Act requires that necessary rules be promulgated to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). In autumn 1982, ICCAT recommended increasing the total quota for Atlantic bluefin tuna in the western Atlantic Ocean from 1,279 short tons (st) to 2,931 st. NOAA will be issuing proposed rules based on this recommendation to increase the annual quota of Atlantic bluefin tuna availabile to U.S. fishermen from 667 st to 1,529 st. The proposed rules will discuss increases in the quotas for specific segments of the fishery based on the total amount of Atlantic bluefin tuna available to the United States. The purpose of these increases will be to allow the collection of more complete biological information for stock monitoring purposes, while keeping the total harvest at a conservative level. NOAA desires to have public comment on these proposed rules.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971—*et seq.*)

Dated: March 2, 1983.

Joseph Clem,

Acting Chief, Fisheries Process Division, National Marine Fisheries Service.

[FR Doc. 83-5795 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 45
Monday, March 7, 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.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1981, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
IL-169 Gene Hicks Auction and Livestock Ramsey, Illinois.	Feb. 17, 1983.
MN-178 Edgerton Livestock Auction Market Edgerton, Minnesota.	Aug. 21, 1982.

Done at Washington, D.C., this 1st day of March, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-5710 Filed 3-4-83; 8:45 am]

BILLING CODE 3410-02-M

Deposting of Stockyard

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
TX-181 Leggott Groesbeck Commission Company, Inc., Groesbeck, Texas.	Apr. 29, 1957

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 28th day of February, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-5711 Filed 3-4-83; 8:45 am]

BILLING CODE 3410-02-M

Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

CO-151 Western Slope Livestock Auction Montrose, Colorado
MN-179 Minnesota Feeder Pig Markets, Inc. Pipestone, Minnesota
OK-201 Checotah Livestock Auction Checotah, Oklahoma
TX-327 Leggott Groesbeck Commission Company, Inc. Groesbeck, Texas

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by March 22, 1983.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protecton Branch during normal business hours.

Done at Washington, D.C., this 1st day of March, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-5712 Filed 3-4-83; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended February 25, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 22, 1983	41300	Aeromar, C. por A., c/o Mark Pestronk, 805 King Street, Alexandria, Virginia 22314. Application of Aeromar, C. por A. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment and renewal of its foreign air carrier permit to engage in foreign air transportation of property as follows: Between the terminal point Santo Domingo, Dominican Republic and the co-terminal points Miami, Florida; New York, New York; San Juan, Puerto Rico; and St. Thomas, Virgin Islands. Answers may be filed by March 22, 1983.
Feb. 22, 1983	41120	Bowman Aviation, Inc., d/b/a BO-S-Aire Airlines, Inc., c/o Thom G. Field, Neale, Newman, Bradshaw & Freeman, One Corporate Square, P.O. Box 4203 G.S. Springfield, Missouri 65808. Amendment No. 1 to the Application of Bowman Aviation, Inc. d/b/a BO-S-Aire Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign charter air transportation of cargo and mail as follows: (a) Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, or the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries of Colombia and Venezuela on the continent of South America, on the other hand; Conforming applications, Motions to Modify Scope and Answers may be filed by March 23, 1983.
Feb. 23, 1983	41035	Dominion Intercontinental Airlines, Inc., c/o Harry A. Bowen, Bowen & Atkin, 2020 K Street, N.W., Suite 350, Washington, D.C. 20006. Amendment No. 1 to the Application of Dominion Intercontinental Airlines, Inc. submitting additional information with respect to the application for a certificate of public convenience and necessity for foreign air transportation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-5786 Filed 3-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40534]

Braniff South American Route Transfer Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this case is assigned to be held before the Board on Thursday, March 17, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before Wednesday, March 9, 1983, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., February 28, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-5785 Filed 3-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41320]

Classic Air Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., March 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-5783 Filed 3-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., March 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-5782 Filed 3-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41308]

Wesley A. Pietrasik and Diane Pietrasik, d.b.a. Travex, Inc.—Violation of Part 380 Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., March 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-5784 Filed 3-4-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, Lionel H. Olmer, of the Performance Review Board for ITA. This is a revised list of membership which includes previous members as listed in the July 29, 1982 **Federal Register** announcement with additional members added to serve out the remainder of the one year term. The purpose of the International Trade Administration PRB is to review performance actions for recommendations to the appointing authority as well as other related matters. The names of the PRB members are:

International Trade Administration

Vincent F. DeCain, Deputy to Deputy Assistant Secretary for Export Administration

Joseph F. Dennin, Deputy Assistant Secretary for Africa, Near East and South Asia

John Evans, Deputy to Deputy Assistant Secretary for Import Administration

Brant W. Free, Director, Office of Service Industries

J. Mishell George, Deputy to Deputy Assistant Secretary for Industry Projects

Ann Hughes, Deputy Assistant Secretary for Western Hemisphere

Richard L. McElheny, Director General, U.S. and Foreign Commercial Services

John Richards, Director, Office of Industrial Resource Administration

Roger Severance, Director, Office of Pacific Basin

Minority Business Development Agency

Herbert S. Becker, Assistant Director for Advocacy, Research and Information.

Dated: February 28, 1983.

James T. King, Jr.,

Personnel Officer, International Trade Administration.

[FR Doc. 83-5744 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-133. Applicant: University of Wisconsin, Madison, Department of Chemistry, 1101 University Avenue, Madison, WI 53706. Instrument: Gas Chromatograph Mass Spectrometer System MS-80, and Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used to determine the exact mass of a molecular ion, to record complete mass spectra of newly synthesized, unknown compounds and to analyze the fragmentation patterns of the samples. The overall objective is to determine the molecular formula and the structure of the unknown. The instrument is to be used in conjunction with the following courses: Chemistry 990, 992, 993, and 994 (Research); Chemistry 621 (Instrumental Analysis) and 626 (Topics on Chemical Instrumentation). Application received by Commissioner of Customs: February 17, 1983.

Docket No. 83-136. Applicant: Centers for Disease Control, 1600 Clifton Rd., NE., Atlanta, GA 30333. Instrument: Electron Microscope, EM 410G with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of pathology specimens of human and animal origin along with infectious micro-organisms during research into the cases and mechanism of diseases such as Acquired Immune Deficiency Syndrome (AIDS), Legionnaires Disease, Pneumocystis, Kidney Disease, Toxoplasmosis, Herpes and others. Application received by Commissioner of Customs: February 16, 1983.

Docket No. 83-137. Applicant: University of Michigan Hospitals, 1405 E. Ann Street, Ann Arbor, MI 48109. Instrument: Electron Microscope, EM 400 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: The instrument is intended to be used to expand the clinical applications of transmission EM including immunoperioxodase and immunoferritin labeling—for the ultrastructural localization of immunoreactive tissue antigens (especially in tumors) not visible at the light microscope. In addition, with the increased usage of the TEM in ultrastructural examination of patient biopsy material, the instrument will be used to further the hospital's ability to handle difficult samples. The instrument will also be used in the teaching of ultrastructural manifestations of disease to medical students, medical technology students, resident physicians and practicing physicians. Application received by Commissioner of Customs: February 16, 1983.

Docket No. 83-138. Applicant: The University of Texas System Cancer Center, M.D. Anderson Hospital & Tumor Institute, 6732 Bertner, Texas Medical Center, Houston, Texas 77030. Instrument: Electron Microscope, EM 410G and Accessories. Manufacturer: Mederlase Philips Bedrijven B.V., The Netherlands. Intended use of instrument: The instrument will be used in a variety of studies involving both basic and applied virology, ultrastructural analyses of tumor cells, and molecular biology. Specimens from patients with cancer of various types, experimental animal tumors, normal tissues from human and animal sources, cells from various sources maintained in tissue culture, and fractions of cells or viruses will be examined by both conventional and novel methods. In addition, the instrument will be used for training in electron microscopy techniques at the graduate and postgraduate level. Application received by Commissioner of Customs: February 16, 1983.

Docket No. 83-128. Applicant: University of California, Department of Geology & Geophysics, c/o Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94720. Instrument: Interferometer Spectrophotometer, Model DA3.02 with Accessories. Manufacturer: Bomen, Inc., Canada. Intended use of instrument: The instrument is intended to be used in research involving the study of planetary materials at conditions that occur within the planets (e.g., high pressures) in order to constrain models of planetary structure and evolution. Spectroscopy is employed mainly to identify molecular clusters and configurations within complex solid and liquid structures of minerals, as well as to constrain detailed models of vibrational (thermodynamic) and bonding properties of such materials. The instrument will also be used to teach state-of-the-art techniques and concepts in mineral physics. Application received by Commissioner of Customs: February 18, 1983.

Docket No. 83-135. Applicant: Cook County Department of Purchase, (Cook County Hospital), 118 North Clark Street, Chicago, IL 60602. Instrument: Electron Microscope, Model JEM-100CX/II and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used for ultrastructural studies of the following: (1) Pathologic changes in various liver diseases, especially viral hepatitis (identification of viruses and Australian antigen). (2) Kidney diseases (study of the changes of glomerulous membranes). (3) Various tumors especially the differential diagnosis of the various poorly differentiated anaplastic cancers. The instrument will also be used in the training of graduate students and residents. Application received by Commissioner of Customs: February 18, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director Statutory Import Programs.

[FR Doc. 83-5697 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-25-M

Brigham Young University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a

scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230

DOCKET NO. 82-00179R. Applicant: Brigham Young University, Department of Chemistry, 226 ESC, Provo, UT 84602. Instrument: Kelvin AC Double Bridge & Automatic Switch Unit. Application is a resubmission, notice of which was published in the **Federal Register** of May 20, 1982.

Comments.—No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 82-00179 which was denied without prejudice to resubmission on September 27, 1982 for informational deficiencies. The foreign instrument provides accurate automatic measurements with both high and low resistance thermometers. The National Bureau of Standards advises in its memorandum dated February 3, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-5696 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-25-M

The Rockefeller University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00185R. Applicant: The Rockefeller University, 1200 York Avenue, New York, N.Y. 10021. Instrument: Incubators, Feedback Controlled to Maintain PO_2 and PCO_2 and pH. Application is a resubmission, notice of which was published in the **Federal Register** of June 11, 1982.

Comments.—No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 82-00185 which was denied without prejudice to resubmission on September 22, 1982 for informational deficiencies. The foreign instrument provides dynamic feedback control of the incubator environment. The Department of Health and Human Services advises in its memorandum dated December 29, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-5514 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Mr. Jeffrey D. Goodyear (P317).

b. Address: Moss Landing Marine Laboratories, P.O. Box 223, Moss Landing, California 95039-0223.

2. Type of permit: Scientific Research/Scientific Purposes.

3. Name and number of animals: Fin whale (Balaenoptera physalus), 30; Humpback whale (Megaptera novaengliae), 45.

4. Type of take: Up to 30 humpback whales and 20 fin whales may be approached up to four times each to obtain a skin sample and place a radio tag. An additional 15 humpback whales and 10 fin whales may be approached once to obtain a skin sample.

5. Location of activity: Stellwagon Bank, Cape Cod, Massachusetts.

6. Period of activity: April to September 1983.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Southwest Region, National Marine Fisheries Service, 300

South Ferry Street, Terminal Island 90731, and;

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: March 1, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-5787 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Survey of Local Government Finances (School Systems).

Form No.: Agency—F-33, F-33-1, F-33-L1, F-33-L3; OMB—0607-0165.

Type of request: Extension.

Burden: 450 respondents; 1,400 reporting hours.

Needs and uses: The collected public school financial data are incorporated with other local government finance data and entered into the national income accounts. Data are also used in long established Census reports and to determine revenue sharing entitlements.

Affected Public: State and local educational agencies.

Frequency: Annually.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: Quarterly Summary of Federal, State and Local Tax Revenue.

Form No: Agency—F-71, F-72, F-73; OMB—0607-0112, 0607-0113, 0607-0114.

Type of request: Extension.

Burden: 5,204 respondents; 5,254 reporting hours.

Needs and uses: The three forms are used to collect State and local tax revenue data that form the basis of a quarterly report. The Bureau of Economic Analysis uses this information to forecast economic indicators. Other organizations such as the Federal Reserve Bank, the Advisory Commission on Intergovernmental Relations, public interest groups and State and local governments use this information for comparative purposes or economic research.

Affected public: State and local governments.

Frequency: Quarterly.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: April 1983 CPS Country of Birth, Immigration and Immigrant Fertility Supplement.

Form No.:

Type of request: New.

Burden: 58,000 respondents; 1,570 reporting hours.

Needs and uses: This supplement to the Current Population Survey (CPS) is needed to collect data on the immigrant populations. These data will be used to compare immigrant and non-immigrant fertility statistics and to improve the fertility component of populations projections for the Nation's immigrants, especially for the Hispanic immigrant population.

Affected public: Households interviewed in the April 1983 CPS sample.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-5685 Filed 3-4-83; 8:45 am]

BILLING CODE 3510-CW-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 81-1]

1980 Cable Royalty Distribution Determination

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of royalty fees paid by cable systems for secondary transmissions during 1979.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, (202) 653-5175.

Introduction

17 U.S.C. 111(d)(5)(B) requires the tribunal after the first day of August to determine whether a controversy exists concerning the distribution of cable royalty fees deposited by cable systems with the Copyright Office. Upon determination that a controversy exists, 17 U.S.C. 804(d) requires the Chairman of the Tribunal to publish in the **Federal Register** a notice announcing the commencement of distribution proceedings.

In a notice published in the **Federal Register** of August 12, 1981 (46 FR 40787), the Tribunal directed that claimants to royalty fees paid by cable operators for secondary transmissions during 1980 submit not later than September 10, 1981 any comments concerning whether a controversy exists concerning the distribution of the 1980 royalty fees.

In a public meeting on October 14, 1981, after giving claimants the opportunity to appear and present arguments, the Tribunal determined that a controversy did in fact exist concerning the distribution of cable royalty fees for the period January 1 through December 31, 1980. The Tribunal set the effective date of March 2, 1982 and in the **Federal Register** of March 2, 1982 (47 FR 8808) announced that distribution proceedings had commenced.

Background and Chronology

Structure of Proceeding

The Tribunal directed claimants or their duly authorized representatives to submit any proposals or comments: in accordance with the Administrative Procedure Act, providing for procedures whereby the Tribunal could utilize the record of the previous proceedings in the 1980 Phase I distribution proceeding and limit the presentation of new testimony and written evidence; on the legality and feasibility of propsals providing for the Tribunal prior to the termination of the 1980 royalty proceeding to make partial distribution of the royalty fees; and, on the alteration of the Phase I categories of claimants established by the Tribunal in the 1979 royalty proceeding, to the tribunal no later than April 30, 1982 (47 FR 8808) which was later extended to May 7, 1982 (47 FR 12203). Reply brief or memorandum, if any, were to be submitted no later than May 21, 1982 (47 FR 12203).

Evidentiary Proceeding

In a notice which appeared in the **Federal Register** on June 8, 1982 (47 FR 24768), the Tribunal announced that the

proceeding would be conducted in two separate phases. Phase I would be devoted to determining the percentages, if any, of the 1980 royalty fund. Phase II would be devoted to resolving disputes, if any, among claimants within each of the categories. In that notice, the Tribunal also announced:

1. Approval of utilization of the record of the 1978 and 1979 distribution proceedings in both phases of the 1980 proceeding;

2. Approval of the request of Superstation, Inc. to participate for all purposes in Phase I;

3. Alternation of the 1979 Phase I categories as listed in the final determination of March 8, 1982 (47 FR 9897) by establishing a new and separate category for Devotional Claimants; and,

4. Its determination that it shall not adopt any restrictions on the introduction of new evidence, or require any preliminary showing that the proferred evidence reflects a significant change in material facts from prior proceedings.

The Tribunal also ordered parties desiring to present evidence and argument and participate in cross examination during Phase I to notify the Tribunal of said intention on or before April 26, 1982 (47 FR 12203). Parties were further advised that participation in Phase I was not a prerequisite to participation in Phase II. The Tribunal directed, that not later than August 16, 1982, each Phase I party to submit any prehearing statements, witness lists, concise summary of each witness's testimony, and copies of all documentary evidence (47 FR 24768). Parties were directed to designate those portions of the 1978 and 1979 records they wished to incorporate in the 1980 record not later than July 15, 1982. The Tribunal subsequently incorporated the entire 1978 and 1979 records into the 1980 proceeding. Phase I of the evidentiary hearing began on September 21, 1982 and continued over a period of 30 days, concluding November 10, 1982. Participants in Phase I were allowed the opportunity to submit rebuttal evidence after the completion of the direct case. The participants were ordered to submit:

a. Names of rebuttal witnesses.

b. Concise summary of each witness rebuttal testimony.

c. Copies of rebuttal documentary evidence.

The hearings on the substantive aspects of the rebuttal proceeding began on November 16, 1982 and continued over a period of seven days, concluding on November 24, 1982.

In the **Federal Register** on December 28, 1982 (47 FR 57748) the Tribunal published its summary statement of its Phase I determinations. (A correction of a GPO typesetting error was published in the **Federal Register** of January 7, 1983 (48 FR 859).) In accordance with 17 U.S.C. 803(b), a full and complete statement of the Tribunal's conclusions of law, findings of fact, and other relevant determinations will be included in the Tribunal's final determination.

In that same statement the Tribunal, in preparation for Phase II, directed that not later than January 12, 1983 each claimant category shall notify the Tribunal of any voluntary agreements for distribution of royalty fees among the claimants within a category. The Tribunal further directed that not later than January 12, 1983 any claimant desiring to present evidence during Phase II shall notify the Tribunal of such intention, and the Phase II issues to be decided. Additionally, the Tribunal directed that not later than January 18, 1983 parties shall file with the Tribunal and exchange with other parties their direct, written cases, including list of witnesses, pre-hearing statements, and all documentary evidence.

Phase II of the evidentiary hearing began on January 25, 1983 and continued over a period of five days, concluding on January 31, 1983. The hearing on the substantive aspects of the rebuttal proceeding was conducted on February 2, 1983. The Tribunal ordered the parties to submit findings of fact and conclusions of law on February 9, 1983.

Summary of Evidentiary Positions

Motion Picture Association of America (MPAA)

The Motion Picture Association of America (MPAA) claimed an entitlement to 82% of the 1980 royalty fund.[1] As the primary basis for this claim, MPAA presented a Nielsen study of viewing of distant signal programming. The sample was based upon stations carried on cable systems whose total subscribers exceeded 75,000: 82 stations.[2] MPAA considered that its reliance upon this study was justified by the Tribunal's 1979 judgment that its Nielsen study in that proceeding was the single most important piece of evidence.[3] MPAA considered the Nielsen study an accurate reflection both of benefit to copyright owners and of marketplace value,[4] according to the Tribunal's criteria which had been validated by the Court as precedents the parties could rely on.[5] According to this study, the viewing of movies and syndicated series on distant signals is 82%, in contrast with a total time on the air of 74%.[6]

[1] Program Suppliers' Proposed Findings of Fact and Conclusions of Law, December 13, 1982, pp. 73.
[2] Ibid, pp. 5-6.
[3] Ibid, p. 64.
[4] Ibid, pp. 9-10.
[5] Ibid, p. 61.
[6] Ibid, p. 10.

A.C. NIELSEN COMPARATIVE VIEWING STUDY,[1] 4 CYCLES 1980

	Total programming QHS prog—Viewing avg HH (000)		Syndicated series QHS prog—Viewing avg HH (000)		Non-network movies QHS prog—Viewing avg HH (000)		Syn series and non-net movs QHS prog—Viewing avg HH (000)		Remaining programming QHS prog—Viewing avg HH (000)	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Cycle	501743	100	265240	53	104377	21	369617	74	132126	26
	10	100	10	53	13	29	11	82	7	18

[1] MPAA Exhibit A, final page.

These results, in MPAA's view, are objective, have been consistent over three years and represent the actual satisfaction of subscribers. Resubscription is a monthly constantly repeating decision,[7] and these patterns of viewing have held also for stations whose programming is said to be as diverse as sports flagship stations and network affiliates.[8] MPAA rejects the accusations of underreporting on diaries as unsubstantiated by hard evidence and not discriminating, even if it did exist, toward one party or another.[9]

Concerning the criterion of harm, MPAA relied upon the testimony of Mr. Horn in the 1979 proceeding and on the testimony of Mr. Valenti in all three proceedings.[10] This testimony stressed that syndicated programming is difficult to sell in heavily cabled markets and that cable intrusion has caused prices in all markets to be less than they would be otherwise. The same series is often run in the same day part nationwide and this makes the industry particularly vulnerable.[11]

MPAA relied for the foundation of its presentation upon the Nielsen study and the consistency with which the Tribunal has placed weight upon that study; but emphasized that this year the deficiencies that the Tribunal and found in its 1979 case had been corrected; in particular with regard to the station sample, the use of sweep weeks, and the value of syndicated programming.[12] MPAA also provided a cable industry witness in contrast to past proceedings. Mr. Kurnit, Vice-President of Warner-Amex Cable Communications, Inc., with responsibility for programming on 190 cable systems, and formerly Program Director for QUBE cable system in Columbus, Ohio.[13]

With respect to the station sample, MPAA felt that it had corrected the deficiencies cited in its 1979 case by simply selecting all stations carried by cable systems whose aggregate subscribers were 75,000 or above; rather than resorting to a statistical selection subsequently requiring weigthting. This produced a sample of 82 stations of which 41 were independents, 35 affiliates, and 6 specialty stations; 53 VHF and 29 UHF.[14] The fact that independents are represented more heavily than network affiliates is not an imbalance, but reflects the degree to which independents are picked up to a greater extent as distant signals.[15] The reasonableness and reliability of the sample are not affected by the fact that, for cost and time reasons, preliminary results were used and that the local designation of a few counties is in dispute.[16]

As for the question concerning the use of sweep weeks and the possible distortion they may give to viewing, MPAA presented viewing evidence from the QUBE cable system in Columbus, Ohio. This showed that the differences between sweep and non-sweep periods were inconsequential, and the explanation was given that during sweep periods all stations are promoting themselves simultaneously.[17] To conduct a survey the use of sweep weeks is the only practical method available.[18] MPAA relied upon its QUBE evidence and the testimony of Mr. Kurnit also to question the diminished value the Tribunal attributed to syndicated series in 1979. Cable operators need programming which can provide consistent satisfaction and result in monthly resubscription; and this is the benefit that syndicated series provides. This cannot be evaluated by looking at a single day part,[19] because syndicated series and movies are broadcast throughout the day and, in comparison with sports, for instance, have a much broader appeal.[20] Above all, syndicated series appear during the most important day part, early fringe.[21]

MPAA also presented evidence concerning advertising revenue, based on a 20 station sample. Although MPAA did not consider local advertising data strictly relevant to the distant signal market; nevertheless, it did view them as corroborating the high value of movies and syndicated programming.[22]

MPAA proposed the following allocation among parties:

	Percent
MPAA	82
Sports	7.25
PBS	4.0
NAB	2.25
Music	3.5
CBC	0
Commercial Radio	0
NPR	.25
Devotional	0

Joint Sports

The Joint Sports claimants argued that the royalty share they received for 1979 should be increased to 18% for 1980, considering the significant increase in superstation carriage by satellite between 1979 and 1980 and the unique effect of this development upon sports.[23] Due to the increased industry reliance upon satellites, superstations constituted 63% of new distant signals added by Form 3 cable systems in 1980. Superstations were carried on 75% of Form 3 cable systems in 1980 as against 64% in 1979.[24] Joint Sports argued that this increase in the carriage of superstations has resulted in an increase of the benefits conferred by superstations upon cable operators: relatively low cost, franchise advantages, free publicity, revenue opportunities.[25] This is reflected in the increase in the number of subscribers of those cable systems carrying superstations and of the royalties attributable to his carriage.[26] The Joint Sports claimants contended that programming has been an important factor in the success of superstations

[7] Program Suppliers' Proposed Findings of Fact and Conclusions of Law, December 13, 1982, pp. 12, 13, 64 and 66.
[8] Ibid, p. 65.
[9] Ibid, pp. 67–68.
[10] Ibid, pp. 5, 14, 71.
[11] Ibid, pp. 14, 15, 71.
[12] Ibid, pp. 5, 70.
[13] Ibid, pp. 10–11.
[14] Ibid, pp. 5–6.
[15] Ibid, pp. 66–67.
[16] Ibid, pp. 5, 6, 66, 67.
[17] Ibid, pp. 9, 12, 67.
[18] Ibid, p. 8.
[19] Ibid, pp. 12, 13, 14, 70.
[20] Ibid, p. 69.
[21] Ibid, pp. 70–71.
[22] Ibid, pp. 71, 72.
[23] Proposed Findings of Fact and Conclusions of Law of the Joint Sports, Dec. 13, 1982, pp. 9, 10, 28, 29, 32, 34, 35, 36.
[24] Ibid, pp. 30, 32, 33, 37.
[25] Ibid, pp. 31, 41, 42, 43, 44.
[26] Ibid, p. 33.

and that in comparison with all other programming sports has played the dominant role.[27] Sports occurs on superstations proportionately to a much greater extent than it does on other stations, superstations carrying one-quarter of all professional sports telecast by flagship stations.[28] Cable operators acknowledge sports as a principal reason in their decision to import superstations and advertise sports heavily in promoting their services.[29] Sports claimants argued that because channels and choices proliferated in 1980, the decision by cable operators to carry stations emphasizing sports was therefore much more significant.[30]

Joint Sports contended that unless there are material changes in circumstances the Tribunal is bound to adhere to its previous distribution decisions, especially in light of the court's affirmance of the ground rules. If there are changes of circumstances the burden of proof is upon the parties.[31] Joint Sports argues that it alone of all claimants has done this, and that, except for sports, other shares should remain the same, the only real dispute being between Joint Sports and MPAA.[32]

The Sports claimants considered that Tribunal's award to sports in 1979 was insufficient, given the evaluations by cable operators that sports and movies are of equal value.[33] The testimony of Mr. Jack Williams, Chif Operators Officer of Prism, a regional pay service in Philadelphia, and Mr. James Lahey, cable systems owner and operator, as well as the testimony elicited from cable witnesses presented by other parties, were presented in support of the value cable operators perceive in sports programming.[34] Those not placing an especially high value on sports were in the minority.[35] Sports provide diversity on distant signals which is not diminished by network sports, sports pay networks, or regional interest in sports.[36]

Joint Sports presented a BBD&O cable industry survey in support of its contention of the value placed on sports by cable operators: a telephone interview survey of the senior marketing or program executives of 34 of the 50 largest MSO's, representing 53.6% of the cable subscribers in the United States, similar to studies conducted for both 1978 and 1979.

BBDO Study—Average Allocations for Distant Signal Programming Categories (1979 and 1980) (1980 Sports Ex. 8)

	Percent mean		Percent median	
	1979	1980	1979	1980
Movies	38.00	37.76	40	37.5
Live non-network sports	35.00	32.95	30	31.7
Syndicated TV shows	10.57	11.77	10	10
News and public affairs	9.40	12.62	10	10
PBS and other educational programming	7.03	4.91	5	5

This study reflects that the value placed upon sports by cable operators has remained statistically constant and continues to be roughly equal to that for movies and superior to that for syndicated programming.[37] Joint Sports considered that the relative valuation of different kinds of programming was supported by the NAB/SRI study and the lack of change between 1979 and 1980 by the MPAA/Nielsen study.[38] Sports continues to be worth more to cable operators than the relative time it appears on the air, because it is rare and has a unique ability to attract and hold subscribers;[39] and any comparison with other programming must be made on the basis of programming carried on distant signals, not over the air. According to Joint Sports, the testimony of both its and others' witnesses places Sports well in excess of the 15% awarded for 1979.[40] In recognition of this special appeal and of the adherence to marketplace consideration in the structure of the sports case the Tribunal awarded Sports in 1979 a 3% increase over its award in 1978.[41]

Flagship stations also provide another measure of the value of sports programming to cable operators in that they were imported to a significantly greater degree as distant signals than non-flagships, enjoyed a relatively greater growth in carriage between 1979 and 1980, and were responsible for a higher proportion of the royalty payments. Without taking superstations into account this is still true.[42]

Form 3 Carriage of Non-Superstation [1] Flagship Stations and Non-Flagship Stations in 1980

	Flagships (minus Superstations)	Non-Flagships
Royalties attributable to avg. station	$103,150	$5,408
No. of systems that carried avg. station as a distant signal	24.87	3.08
No. of cable subscribers that received the avg. station as a distant signal	312,282	33,607

[1] Joint Sports Exhibit 6 and 19.

Joint Sports argued that the entire award for sports programming be granted to the sports claimants and no portion to the boardcasters.[43] Mr. Durso, Assistant General Counsel in the Office of the Commissioner of Baseball testified that no contracts expressly recognize copyright ownership in the broadcaster, that the majority of contracts specifically address copyright ownership in favor of the club, that in the instances where this is not the case the club assumes major responsibility for production. In the case of baseball, two-thirds of the contracts disposed of this issue before the Tribunal's first ruling.[44] The broadcasters are precluded from realizing any claim whatsoever for the vast majority of sports programming both under contractual obligations and according to their own theory. This is true for hockey and basketball, as well as baseball, and also for NCAA sports, in which the conference or institutions is responsible for production.[45] Contracts have become more explicit in this regard subsequent to 1980.[46] Joint Sports argued that the terms of negotiation have been established and that to change them would interfer arbitrarily with issues that have already been disposed of by the marketplace.[47] Mr. Jack Jacobson, Chief Operating Officer of Sportsvision, testified that the quality of productions is irrelevant in terms of negotiations or of the value of sports programming to cable operators.[48] The broadcasters' contribution, according to Joint Sports, is of *de minimis* value, as has been held by the Court; the team and the players' performance constitute the sole value of sports programming.[49] The teams, not the quality for production, are responsible for ratings.[50]

[27] Ibid, pp. 12, 13, 31, 38, 39, 44, 49, 50.
[28] Ibid, pp. 45, 46, 47, 48.
[29] Ibid, pp. 12, 51, 53, 54.
[30] Ibid, pp. 11, 39, 40, 41.
[31] Ibid, pp. 3–9.
[32] Ibid, pp. 2, 3, 14, 17, 78.
[33] Ibid, pp. 28, 56, 64.
[34] Ibid, pp. 58, 59, 60, 62, 63, 64.
[35] Ibid, pp. 60, 62, 63, 64.
[36] Ibid, pp. 59, 60, 88, 90, 91.
[37] Ibid, pp. 66, 67, 68, 69, 70.
[38] Ibid, pp. 72–76, 85.
[39] Ibid, pp. 15, 16, 17.
[40] Ibid, pp. 57, 58, 72, 87.
[41] Ibid, pp. 54, 55.
[42] Ibid, pp. 30, 45, 78, 79, 80, 81, 82, 83.
[43] Proposed Findings of Fact and Conclusions of Law of the Joint Sports, December 13, 1982, pp. 91, 96, 118.
[44] Ibid, pp. 27, 108, 109, 110.
[45] Ibid, pp. 109, 111, 112, 115, 116.
[46] Ibid, p. 113.
[47] Ibid, pp. 106, 107, 114.
[48] Ibid, pp. 101, 102, 105.
[49] Ibid, pp. 25, 27, 92, 101, 104.
[50] Ibid, pp. 102–103.

Joint Sports proposed the following allocation among all parties:

	Percent
Program Syndicators	67.00
Joint Sports Claimants	18.00
Public Broadcasting	5.25
Commercial Television Broadcasters (for all copyrightable interests	4.50
Music	4.25
Canadian Television	0.75
National Public Radio	0.25
Devotional Claimants	

National Association of Broadcasters (NAB)

The National Association of Broadcasters (NAB) claimed an entitlement to between 10% and 12.6% of the 1980 royalty fund. Station-produced programming alone, NAB claimed, was entitled to between 7.4% and 12.6%.[51] NAB considered that the Tribunal was wrong in its 1979 determination that station-produced programming was of marginal value.[52] The SRI study was presented in order to counter this view by providing the opinions of over 400 randomly selected Form 2 and Form 3 cable operators.[53] More than half of the operators gave station produced programming a rating of three or above, the study's mean on a scale of 1 to 5; and while station-produced programming was not valued on the whole as highly as movies or sports, it was nevertheless valued equally with syndicated programming,[54] and given a rating as high or equal to sports and movies by more than half the operators.[55]

SRI Study [1] Mean Ratings on Value in Attracting and Keeping Subscribers in 1980 on a Scale of 1 to 5

Station-Produced News Programs	2.70
Station-Produced Entertainment and Public Service Programs	2.59
Locally-Produced Telecasts of Sports Games	3.28
Syndicated Movies	3.42
Syndicated Series	2.88

[1] NAB Exhibit A.

In addition NAB presented the testimony of cable operators William Petty, Senior Vice President, Cap Cities Cable, and Edward Hewson, Vice President, King Broadcasting Co., who indicated that in spite of the expense and the fact that much of the other programming was duplicated, they imported signals specifically for their station-produced programming.[56] NAB also contended that between 1979 and 1980 station-produced programming increased: on the most widely carried independents by 9.1%, on WTBS by 48.9%, and on twenty-five network affiliates in the 50 largest markets by half an hour or more.[57] NAB claimed that broadcasters are harmed by cable importation in the same manner as syndication and sports interests are and receive no offsetting revenue, except in the case of WTBS.[58]

NAB presented exhibits to show that station-produced programming is unique, of high quality, and provides the diversity that is valued by the cable industry.[59] This is exemplified by such trends as the regionalization of news services, and increase in quality between 1979 and 1980.[60]

NAB further emphasized that the value of such programming is particularly important to "classic" cable systems in smaller television markets, where local news is inadequate, where over fifty percent of all cable subscribers are located, and where the majority of cable revenues are raised. This explains the importation of network affiliates and the value cable operators place upon station-produced programming.[61]

With respect to sports programming, NAB contended that the contribution of broadcasters was not *de minimis* and judged this first of all by its expense to produce.[62] NAB further argued that the Tribunal must address this issue because the Tribunal's decision inevitably affects private negotiations.[63] Such a decision must unavoidably rely upon subjective judgment, and NAB urged the Tribunal to follow past court practices and allocate equal shares to broadcasters and sports interests. Under this solution the broadcasters would nevertheless still be entitled to substantially less than the broadcaster half share.[64] NAB claimed that the Tribunal for the first time was in a position to assess the broadcasters' contribution and that this would reveal that the telecasts of games are themselves a form of entertainment and have a direct effect upon audiences' enjoyment.[65] NAB witnesses Jimmy Siliman, Independent freelance producer-director, and Peter Bonventre, Editor-at-Large, Inside Sports Magazine for Newsweek, attested that the value of this contribution ranged from 30% to 50%.[66]

NAB contended that the Tribunal must assess the value of the broadcast day as a compilation, now that its copyrightability has been upheld in court. The broadcast day satisfies the requirements of a collective work and meets the very broad standards of fixation. The fact that broadcasters have not specifically contracted for performance rights does not mean that their copyrightable interest has in any way been invalidated.[67] The broadcast day is assembled as a compilation with full knowledge and encouragement of those whose works are incorporated, primarily movies and syndicated series, and enhances the value of those programs.[68]

In addition the assemblage of the broadcast day is expensive and responsible for as much as 28% of programming costs.[69] In support of its contentions NAB presented Mrs. Sandra Pastoor, Vice President and Program Manager, WTTG. Compilations are valuable to cable operators in that they provide packaging, promotional efforts, and station image that cable operators themselves rely upon in selling their services. The value of the broadcast day is not diminished simply because, as a compilation, it is first designed for a local television market.[70] NAB acknowledged that the value of compilation is difficult to quantify and urged that it be related to the allocation for movies and syndicated series; and entitled to a share of 3.25%.[71]

NAB considers that the Tribunal erred in 1979 in making an award to National Public Radio (PR) without one for commercial radio.[72] The fact that duplication exists in commercial radio is no indication of lack of value, and frequently duplication is due to the importation of signals from larger markets for their superior quality. Duplication is not universal, and at times commercial radio is carried on a select signal in preference to NPR. The value cable operators place upon it is shown by the SRI study.[73] The

[51] Proposed Findings of Fact and Conclusions of Law of the National Association of Broadcasters, Dec. 13, 1982, pp. 4, 11, 59, 60.
[52] Ibid, pp. 4–5.
[53] Ibid, p. 5.
[54] Ibid, pp. 5, 6, 8, 59.
[55] Ibid, pp. 4, 7.
[56] Proposed Findings of Fact and Conclusions of Law of the National Association of Broadcasters, Dec. 13, 1982, p. 9.
[57] IBID, pp. 4, 14, 15, 16, 59, 60.
[58] IBID, p. 17.
[59] Ibid, pp. 4, 5, 10.
[60] Ibid, pp. 16, 17, 60.
[61] Ibid, pp. 4, 8, 9, 10.
[62] Ibid, pp. 22, 27.
[63] Ibid, pp. 23, 28, 66.
[64] Ibid, pp. 22, 24, 28, 66.
[65] Ibid, pp. 22–27.
[66] Ibid, pp. 22–27.
[67] NAB Findings of Fact, p. 18 and Memorandum of Law on Broadcast Compilations of the National Association of Broadcasters.
[68] NAB Findings of Fact, pp. 18, 21, 22, 67 and Memorandum of Law, p. 12.
[69] NAB Findings of Fact, pp. 19, 67.
[70] Ibid, pp. 16, 19, 20, 21.
[71] Ibid, pp. 67, 68.
[72] Ibid, pp. 49, 64.
[73] Ibid, pp. 50–53.

contribution of music to the value of commercial radio is relatively low as measured as a percentage of cost, between 10% and 30%.[74] On the basis of carriage, commerical radio occupies a substantially greater share of distant signal importation than does NPR, 85% to 5%, according to the study conducted by NAB.[75]

NAB argued that radio programming as a whole should receive an allocation of 1.5% and that NAB's share be 0.5%.[76] NAB recommended the following allocations among all parties:

	Percent
MPAA	61.75
Sports	15.00
NAB	13.25
PBS	5.00
Music	3.75
CBC	0.50
Commercial Radio	.50
NPR	.25

Public Broadcasting Service (PBS)

Public Broadcasting Service argued that its royalty share be increased to 8% from the 5.25% it received for 1979, on the grounds that the Tribunal was incorrect in 1979 in reducing PBS programming subject to any duplication to no value.[77]

Public television signals constituted 10% of all full-time distant signals imported by cable systems in 1980, and, albeit less than commercial stations, but without the assistance of satellite retransmission, increased their carriage from 1979.[78] Public broadcasting signals are also a local "must carry" farther out than commercial signals.[79] PBS contended that public television was responsible for 15% to 20% of all non-network television viewing in the United States in 1980, and unlike the viewing of syndicated series in the prime period of early fringe, the viewing of public television did not decline.[80] PBS also contended that the viewing of public television in cable homes increased more than it did in non-cable homes.[81]

The single public television signal carried by a cable system occupies five percent of all distant signals, and in one-half of the other instances of public television distant signal carriage—in which one public television station is already in a market and one additional signal is brought in—duplication of programming is only partial.[82] PBS presented examples of the different categories and schedules of stations to show that duplication of public television programming was not 100%.[83] PBS conceded that actual duplication of commercial programming is not as great as with public television programming, but argued that in commercial broadcasting the duplication of syndicated series and movies, and in many cases also of sports and local programming, takes place in an important conceptual sense.[84]

PBS contended that, with respect to the claimants in the proceeding, no major change in facts of decisional significance took place between 1979 and 1980. To the extent, however, that there was an increase in the carriage of commercial stations due to satellite of retransmission, this phenomenon played no role in the increase in the carriage of public television stations.[85]

PBS reiterated the emphasis that it has placed in previous proceedings upon the high quality of public broadcasting and contended that commercial broadcasters are unable to equal it. As a result, it is inappropriate to apply to public broadcasting the same rating measure that is used in the commercial world. PBS claimed that this quality is responsible for the desire by cable operators to import public broadcasting signals, citing an instance in which subscribers preferred a public broadcasting channel above one carrying sports.[86] PBS stressed that public television bears no resemblance to the programming of devotional claimants, in spite of the fact that both may solicit funds; in that devotional programming is directed toward a narrow group with a proselytizing message.[87]

PBS contended that, because of the financial precariousness of public television, public television is much more vulnerable than commercial television to the harm caused by the intrusion of distant signals into a local station's market. The report on the Alternative Financing Options for Public Broadcasting was presented in support of this argument, and PBS contended that, of all claimants, it alone has provided concrete proof of harm. PBS also cited the failure of commercial attempts to succeed with high quality and cultural programming.[88]

PBS rejected the contention that, alone of all claimants, public television received a benefit from cable in assisting it to overcome its frequent UHF handicap. Other claimants are also benefitted; in the case of WTBS, program suppliers get increased remuneration for their product, and sports teams increase the number of their fans without impinging upon their gate.[89]

PBS proposed no allocation for the commercial claimants.

American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI) and SESAC, Inc. (Music)

All music claimants joined in one presentation and claimed entitlement to a 6% share of the 1980 cable royalty fund. Music's claim is attributable to both distant cable television carriage and distant cable radio carriage. This allocation was derived by application of the five criteria previously established by the Tribunal in cable royalty distribution proceedings: marketplace value, benefit to cable systems, harm to copyright owners, quality, and time.[90] In addition music attempted to demonstrate in the 1980 proceeding the considerable importance of music as an integral component of virtually all programming carried on distant signals.[91] The 1980 presentation strategy of the music claimants endeavored to illuminate the value of the music component of programming from a new, previously unrevealed perspective: that of the composers and lyricists who are called upon by producers of films, sports, series, and locally produced programming to enhance the value of the product through their creativity.[92]

Music asserts that it is the only claimant group which is entitled to a share of the cable television royalty fund based on a copyrighted element of programs, rather than the programs themselves.

Music's case addressing television for 1980 focused *primarily* on three of the criteria as previously articulated by the Tribunal: music's role in establishing the marketplace value of distant signal programming; the consequential benefit conferred upon cable systems retransmitting these programs; and the claimants perceived quality of the musical component.[93]

[74] Ibid, pp. 54, 55.
[75] Ibid, pp. 49, 50, 51, 53, 54.
[76] Ibid, pp. 64–65.
[77] Public Broadcasting Service Proposed Findings of Fact and Conclusions of Law, December 13, 1982, pp 11, 12, 18, 19, 26, 27, 43.
[78] Ibid, pp. 2, 11, 41, 42.
[79] Ibid, p. 2.
[80] Ibid, pp. 11, 34, 35.
[81] Ibid, p. 35.
[82] Ibid, pp. 12, 13.
[83] Ibid, pp. 14–17.
[84] Ibid, pp. 18–21, 23–25.
[85] Ibid, pp. 1, 2, 4.
[86] Ibid, pp. 3, 18, 28, 29, 31, 32, 33.
[87] Ibid, pp. 27, 28.
[88] Ibid, pp. 3, 30, 31, 32.
[89] Ibid, pp. 36, 37, 38, 39, 40.
[90] Proposed Finding of Fact and Conclusions of Law of Music, December 13, 1982, p. 3.
[91] Ibid.
[92] Ibid.
[93] Ibid p. 6.

The Marketplace Value, Benefit, and Quality of the Music Component of Distant Signal Programming

The essence of the 1980 music case was demonstrated by the BMI documentary film "The Score", which explored the intricate and creative process of composing music for television and motion pictures.[94]

This film was an attempt to illustrate the commercial and creative value contributed to films and television by the efforts of film composers. Music then augmented this theme by presenting the testimony of three successful and distinguished writers of music for programming of the sort carried on distant signals: Hal David, Earle Hagen, and Frank Lewin. Music believed their testimony would be applicable to all uses of music in distant television programming.[95]

Mr. David addressed the value of feature songs in films. His testimony sought to establish that feature songs are frequently a critical component of the artistic and commercial success of films, translating directly into marketplace value, quality and benefit to cable systems carrying such films. Mr. David cited some examples of how successful songs written for movies and released separately generated interest in the movie.[96]

Mr. David asserted that the same songs which generate outside interest in a film also function as an integrated, artistic component of the film. This testimony accompanied two showings of the sequence from the film "Butch Cassidy and the Sundance Kid" for which he wrote "Raindrops Keep Fallin' on My Head."[97]

Composers Earle Hagen and Frank Lewin gave testimony on what they believe to be significant, but often overlooked value of background music in films and programs of all types. They characterized background music in a film as an indivisible component of an integrated product; the combination of which creates a "third entity."[98] Mr. Hagen testified that it was the function of background music to subliminally amplify the dramatic content of a picture. He described the use of music in the movie "Jaws" as one example of this function.[99]

Mr. Lewin testified that music may set a mood, serve as a sound effect or add color, impression or representation of movement. He said that it may also suggest memories, subliminal events and contrasting images to the picture.[100] As an illustration of these function, Mr. Lewin gave two showing of an exceprt from an episode of " The Defenders", during which he described the process of scoring, orchestrating, mixing, and recording music to serve the dramatic purposes of the excerpt.[101]

It was testified that in serving subliminal function background music is often intentionally unobtrusive.[102] It was suggested that the Tribunal's valuation of music on distant signal television must recognize this crucial, yet largely subliminal role of background music as an element of many program types.[103]

Musical themes comprise another category of television music which is utilized by every program type.[104] Mr Hagen cited a crucial function of themes which explains in part their nearly universal use across all types of television programs.[105] Mr Hagen discussed the effort and expense which is often devoted to integrating themes with pictures and graphics in connection with showing the opening sequences of "Mod Squad" and "I Spy."[106]

Harm To Copyright Holders

The music claimants argue that they suffer harm from distant cable carriage in several ways. first, they say copyright owners are harmed on an individual basis because the importation of a certain program by distant signal into a given market forecloses the likelihood that a television station in the market will buy the program and air it. Therefore the music contained in the excluded program will also be excluded.[107] Claimant argued that music has been harmed by cable carriage in other ways. The competition from distant signals received in a given market reduces the audiences for the local television stations in that market with a station's audience smaller its advertising revenues are reduced.[108]

The reduction in local station's advertising revenues causes direct harm to music because the music license fees paid by local television broadcasters are based upon a percentage of advertising revenues. The lower the advertising revenues, the lower the music license fees.[109]

The Mechanistic Approach

Dr. Paul Fagan, ASCAP's chief economist and director of special projects testified that changes in the marketplace have gradually rendered the marketplace analogy of local television music license fee payments less accurate as a reflection of current market conditions as each year goes by. The last license agreements were negotiated in 1969, and expired on December 31, 1977. All payments since then have been on an "interim" basis, subject to ultimate retroactive adjustment when the terms of a new agreement are finally reached.

As market conditions have changed, without a corresponding change in the local television licenses, these "interim payments" have become less accurate reflections of the true market value of copyrighted music.[110] Dr. Fagan also testified that calculation of the marketplace analogy would be particularly deceptive for 1980 because it was a presidential election year and a large proportion of television advertising revenues reflect that fact, because such revenues are deducted by stations in arriving at the net revenue figure upon which music fees are calculated as a percentage.[111]

Music's Share of Radio

Music claims it is entitled to receive virtually all of that portion of the 1980 royalty fund attributable to the carriage of distant signal commercial radio. Most or all of the value of distant signal commercial radio is attributable to music. Cable's benefit from distant commercial radio carriage, which is overwhelmingly FM carriage, is attributable almost exclusively to music, a fact which was established in the 1979 proceeding and confirmed in the 1978 proceeding by NAB witness Wayne Cornils.[112] The records of both years, including testimony of other parties, establish that one of the main purposes of cable carriage of radio is to improve stereophonic sound quality for the subscriber.[113]

Music also claims a significant portion of the fund attributable to the distant carriage of non-commercial radio, arguing that copyrights music occupies approximately 55% of the time attributable to copyrighted programming on public radio stations, including both NPR network and locally produced NPR station programming.[114]

[94] Music Exhibit 1.
[95] Ibid p. 7.
[96] TR 2480–61; TR 2470–2472.
[97] TR 2463–2470.
[98] TR 2572.
[99] TR 2512–2515.
[100] TR 2553, 2569–2570, 2575.
[101] TR 2553–2583.
[102] TR 2526–2527.
[103] Proposed Findings of Fact and Conclusions of Law of Music, pp. 11 and 12.
[104] TR 2499.
[105] TR 2527–2528.
[106] TR 2520–2521; 2523–2524.
[107] TR (1979) 4155.
[108] TR (1979) 1975–1976.
[109] TR (1979) 4156–4157.
[110] TR 5011–5012.
[111] TR 5013.
[112] TR 2113–2114; TR (1979) 2708–2710; 4164–4165.
[113] TR 1904–1907; TR (1979) 4531–4533.
[114] 1979 Music Exhibit 9; TR (1979) 440–441.

Music proposed the following allocation for all claimants:[115]

	Percent
Music	6.00
Program Producers and Syndicators	69.00
Joint Sports Claimants	14.75
Public Broadcasting Service	5.00
U.S. Commercial Broadcasters	4.25
National Public Radio	0.25
Canadian Claimants	.75
Devotional Claimants	.00
Total	100.00

Canadian Broadcasting Claimants (CBC)

The Canadian broadcasting claimants propose that a share of the royalty fund be awarded to their group for all programming carried on Canadian television stations. The Canadian claimants are requesting an increase in the Canadian allocation from 0.75% to 3.25%. The increase is related to the correction and amplification of the 1980 record with respect to three evidentiary limitations noted by the Tribunal in the 1979 proceeding and not to any demonstrable increase in the extent of Canadian distant signal carriage.[116]

The Canadian claimants augmented the 1979 record with a showing of (1) the relative number of Canadian distant signals and the relative contribution of Canadian distant signal carriage to the overall royalty fees deposited by cable systems. (2) The appeal to U.S. audiences and the cable marketplace value of Canadian content programming. (3) The cable marketplace value of French language television stations.[117] The case on behalf of Canadian Broadcasting Corporation (CBC) presented witnesses and studies in support of a revised claim for 3.25%.[118]

Testimony was presented on the extent to which Canadian television is carried on United States cable systems; and the nature of CBC television programs. Also, each of three witnesses, Mrs. Janice Currie representing CTV, Mr. Jean-Marie Dugas representing CBC French Network and Mr. Jack Craine representing CBC English Network, testified as to the meaning of Canadian content and the nature and appeal of the resultant programming.[119]

The Canadian programming is not limited to local programming. The majority is Canadian network programming.[120]

Although the Canadian claim generally includes FM public radio, no part of the quantitative evidence is based on radio carriage and no part of the requested 3.25% allocation is related to radio.[121]

Mr. Donald Lytle testified as to the methodology employed in applying the "must carry" rules to Canadian stations.[122]

The Canadians made the following proposed limited allocations for the 1980 Cable Copyright Royalty fund.[123]

	Percent
MPAA	66.00–73.0
U.S. Commercial Television	5.0
PBS	5.25
Joint Sports Claimants	14.00
Canadian Claimants	3.25

National Public Radio (NPR)

Public radio's stated goal in the 1980 proceeding was to meet the Tribunal's criticism that the 1979 record was inadequate to assess public radio's marketplace value or the relative contribution of music. With the issue of radio carriage resolved in the 1979 proceeding, the ratio portion of the 1980 proceeding focused on the relative value to cable operators of public and commercial radio signals and on the relative contribution of music to cable radio.[124]

The record evidence on these issues is summarized as follows. First, only the claim of public radio are based upon the production of news, music and spoken word radio programs. While public radio stations also arrange the musical compositions in their schedules, NPR's claims are not based on this evanescent contribution.[125] Second, cable importation of public radio signals brings to cable communities programming which is otherwise unavailable to them. Unlike most commercial radio formats, public radio stations do not blanket the country.[126] NPR asserts that NAB's format duplication study confirms that 85% of all imported commercial signals duplicate locally available formats.[127]

NPR claims this is consistent with the format listings in *Broadcasting Cable Yearbook*, with the analysis of the Carnegie Commission, with Frank Mankiewicz' assessment of commercial radio duplication, and with the conclusions of the Tribunal and the Court of Appeals.[128] Third, NPR claims public radio alone has demonstrated the marketplace value of its programming—in foreign sales, in cassette sales, in the use of its contributors by pay cable services, and in listener contributions.[129] Fourth, NPR asserts that public radio programming is universally acknowledged to be of the highest quality, whether quality is measured by state-of-the-art production technology, by critical acclaim or by the recognition of industry groups.[130]

Marketplace Value and Benefit

NPR claims it developed ample evidence in the 1979 proceeding establishing that cable operators want programming that will encourage potential customers to become and remain subscribers.[131]

The Importance of Radio to Cable Systems

In Arbitron's "Ratings of Cable Program Services" cable subscribers gave more high ratings to distant television signals coming from neighboring cities or via satellite.[132] Additionally, radio's appeal to cable operators is also indicated by the survey of cable operators conducted by Statistical Research, Inc.[133]

NPR witness Carol Whitehorn testifies that the vast majority of cable systems include radio service with television service in the basic service fee.[134] Thus by augmenting subscribership, radio service generates additional fees for cable systems.[135]

The true extent of cable radio revenue cannot be determined because the statements of account do not accurately reflect radio subscribership. Edward Hewson of King Videocable testified that radio is an important part of his company's cable service, stating "It makes money for us and we are financially driven."[136] However, Hewson acknowledged that the separate charges paid by these cable subscribers for radio service were not reflected. Rather, those charges were included in the second set of fees charged by his systems, and the vast majority of other cable systems.[137]

[115] Proposed Findings of Fact and Conclusions of Law of Music, p. 38.
[116] Proposed findings of Fact and Conclusions of Law of CBC, December 13, 1982, pp. 1 and 2.
[117] Ibid. p. 2.
[118] Ibid. p. 1.
[119] TR 2624–56, 2666–70, 2756–65, 2893–2914.
[120] TR 2929.
[121] Proposed Findings of Fact and Conclusions of Law of CBC, p. 2.
[122] TR 2827–37, CDN Exhibit DD.
[123] Proposed Findings of Fact and Conclusions of Law of CBC, pp. 39., 40, 61, 71, and 78.
[124] Proposed Findings of Fact and Conclusions of Law of NPR, December 13, 1982, p. 2.
[125] Ibid pp. 9–23.
[126] Ibid p. 31.
[127] Ibid pp. 23–29.
[128] Ibid pp. 29–31.
[129] Ibid pp. 36–40.
[130] Ibid pp. 44–47.
[131] TR (1979) 44, 174, 1064, 1219–20.
[132] 1979 PR Exhibit 46.
[133] CT Exhibit 80–A.
[134] TR (1979) 4401, 4381, 4399.
[135] TR (1979) 1415.
[136] TR 1864.
[137] TR 1908–9, TR (1979) 4554–55, 4381, 4397–98.

Further evidence of radio's appeal is found in the costs incurred by cable systems in importing distant radio signals. One witness in the 1979 proceeding testified that even all-band facilities cost $3,000–$4,000.[138] Microwave reception fees for radio range from $35 to $200 per month per station.[139] Select signal carriage costs $300–$500 per channel, in addition to the antenna, for a total of about $20,000–$25,000.[140] In general the costs of retransmitting a radio signal average 10%–15% of the cost of importing a television signal.[141] NPR concludes that cable operators would not incur such costs unless they found substantial value in radio signals in the cable marketplace.

Another measure of radio's value lies in the fact that radio signals provide a much more significant portion of cable audio service than television signals do of video service.[142] The value of programming carried by a cable system is diminished by the availability of a similar service on a non-broadcast basis.[143]

NPR claims that an additional measure of marketplace value is NPR's unique programming which attracts subscribers.[144]

NPR claims its programming uniqueness consists of many elements. One example, NPR's programming is uninterrupted by commercials thus making it more interesting.[145] Another, its programs also have "program concept(s)" which gives them a "theme and cohesion."[146] In the 1980 proceeding examples were given of NPR's news and information programming.[147] Also, the scope and depth of NPR's business and economics reporting is allegedly illustrative of its efforts in other areas, as testified to by Robert Krulwich.[148]

Frank DeFord's work as a sports commentator provides another view of NPR's unique contribution to broadcasting. Along with other noted sports commentators DeFord provides the equivalent of a sports column.[149]

Similarly NPR claims its dramatic productions and its spoken word programming is also unique.[150] NPR's fine arts and cultural programming is state-of-the-art and is often recorded live. It is therefore more costly to produce than typical commercial programming.[151]

NPR claims its music programming is also uncommon for several reasons. First many NPR stations provide one of two relatively rare types of music programming, classical and jazz, which command loyal listener support.[152] Second, NPR's classical music sttions have unique appeal to cable subscribers and thus to cable operators.[153] One concrete example was provided by Mr. Hewson of King Cable.[154] Third, there are differences between NPR stations and even those few commercial stations which carry the same type of music. NPR does more concert recording and distribution than does commercial radio.[155]

Programming is delivered in the highest possible quality via satellite.[156] NPR used digital technology in 1980.[157] NPR provides more live guest performances.[158] The recorded music programming is enhanced by commentary and intermixing of pieces of related historical significance.[159] Local NPR stations, too, do live recording, more per station than commercial classical radio even if NPR's contribution is excluded.[160]

NPR advanced three indicia in an attempt to further establish the marketplace value of a non-commercial product such as public radio programs. First, witness Randy Houk, Director of Publishing described NPR's recently initiated program of cassette sales. Sales began in 1981. Sales to individual consumers began in the last six months of 1982. The programs sold span several years and includes those done in 1980.[161] This cassette market reflects upon the cable market for NPR's programming.[162] Continental Airlines is also purchasing NPR's programming and negotiations are ongoing with other airlines.[163]

NPR reports that it also sells its programming to foreign broadcasters.[164]

A further indicator of NPR's marketplace value is that its contributors and staff have been hired by cable systems to perform similar programs to those which they do for NPR.[165]

NPR believes that the extensive Distant and Select Retransmission of Public Radio also indicates its value. The vast majority of cable systems provided radio service in 1979.[166] NPR's survey of cable radio carriage showed that approximately 2,000 cable systems carry NPR signals on a distant basis.[167]

According to NPR perhaps no other measure of its value is as persuasive as the fact that listeners voluntarily pay almost $2.00 a month to help insure that NPR remains on the air.[168]

Harm

NPR stations are injured by the use of their signals without compensation like all other claimants.[169] The record reflects that cable importation of an NPR signal from 150 miles away sapped community support for a public radio station in Wilmington, NC.[170] When a distant NPR station is imported into a market with an existing NPR station, the local station "will receive reduced financial support from the local community because someone else is providing some of the services for which it would otherwise receive contributions."[171] In this way the importation of a distant NPR signal may hamper the expansion of the public radio system.[172]

Quality

Philip McHugh, a news programming consultant testified that "quality of the presentation of information is something that anyone can understand."[173] He emphasized the importance of sophisticated production techniques, originality of program concept, live news coverage, and in depth news coverage.[174]

NPR reproduced a few of the many positive reviews of its programming that have appeared in the nation's leading publications.[175] The record also contains evidence of awards won by NPR for its programming.[176]

NPR proposed the following allocation for all radio claimants:[177]

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[138] TR (1979) 2569.
[139] 1979 PR Exhibit 48, p 12; TR 4429.
[140] TR (1979) 2569.
[141] TR (1979) 4413–14.
[142] 1979 RR Exhibit 48, pp 1–2.
[143] TR (1979) 1565; 1460–61.
[144] TR (1979) 2104–05, 2427, 2577–80, 2650; TR 1910; PR Exhibits 112, 113.
[145] TR (1079) 2696–99; TR (1980) 2140.
[146] TR (1979) 2699–2700.
[147] PR Exhibits 103–4.
[148] TR 3008–16, 3020, 3012–13.
[149] TR 3578–79, 3582, 3585–86, 3606.
[150] TR (1979) 441–42, 1979 Exhibit PR 66.
[151] TR (1979) 447.
[152] 1979 Exhibit PR–1; TR 3042–3105.
[153] TR (1979) 3995, 4002, 1318–19, 4228, 4234–37.
[154] TR 1864–65, 1910.
[155] TR 3048.
[156] TR 3049.
[157] Ibid.
[158] TR 3053.
[159] TR 3050.
[160] TR 3082–84.
[161] TR 3138–39, 3109–10, 3134.
[162] TR 3119.
[163] TR 3111–12, 3122.
[164] Proposed Findings p 39.
[165] TR 3590, 3599, 3622–25, 3018–21.
[166] 1979 Exhibit PR–47, Table 1–3, Exhibit PR–65.
[167] TR (1979) 4380, 1979 Exhibit PR–47, P 3, Table 2.
[168] TR (1979) 447.
[169] TR (1979) 540.
[170] 1979 Exhibit PR 60.
[171] TR (1979) 539.
[172] TR (1979) 449–50; 4337.
[173] TR (1979) 2380–81.
[174] TR (1979) 2412–14.
[175] 1979 Exhibit PR 66.
[176] 1979 Exhibit PR 10, 74.
[177] Proposed Findings of Fact and Conclusions of Law of NPR, p. 53.

	Per cent
NAB	0.0
Music	0.3
NPR	0.7

The Devotional Claimants

CBN, PTL, and Old Time Gospel Hour (OTGH) are individual claimants and presented separate cases. However because of the similarity of the issues we discuss them jointly as the Devotional Claimants.

In the 1979 proceeding the Devotional claimants were grouped within the Motion Picture and Syndicated Program Suppliers category. In the 1980 proceeding a separate claimant category was created for these claimants.

Harm

The Devotional claimants argued that the predominant thrust of the harm suffered by them stems from the loss of control over the use of their copyrighted product that results from the compulsory licensing scheme.[178] One of the specific harms claimed by devotional program suppliers is that of audience fragmentation. The distant signal carriage of duplicative devotional programming causes audience fragmentation with a loss in audience to the local station. Such carriage, the claimants argue, reduces the station's cumulative audience with a resulting direct reduction in the value of the station's commercial time. Second, such carriage then reduces the "lead-in" value of the devotional programming, i.e. its ability to attract and hold an audience which will be carried over to later programming. By reducing the lead-in value of the devotional programming, there is a reduction in the commercial potential of programming followed by that presented by the Devotional programmers. The result of this diminution is to increase the price those programmers must pay to the station to acquire program time.[179]

Another harm claimed by the devotional claimants resulting from distant signal importation is the viewer confusion caused by program duplication and the inherent problems in scheduling and promoting its product.[180]

Some devotional claimants argue that the loss of control of their product resulting from the importation of distant signals which carry their programming imposes yet another direct and specific harm. CBN has implemented a program to license its copyrighted programming directly to the cable television industry. These are the same CBN programs distributed to broadcast systems and carried on a distant signal basis.[181] The direct licensing system takes the form of an advertiser-supported satellite distribution network.

The success of CBN's cable service will have advantages for CBN. First, there is a direct revenue potential from the sale of advertising to commercial entities. The satellite service is a profit-making activity upon which taxes will be paid and from which the profits will be used by CBN to support its tax exempt activities. Second, CBN's cost of acquiring program time will be reduced in markets with significant cable penetration. Finally, CBN has direct control over satellite program scheduling. This allows it to place CBN's own programming, in prime time, which it has had difficulty acquiring on broadcast stations.[182]

Benefit

Devotional claimants argue that because much if not most of devotional programming broadcast in 1980 was contributor-supported it is therefore evident that people will directly support the devotional program producer and provide money to defray the costs of production and broadcast time.[183] Similarly, it is claimed, those same people are willing to expend their money to subscribe to the cable system in order to receive the program. The procedure of "narrowcasting" plays a role in a cable operator's choice among broadcast signals. There are many people who classify therselves as religious but do not have time to participate in religious activities. Devotional programmers meet these needs.[184]

William Petty, Senior Vice President for Cap Cities Cable and witness for NAB testified that there would be an irate reaction among his subscribers if he dropped religious programming.[185] A company negotiationg for a cable franchise has used the existence of devotional as a source of alternative programming to the adult movie fare which *may be* included in the cable package and against which there *may be* some community criticism.[186] Yet another benefit to cable operators from the carriage of devotional programming stems from the FCC policy with regard to the carriage of distant specialty stations.[187]

As an example, station KXTX was cited. Owned and operated by CBN in Dallas it was listed in the MPAA Nielsen study as one of the top ten widely carried distant signals in the country.[188] Qualifying as a specialty station in 1980 it received extensive cable carriage on a distant signal basis in Arkansas, Oklahoma, Louisiana and neighboring states.[189] It was imported into those distant markets by expensive microwave common carriers, the cost for which was paid by the cable systems themselves.[190]

Marketplace Value

Many Devotional programmers purchase time on broadcast stations. The Devotional claimants argue that the method of distribution says nothing about the value of a particular program and should not affect the copyright royalties to the copyright owner of that program.[191] Devotional program suppliers marketed their product in tape form to the cable operator in the past.[192] Presently they are licensing their programming directly to the cable television industry via full satellite channels.[193] Some devotional satellite channels are comprised totally of devotional programming and some channels, such as CBN, are predominantly devotional but also contain "secular" programming. According to the claimants programs which appear on those networks are essentially the same as those distributed to commercial broadcasters.[194] In the case of CBN's satellite channel, the cable operator pays for the programming on that channel through a barter arrangement whereby CBN retains commercial availabilities.[195] The Devotional claimants also introduced evidence that devotional program suppliers have marketed their product on a commercial basis to television stations.[196]

Quality

The Devotionals centered their claim to quality on their production facilities and technical refinements.[197] They also introduced evidence establishing that many of their programs are live programs which are taped daily or weekly for primary circulation.[198]

[178] TR 3228.
[179] TR (1979) 3227.
[180] TR 3228, Devotional Exhibit N.
[181] TR 3239.
[182] TR (1979) 7130.
[183] TR 3228-29.
[184] TR 3227.
[185] TR 1775-76.
[186] TR 3233.
[187] TR 3236.
[188] MPAA Exhibit A.
[189] TR 3236.
[190] TR 3237.
[191] TR 3265-66.
[192] TR 3238.
[193] TR 3239.
[194] Ibid.
[195] TR 3283.
[196] TR 3255, 3258, 3257.
[197] TR (1979) 7057.
[198] TR 3242-43, 1979 CBN Exhibit 1.

Time-Related Considerations

The Devotional claimants introduced evidence purporting to show the amount of devotional programming broadcast by stations which were carried as distant signals.[199] The percentages of Devotional programming were derived from the FCC Form 303–A Annual Programming Reports which were filed by the 49 stations in the station sample in 1981 for the programming carried in 1980.[200] The claimants determined from the program descriptions attached to the relevant Form 303–A's those programs which would be classified as "religious" in nature. The amount of time devoted to religious programming by each station was divided by that stations's composite week operating time to determine the percentage of devotional programming during the composite week.[201]

The Devotional Claimants proposed that the 1980 Cable Copyright Royalty Fund be allocated in the following manner:[202]

	Percent
MPAA and Program Suppliers	66.50–67.50
Joint Sports Claimants	14.00–15.00
PBS	5.00
Music	3.50– 4.00
NAB (TV and Radio)	3.50– 4.25
Canadians	0.25– 0.50
NPR	.25
Devotional	3.50– 7.00

Phase II—Allocation Among Program Suppliers Claimants

MPAA and Associated Program Suppliers

MPAA and associated program suppliers contended that in Phase II their share of the program suppliers category should be 97.975%.

The Program Suppliers have presented a proposal which allocates the entire share among all claimants, which has been accepted by the vast majority of those who have an interest, and which provides an administratively feasible and equitable division of the fund.[203]

Program Suppliers is a group of 58 program syndicators and producers out of a possible 60 who have reached a voluntary settlement among themselves as to a fair and reasonable allocation of the 70% of the 1980 royalty fund awarded this category in Phase I.[204]

The Program Suppliers' direct case made use of a 1980 Nielsen Special Study. The study analyzed the viewing of syndicated series and movies in cable households. The 58 settling syndicators and producers agreed that distribution in Phase II should be based on relative distant signal viewing of their programs, series and movies.[205]

Program Suppliers provided viewing data for individual programs, comparisons of different programs, background information concerning the settlement and data collection processes. This new evidence gives added support to the validity of Program Suppliers' proposal.[206]

The Program Suppliers presented aggregated viewing data for their combined claim, and for the claims of the non-settling claimants, thus giving an overall allocation scheme for this category's share.[207] In addition, Program Suppliers presented relative viewing data for over 600 English language syndicated series and specials appearing in the Nielsen Study, including Multimedia series and specials appearing in the Nielsen Study, thus providing a basis for evaluating the relative viewing of each of Multimedia's program vis-a-vis other program series.[208]

The Program Suppliers' combined claim was based primarily on the Nielsen Special Study. the use of viewing as a primary standard for Phase II is the only equitable and administratively feasible method for determining relative royalty shares for the great variety of syndicated programs.[209]

Relative viewing of programs carried on distant cable systems represents the degree to which local television stations in those markets are losing potential viewers for the same programs, thus reducing the value of the syndicators' programs to those local stations.[210] The relative popularity of programs, as determined by viewing, provides a means of indicating the benefit to cable systems of particular programs: to the extent that distant signals provide programs desired and viewed by subscribers, cable systems benefit.[211] Viewing data has been regarded as the primary determinant of the marketplace value of television series and movies.

The 1980 Nielsen Special Study was modified as a result of certain criticisms of the 1979 study. The 1980 survey included 82 stations versus 49 in 1979. The stations selected were based on the number of subscribers reached rather than fees generated. The sweep period was increased from 15 to 16 weeks.

The Nielsen Special Study reported 1,008,053,280 total households viewing hours attributable to the syndicated program category.[212] Of this total, 924,240,030 households viewing hours (91.685%) were attributable to programs, series, and movies included within the claims of the Program Suppliers.[213] Multimedia/Show Biz programs had 11,668,420 household viewing hours 1.158%), and SIN had 7,429,350 household viewing hours attributed to its claimed programs (.737%).[214] The Nielsen study showed that about 64 million household viewing hours (6.420%) were attributable programs for which no royalty claims had been filed ("unclaimed funds").[215]

Multimedia attempted to show that the Program Suppliers had overstated their share by including movies and series that were not copyrighted and should thus have been assigned to the "unclaimed funds" column.[216] The process to determine ownership and individual shares took approximately six months. Determining ownership of series and movies was a multi-step process including the identification of the syndicator for each program from various source materials which indicate for each series, special, and movie the name of the syndicator and the name of the producer.[217]

The record indicates that Program Suppliers have undertaken practical and effective means for assuring that the programs on which the award is based have valid copyrights.[218] Showing that an inconsequential amount of the Program Suppliers' award may be based on titles that might be in the public domain may properly be dismissed as *de minimus*.[219]

MPAA and associated program suppliers proposed the following allocation of the program syndicators share.[220]

	Percent
MPAA and associated program suppliers	97.975
Multimedia	1.237
SIN	0.788

[199] Devotional Exhibit A, TR 3245.
[200] Revised Devotional Exhibit A.
[201] TR 3244, 3247–48.
[202] Proposed Findings of Fact and and Conclusions of Law of Devotional Claimants, pp. 42 and 43.
[203] Program Suppliers' Proposed Findings of Fact and Conclusions of Law on Phase II Issues, December 13, 1982, p. 2.
[204] Ibid.
[205] Ibid., p. 4.
[206] Ibid., p. 5.
[207] Ibid., p. 5.
[208] Ibid p.6.
[209] Ibid.
[210] Ibid, p. 7.
[211] Ibid.
[212] Ibid., p. 9.
[213] Ibid.
[214] Ibid.
[215] Ibid.
[216] Ibid., p. 10.
[217] Ibid.
[218] Ibid., p. 13.
[219] Ibid, p. 13.
[220] Ibid, p. 2.

Multimedia Program Productions, Inc.

Multimedia Program Production, Inc. (Multimedia) proposed that its share of the program suppliers category be increased to 3%.

The advertising study first introduced by Multimedia in 1979 was updated and again used to provide an indication of the marketplace value of *Donahue* for 1980. It established that *Donahue*, only one part of Multimedia's program offerings, accounted for approximately 1.425% of non-network, non-news spot sales in 1980.[221] The result is virtually the same as in 1979.[222]

With regard to the Multimedia programming's ratings and popularity, there were no changes of decisional significance between 1979 and 1980.[223]

Multimedia contended in 1980, as in 1979, that cable operators received significant benefit from the retransmission of *Donahue* in that it is a trigger program which specifically attracts subscribers.

Multimedia was also uniquely disadvantaged by the cable importation of WGN–TV's live *Donahue* program.[224] Fully one and a half years before the Federal Communications Commission (FCC) eliminated syndicated exclusivity protection, Multimedia was unable to provide television affiliates contract protection against the importation of WGN–TV's broadcast.[225] According to FCC records, WGN–TV was carried to 1,291 cable communities with 2,765,443 subscribers in 1979; in 1980 it reached 2,738 cable communities with 6,063,598 subscribers, a subscriber increase of 111.6%.[226]

The time study presented by Multimedia for 1979 was updated for 1980. The study was designed to provide an approximation of the significant amount of syndicated (non-local) broadcast time devoted to Multimedia's programming.

In terms of hours of programming available for cable retransmission, Multimedia provided more than 1400 hours, an increase of more than 40% over Multimedia's 1979 claim.[227] The increase in Show Biz programming above the disallowed 1979 Show Biz claim was approximately 33%.[228]

The Show Biz programming for which Multimedia claims royalty payments is distinguishable in several respects from the vast majority of programs for which program suppliers seek royalties.[229] *Tony Brown's Journal* is perhaps the only public affairs program to provide in-depth exploration of topics of particular interest to the black community.[230] Also, at a time when country music was greatly increasing in popularity, and was important to cable systems as a trigger to gain new subscriptions, Show Bix was probably the nation's largest producer of country programming.[231]

The Show Biz programs, unlike off-network series, have an ephemeral quality because of the importance of the currency of the music and contractual preclusion of repeated program showings.[232]

The Show Biz programs, while carried on certain highly viewed distant signals represented in the MPAA study, are not adequately reflected in the study.[233] The study's focus on top-50 market stations and on urban rather than rural areas, due to the 75,000 subscriber cut-off, fails to give proportionate coverage to many of the stations which feature Multimedia's and Show Biz programs.[234]

Tony Brown's Journal and the Show Biz programs, like *Donahue*, are especially beneficial to cable operators because they trigger cable subscriptions.[235]

Under Multimedia's proposed allocation, the award to each group of claimants, including the aliquot share of unclaimed funds would be:

	Percent
NAB	0.80
MPAA	95.13
Multimedia	3.30
SIN	0.77
Total	100.00

Spanish International Network, Inc. (SIN)

SIN occupies a unique status among all program syndicator claimants.[236] SIN is the only claimant who provided foreign language programming in 1980 and did so for an entire day for each day of that calendar year.[237] SIN's programming included news, movies, sport shows, soap operas, comedy shows and variety shows.

SIN's claim to an award is based on the three primary criteria established by the 1978 decision of the Copyright Royalty Tribunal: the harm to the copyright owner, the benefit to the cable operator, and the marketplace value of programming which has been retransmitted on cable systems via distant signal.

SIN and those program suppliers it represents suffer identifiable harm when a cable system in a distant market opts for secondary retransmission of the signal of a SIN television affiliate and, consequently, pays for this carriage in accordance with the compulsory license.[238]

SIN's position is that a cable operator makes a conscientious choice to retransmit SIN programming and does so only because is has some value for him.[239] Carriage then is *prima facie* evidence that the programming benefits the cable operator.

SIN has submitted evidence that it provides a variety of firstclass Spanish language television programming reflective of the many Hispanic cultures; that Spanish language programming is important to Hispanics; and, consequently, that the availability of Spanish language programming would be of particular benefit or value to any cable operator who served a community which has any sizable population of Hispanics.[240]

SIN sold videocassettes to cable systems in 1979. In 1980 it began to compensate cable systems and virtually ended the sale of videocassettes. Consequently, direct evidence of marketplace value is scarce.[241] As more concrete evidence of the marketplace value of SIN programming, SIN demonstrated the significant amount of money which its programming generated in national advertising revenues as a result of direct affiliation by cable systems as compared to the relatively meager amounts which these same cable systems generated as a result of the compulsory license.[242]

SIN continues to believe that its unique status among program syndicate claimants warrants the use of a fee-generated methodology in determining the amount of its award.[243]

SIN's claim of $359,047 is based on a fee-generated methodology reflecting a reduction for sports, local programming and devotional programming. SIN acknowledges that this amount must be further reduced to reflect awards already granted to music claimants.[244]

[221] Proposed Findings of Fact and Conclusions of Law of Multimedia, p. 5.
[222] Ibid.
[223] Ibid., p. 8.
[224] Ibid., p. 10.
[225] Ibid.
[226] Ibid., p. 11.
[227] Ibid., p. 14.
[228] Ibid.
[229] Ibid., p. 15.
[230] Ibid.
[231] Ibid.
[232] Ibid., p. 16.
[233] Ibid.
[234] Ibid.
[235] Ibid., p. 17.
[236] Proposed Findings of Fact and Conclusions of Law, Phase II, p. 3.
[237] Ibid.
[238] Ibid., p. 4.
[239] Ibid., p. 5.
[240] Ibid p. 6.
[241] Ibid p. 8.
[242] Ibid.
[243] Ibid p. 9
[244] Ibid.

SIN presented Norman Hecht, a well recognized authority in audience measurement methods as a witness. Hecht then explained the several serious problems with MPAA's use of the Nielsen diary methodology which results in an understatement of Spanish viewing—problems which Nielsen has acknowledged in writing and which were known to MPAA.[254]

Distribution Criteria

This is the third determination of the Tribunal in a cable royalty distribution proceeding. The claimants have remained consistent, the Tribunal has employed the same criteria, and, other than for matters requiring review in light of judicial proceedings, the issues have not changed. In this situation the Tribunal must first resolve the weight to be accorded its previous divisions of the royalty fund. Since the Tribunal has consistently rejected the use of any single formula, our determination has rested on an assessment of the record as a whole.

In this proceeding, after reviewing all of the evidence, with particular attention to the evidence seeking to establish changed circumstances from the 1979 record, we have concluded that the Phase I royalty allocations established in the 1979 proceeding provide a reasonable division of the royalty fund, an alteration of these shares. Some of the claimants presented evidence seeking to show changed circumstances favorable to their case, but these contentions were challenged generally by other claimants. While we acknowledge that the situation in 1980 was not entirely identical to that presented in the 1979 record, we hold that none of the changed circumstances evidence was such as to specifically result in the increase or decrease of a particular claimant's share.

Program Syndicators

The Tribunal reaffirms the finding of our 1979 determination that the Special Report of Nielsen is an important piece of evidence in this record and does have probative value in establishing the entitlement of claimants in accordance with some, but not all, of the criteria. However, we again find that it may not be utilized as "a talisman which fully reveals and determines the application of the criteria." We again conclude that cable operators are interested in selling subscriptions and retaining subscribers, and that "viewership is of limited relevance to cable operators.[246]

Program Suppliers undertook in their 1980 evidence to address deficiencies which the Tribunal found in their 1979 case. However, on the harm criteria Program Suppliers concede that they rely on "the evidence set out in the 1979 proceeding by Mr. Horn." We have looked, as we did in the 1979 proceeding, at the testimony of Mr. Horn, President of Tandem. We have not altered our analysis of that evidence.

We reaffirm our 1979 finding that in applying viewing data to the harm criteria "it would be change in audience, not absolute audience levels, which would have to be considered."[247] The relevant data for a harm analysis would be the difference between the audience for a program on a local station before that program was duplicated by cable importation of a distant signal, and the audience for that program on the local station after duplication. The Nielsen study does not reflect local station audience ratings, and the Program Suppliers did not present evidence on this issue.

Program Suppliers addressed the Tribunal's concerns with the methodology of the Nielsen study through changes in the selection of the station sample, and by evidence seeking to show that no parties are disadvantaged by the use of sweep weeks. Other claimants argue that these changes are of minor significance or produce greater bias in favor of movies and syndicated series.[248]

We have not attempted to assess the significance of the deficiencies that other parties claim still affect the Nielsen survey; we do, however, dispute that the study is invalid simply on the grounds that it represents independents much more heavily than it does network affiliates. The importation of independents on cable systems is much heavier as a distant signal than is the importation of network affiliates.

We expressed concern in the 1979 determination that the use of sweep periods "could have enhanced the showing of the syndicators to the disadvantage of other claimants. MPAA responded to this issue by presenting certain viewing data compiled by the Warner-Amex QUBE system, seeking to establish that there are not significant differences in viewing between sweep and nonsweep weeks. This evidence was challenged by other claimants. The QUBE cable system has particular and unique attributes. It is our view that data from that system, even if otherwise reliable, does not adequately resolve the "sweep" issue.

The Nielsen Study does not provide a substitute for the application of the criteria to all the record evidence; however, to the extent that the Tribunal has relied upon it in the past, we do find it corroborative of the view that, while the situation in 1980 was not entirely identical to that presented in the 1979 record, none of the changed circumstances is of decisional significance.

In our 1979 determination we observed that "the program syndicator did not present testimony by cable operators in an effort to establish the benefit of their programs to cable systems, or evidence as to the appeal of their programs." In the current proceeding Program Suppliers assert that they have responded to this issue by the testimony of Mr. Kurnit of Warner-Amex. However, we find the testimony of Mr. Kurnit of possibly greater applicability to the situation he experienced at QUBE than to the distant signal cable market in general. The very high value he placed upon syndicated series, for instance, has not been supported by the testimony we have received from other witnesses.[249]

This is the third determination of the Tribunal in a cable royalty distribution proceeding. The claimants have remained consistent, the same criteria have been employed, and the issues have not significantly changed. After reviewing all of the evidence, with particular attention to the evidence seeking to establish changed circumstances from the 1979 record, we have concluded that the Phase I royalty allocation established in the 1979 proceeding continues to provide a reasonable share to MPAA, and that no evidence presented in the 1980 proceeding requires an alteration of this share. With attention also to evidence relating to subjects discussed in our previous determinations, we conclude that an allocation of 70% of the royalty fund to the Program Suppliers continues to be fair and in accord with the record evidence.

[245] Ibid p. 14.
[246] 47 FR 9892.
[247] Ibid.
[248] "MPAA argues that it has improved its Nielsen study in 1980, but in fact has only made it more biased." Proposed Phase I Findings of Fact and Conclusions of Law of National Association of Broadcasters, p. 30; "notwithstanding MPAA's efforts to conceal the data underlying the work from scrutiny—this year's work, as in the previous years, was shown to be replete with deficiencies which preclude attaching talismanic significance to the specific numbers in the study "Proposed Findings of Fact and Conclusions of Law of Joint Sports Claimants," pp. 21–22.
[249] Proposed Findings of Fact and Conclusions of Law of National Association of Broadcasters, p. 31.

Joint Sports

The Tribunal adheres to the conclusions reached in its 1978 and 1979 proceedings that sports enjoyed a special appeal to cable operators and viewers, not enjoyed by the programming of other claims. The Tribunal further concurs with the view presented by Joint Sports that, the claimants remaining consistent, the same criteria being employed, and the issues remaining unchanged, the Tribunal must accord first weight to its previous divisions of the royalty fund.[250]

Joint Sports' claim for an increased royalty share relied heavily upon the increase and proliferation of satellite retransmitted distant signals between 1979 and 1980. The Tribunal concurs that such a change in circumstance did take place; the Tribunal also does not dispute that sport are highly popular upon these signals, in particular WTBS, WGN and WOR. The Tribunal, however, was unpersuaded that there was any causal link between sports programming and the increase in cable carriage of satellite retransmitted signals. Sports testimony and exhibits were convincing as to the increase in satellite retransmission and as to the popularity of sports, but not as to this linkage. This question was posed to Mr. Lahey:

Q: "Is it fair to say, Mr. Lahey, that the first consideration in selecting particular distant signals is the practical availability of those signals.

A: "Yes, that has always been, and still continues to be the first premise." [251]

The Tribunal concluded that an increase in carriage was due to factors principally unrelated to programming, such as cost, promotion, franchising advantages, television station market and stature. [252] To the extent that programming may have been a factor, the Tribunal found no evidence to support the contention that this was due to an increase in the contribution of sports programming.

The BBD&O survey, to the contrary, indicated that the value of sports to cable operators between 1979 and 1980 remained statistically constant.[253] The The Tribunal attaches importance to the fact that this is the third year in which the BBD&O survey has been presented and in which the results have remained generally the same. This year, as in the past, the expression of preference as to various categories of programming cannot be directly quantified or converted into a royalty share allocation.

Additionally, flagship stations were shown this year, as in the past, to be highly important in the spectrum of distant signals, but with respect to the other programming on these signals, sports programming cannot be deduced to have increased in importance simply on the basis of increased carriage.

The Tribunal was also not persuaded that in 1980 the proliferation of channels and the offerings of cable services increased the significance of the choice by a cable operator to carry sports or flagship stations. True effective competition did not necessarily exist between sports and the new services, and doubt prevails as to the actual increase that occurred in the number of choices offered. [254]

Relying upon the same criteria as it has in the past, judging the issues to have remained constant and the circumstances to be unchanged, the Tribunal determined that the 15% royalty share allocated to the sports claimants in 1979 should be awarded again in 1980.

U.S. Television Broadcasters

We have made a total award of 4.5% to U.S. television. broadcasters for their entitlement to royalty fees for distant carriage of station programming, and for sports programming. For lack of persuasive evidentiary justification we have not included in our award any sums for broadcast day compilations.

Although the case of the commercial broadcasters during the 1979 and 1980 proceedings was presented with a degree of coherence lacking in the 1978 case, we have found no occasion to modify the findings made in our 1978 determination and affirmed in our 1979 determination. We reaffirm our previous findings concerning the application of the criteria to the record evidence relating to station programming.[255]

We have reviewed our previous findings in the light of the survey presented by NAB of cable operators attitudes toward different types of programming in attracting and keeping subscribers. Neither the SRI study nor any other evidence requires an alteration of our findings that station programming is only of "marginal value to cable operators." We have never asserted that station programming is of no value to cable operators, but the value of such programming is adequately compensated in our award to commerical television.

NAB also presented the testimony of two cable operators, who asserted that major market station produced news and other programs on distant signals are of value to cable systems in smaller markets because of the better quality of such news programs, and greater regional news coverage. We find support in that testimony for our view that local programming has little value in the larger markets, where most cable subscribers reside.[256] The benefit to cable operators from regional carriage of news and public affairs programs was noted in our 1979 determination, and is reflected in our award.

We find that none of the evidence presented by NAB to establish "changed circumstances" in 1980, such as "qualitative changes" in station produced news programs, an increase in time devoted to news programs, or data presented in the evidence of other claimants is of decisional significance to justify an increase in our award to commercial television. In addition, other evidence could be viewed as supporting a downward adjustment.[257]

We have considered all of the evidence in our record related to the entitlement of commercial telecasters to share in the royalties for sports programming in the light of the decision of the U.S. Court of Appeals for the District of Columbia Circuit.[258] While the character of the Court's explanation of its decision leaves room for improvement, we find nothing in that decision which requires more than our making a judgment (in the absence of relevant cable royalty contractual provisions) of the contribution of the broadcaster to the value and appeal of the sports programming to cable operators and subscribers. We find that for the purposes of cable royalty distribution, the contribution of the broadcaster as compared with that of the teams is minimal, and that it is reasonably reflected in a total award of 4.5% to the commercial television claimants.

We do not dispute that high quality production enhances the enjoyment of a sports telecast. We cannot accept, however, the NAB position that when functioning as the producer of the telecast, the broadcaster should receive one half of the sports royalties. We find no evidence in our record, including that of the NAB sports witnesses, establishing that the contribution of the

[250] Proposed Findings of Fact and Conclusions of Law of the Joint Sports, December 13, 1982, pp. 3–9.
[251] TR., p. 795.
[252] TR, pp. 795, 844.
[253] Joint Sports Findings of Fact, p. 69.
[254] TR, pp. 334–738, 796–800, 849, 851, 888–889.
[255] 45 FR 63038; 47 FR 9893-94.
[256] Proposed Findings of Fact and Conclusions of Law of Joint Sports 137–40.
[257] Proposed Findings of Fact and Conclusions of Law of Joint Sports, p. 135.
[258] *NAB v. Copyright Royalty Tribunal*, 675 F. 2d 367 (D.C. Cir. 1982)

broadcaster in any significant respect contributes to a cable operator's interest in sports programming, or the decision of an individual to subscribe to cable television.

In our review of the evidence on this issue we found the testimony and broadcasting experience of Mr. Jack Jacobson to be particularly useful. Proceeding from the broadcaster use of ratings to judge the value of programs, he testified that the factors that affect the ratings all relate to the sports teams, and that the quality of the production does not affect the ratings. We concur in this testimony. We do not find it creditable that a cable subscriber would pass up viewing a game involving teams competing for the pennant to watch a Chicago Cubs game because of the quality of the production of the Cubs telecast.

We have previously observed that no single subject has received more attention in our proceedings than the sports ownership issue. On the basis of the evidence presented concerning sports ownership and entitlement to royalties, we find that NAB cannot assert a claim under their theory, or any other theory to a very substantial number of televised games in 1980. While it cannot control our disposition of this subject, we find nothing in the evidence relating to the resolution of this matter by the parties for telecasts in subsequent years to caution us to make a correction in our approach to this issue.

There remains some telecasts where under the law, as we are able to follow the opinion of the court, to which broadcasters may assert a claim to a share of the royalties for their contribution to the telecast. On the basis of our record we have concluded that for purposes of cable royalty distribution that contribution is of minimal significance and is adequately reflected in a total award of 4.5%. Our allocations to claimants are not akin to a cook's recipe, where the ingredients are broken down, such as ½ teaspoon of salt, 1 teaspoon of vinegar, etc. We have not divided our total award between station programming and sports. We observe, however, that the award for sports is so insignificant as to in no way require any internal adjustment of our determination concerning our award to the Joint Sports claimants for sports programming, and our finding that the Joint Sports claimants have established an entitlement for their contribution of 15% of the royalty fund.

NAB is seeking compensation in this proceeding for television broadcast compilations. In our 1978 royalty determination, we stated with regard to the evidence presented by NAB in justification of their claim to royalties for the broadcast day compilation:

> We find that this testimony and the record as a whole provides no basis for establishing the value of the broadcast day nor does it provide any basis for a distribution of royalties to broadcaster claimants on this theory.[259]

We reach the same result in this proceeding. We have once again heard the NAB evidence. As with other elements of the NAB case, the packaging is better than the 1978 case but the box when opened is still empty. We find that broadcast day compilation is of no value to a cable system. We reject the argument of NBA that it is the broadcast compilation which creates "a station image which is highly promotable by cable operators." Cable systems are interested in the programs on a distant signal which induce persons to subscribe, not in the scheduling and promotion.[260]

Public Broadcasting Service

The Tribunal concurs with PBS that "with regard to public television, no major changes of facts have occurred between the years 1979 and 1980."[261]

The Tribunal also judges that it must give first weight to its previous divisions of the royalty fund in light of the fact that the claimants have remained consistent, the same criteria have been employed, and the issues have not changed.

The Tribunal notes that public television's percentage of instances of aggregate full-time distant signal carriage remained approximately 10% in 1980,[262] and while this is evidence of the continuing importance of the role played by public television, the Tribunal does not view time-based considerations as any more than of limited value. This is not judged a basis upon which to increase PBS's share.

PBS presented a theory of "conceptual duplication to show that, in concept, the duplication on commercial television is as extensive as that on public television. While this theory is provocative, the Tribunal considers that it would be fruitless to attempt to assess the degree to which commercial programming is generically similar and then weigh this against the amount that public television programming is subject to identical duplication. The Tribunal also rejects what would essentially be a time-based formula proposed by PBS, according to which public televisions' royalty share would be calculated according to the percentage of its programming which is or is not duplicated.[263] The Tribunal finds nothing in the record to alter the award to PBS on the basis of the same criteria by which that award was adjudged in previous years, neither from the standpoint of commercial marketplace considerations, such as viewing figures, nor from the standpoint of public policy. The Tribunal also did not consider the evidence concerning harm to public televisions as representing a material change in either fact or circumstances. We have concluded that the 5.25% royalty allocation established in the 1978 and 1979 proceedings continues to provide a fair and reasonable share to PBS.

Music

As in our 1979 determination we have made a single award to music for all distant signal carriage of their copyrighted works for which they have established an entitlement under the Copyright Act and the evidence presented in this proceeding.

Music asserts, and other claimants acknowledge, that their presentation in the 1980 proceeding differed substantially from that of previous proceedings. They have abandoned their sole reliance on the mechanistic application of a single formula. The Tribunal in various proceedings has expressed its major reservations about the use of formulas. Futhermore, we have found that the formula advanced—music's share of broadcaster programming expenses as reflected in FCC data—was distorted by the exclusion of certain program expenses.

The principal issue requiring consideration in the music case is the undisputed evidence that the music license fees are declining—whether measured against all programming expenses or against the selected

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[259] 45 FR 63038.

[260] MPAA has requested us to rule that broadcasters have no legal right to assert a claim for compilation. They assert that "[B]esides the contractual limitations that prevent NAB from seeking a claim for compilation, the compulsory license scheme does not contemplate an award for compilation of a broadcast day." We resolved in our 1978 determination that "Congress did not intend compensation to broadcaster claimants on the basis of the 'broadcast day' nor was any such compensation contemplated by those who participated in the resolution of the complex cable television issue."; 45 63038. The D.C. Court of Appeals held that the broadcast day compilation is a copyrightable work. The relevance of this holding to our 1978 determination or the issues now before us is not clear. We have denied any award to the broadcaster claimants for their compilations for lack of evidentiary justification, and without prejudice to MPAA pursuing their legal theories in any subsequent proceedings.

[261] PBS Proposed Findings of Fact, p. 2 and TR, p. 5156.

[262] PB Exhibit A, page 3.

[263] PBS Proposed Findings of Fact, pp. 12–13.

programming expenses advanced by the performing rights societies.

Music asserts that the broadcasting license fees are now less appropriate as a marketplace analogy because of altered circumstances, notably that these agreements were negotiated over a dozen years ago. The Tribunal finds this argument persuasive, particularly since it was a conclusion reached by a majority of the Tribunal in Phase II of the 1978 proceeding and affirmed on appeal. After discussing the dates of the local television contracts, we stated:

> We believe that it is valid to utilize the local television contracts, taking into account all the circumstances relating to them, as one factor in our music allocation.[264]

Our award to music for the performance of copyrighted music on distant radio signals in relation to our denial of any award to commercial radio broadcasters in in accordance with our 1979 determination.

On the basis of all the evidence advanced by Music to justify their entitlement by the application of the criteria, we find that an award of 4.25% continues to be reasonable.

Canadian Claimants

The Canadian Claimants undertook in their 1980 evidence to address deficiencies that had been noted in the Tribunal's 1979 determination, rather than to show any demonstrable increase in the extent of Canadian distant signal carriage. The Canadian claimants purported to show that their 1980 evidence provide the Tribunal with an improved record relating to (1) the relative number of Canadian distant signals and the contribution of Canadian distant signal carriage to the over all royalty fees deposited by cable systems, (2) the appeal to U.S. audiences and the cable market place value of Canadian programming and (3) cable market place value of French language television stations.[265]

The Tribunal concludes that the record does not reflect any increase in distant signal carriage of Canadian stations on 1980 over 1979. The Larson data, presented in evidence by Public Broadcasting indicates the opposite, a decrease in Canadian distant signal carriage from the first accounting period of 1980 to the second.[266] Evidence of record does not show, measured by commerical sales of Canadian programming in the U.S., that there was an appeal by American audiences for Canadian programming in 1980.[267]

In regard to "benefit" to cable systems, evidence submitted by Canadian claimants contained so many errors it was of little use in the Tribunal's considerations.[268]

The Canadian claimants did not show in their evidence of record that French programming is of particular interest to American cable subscribers.[269]

No evidence was submitted in this proceeding to establish "harm" due to the cable retransmission of Canadian programming.

Upon review of all the 1980 evidence, the Tribunal concludes that there has been no significant "change of circumstances" from the 1979 record and that an allocation of .75% of the Phase I Royalty fund to the Canadian claimants continues to be reasonable. There is no justification for an award to Canadian radio.

National Public Radio

We have conclude that the record in this proceeding justifies an award to National Public Radio (NRP), while making no award to commercial radio.

As in our 1979 determination, our different treatment of NPR and commercial radio finds record support in the 1980 Proposed Findings of other claimants.[270]

The Tribunal concludes that the 1980 evidence reaffirms our 1979 conclusion that "NPR is a producer and syndicator or innovative, distinctive and quality programming that is transmitted by a number of cable systems as distant signals."[271]

Upon review of all the evidence with particular attention to evidence relating to "changed circumstances" from the 1979 record, we conclude that a .25% award to NPR is in accord with the evidence of record.

Commercial Radio

For the third time we have heard the evidence presented by NAB seeking to persuade us to make an award to commercial radio. We again decline to do so. As with the arguments advanced by NAB, the reasons for our denial remain unchanged. We reaffirm the findings of our previous determinations.[272]

NAB takes umbrage at our determination to include some compensation to Music for the performance of music on distant radio signals, but to deny any award to commercial radio. We hold that in a very substantial degree any value of distant commercial radio signals is attributable to music, and that the non-musical program elements of these signals is of negligible value. We likewise hold that the broadcasters format is of no significant value independent of that attributable to music. We concur in the finding of Music that the "claim for radio formatting is simply a compilation claim, applied to radio."[273]

We hold that commercial radio has again failed to establish that it has any significant copyrights interests on which to base a claim. We concur in the finding of National Public Radio that "disc jockey time is the least attractive part of a commercial radio hour."[274] We find nothing in the 1980 record to alter our previous conclusions as to the massive duplication of locally available commercial radio formats by distant commercial signals. In particular, the NAB study of radio formats when subjected to examination, and the SRI study on the value of distant commercial radio signals do not require an alteration of our general assessment of the commercial radio claim.[275]

Devotional Claimants

The claim of the devotional claimants are for the first time in our distribution proceedings resolved in Phase I, but the issues presented are similar to those which required resolution when presented in phase II. We reaffirm the findings we made in our 1979 determination concerning the application of the criteria to the devotional claimants.[276] We again conclude that the devotional claimants do not qualify for an award under the Tribunal's criteria. They employ their telecasts to raise the funds to pay for the purchase of air time to perform a Christian ministry.

The devotional claimants assert in their proposed findings that the Tribunal is required as a matter of law to make some allocation to devotional program suppliers. This issue is now before the Court of Appeals for the District of Columbia circuit in the appeal of our

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[264] 45 FR 63041.

[265] 1980 Proposed Findings of Fact and Conclusions of Law, Canadian Claimants, 12/13/82, p.2.

[266] PB Exhibit A, p. 2.

[267] Tr., p. 2690.

[268] Canadian Exhibit CDN. AA (revised); Tr. 4421-88, 4501.

[269] Tr. 2770, 2782.

[270] "Proposed Facts of Findings and Conclusions of Law" of the Program Suppliers, 1/13/83, p. 92. "Proposed Facts of findings and Conclusions of Law" of the Joint Sports Claimants 2/13/83, p. 2.

[271] Federal Register, Vol. 47, No. 45, p. 9894.

[272] 45 FR 63040 and 47 FR 1894.

[273] Proposed Findings of Fact and Conclusions of Law Submitted by Music, p. 18.

[274] Proposed Findings of Fact and Conclusions of Law of National Public Radio, p. 52.

[275] Proposed Findings of Fact and Conclusions of Law of Joint Sports Claimants, pp. 160-163.

[276] 47 FR 9896.

1979 determination. We find nothing in the relevant holdings of the Court of Appeals in *NAB v. CRT* which compels our making an award to the devotional claimants.

Most claimants in the 1980 proceeding sought to improve their presentation in areas where the Tribunal has found gaps or deficiencies. No such undertaking was made by the devotional claimants. There was no assertion of changed circumstances, or evidentiary showings to address our inability to find marketplace value based on their 1979 evidence. The factual presentation was essentially limited to a showing of the amount of time religious programs were broadcast on stations included in the Nielsen Study. Because of the motiviations of broadcasters concerning the presentation of religious programming, time-based statistics are even less indicative of value for devotional programming than for other programming categories.

It has been urged that our award to PBS compels us to make same award to the devotional claimants. The devotional claimants argue that both are noncommercial and that both seek financial support from the public. We find no real similarity. The devotional claimants conduct a Christian ministry. Even their more entertainment types of program formats are designed to provide a Christian ministry. In contrast public broadcasting is a programming institution supported by a broadly based coalition of government, corporations, foundations, and individuals which presents a wide range of programming, much of which is not available on commercial television.

Phase II: The Tribunal considered Phase II issues under the Program Syndicators category.

Phase II

Motion Picture Association of America (MPAA)

The MPAA claim in Phase II, for its entitlement within the 70% Program Syndicators allocation, embraced 58 associated program suppliers, consistent with Section 111(d)(5)(A) of the Copyright Act and the Tribunal's encouragement of voluntary settlement.[277] MPAA proposed that the Tribunal adopt its methodology as a basis on which to make the entire Phase II distribution, because its applicability is impartial to the programming of all claimants and because it is impossible to present for each series and movie detailed evidence according to the Tribunal's criteria.[278] While the Tribunal has not relied upon the Nielsen viewing data as the sole means of making royalty distribution in the past, the Tribunal has accorded substantial weight to these data.[279] However, the Tribunal cannot be blinded by the terms of negotiated settlements, and the attractiveness of a single formula, to the different considerations urged upon it by individual claimants not party to a settlement. The Tribunal must both accord proper weight to the fact that 58 separate parties have concurred in the MPAA methodology for distributions and still respect the rights of other parties. We must look to the Phase II record to ascertain what showing has been made to establish particular entitlement to royalty fee.[280]

We do not view the Nielsen data as irreparably tainted due to the infirmities attributed by other parties to the sample and survey methodology. Nor does the Tribunal feel that in order to make a proper assessment concerning the value of individual programs we need the aggregate claims entitlement for each party within the MPAA umbrella.[281] We need only evaluate the record evidence presented by the competing claimants to establish the application to each claim or group of claims of all the criteria. In this regard, the Tribunal was assisted by the inclusion in the record this year of the individual viewing data for all 635 syndicated series appearing in the Nielsen survey.[282]

The contention that the Program suppliers are claiming entitlement for movies that are in the public domain was not judged to be either fully supported or significant. The Tribunal is also satisfied that the programs of those within the MPAA group were carried as distant signals and qualify for entitlement under the rules of the Tribunal.

On the basis of all relevant evidence in this record, we have awarded 96.9% to the MPAA and associated program suppliers.

Multimedia

Multimedia made a claim in this proceeding to an entitlement of 3.3%, to include both its Show Biz programming and its aliquot share of unclaimed funds.[283]

The showing that Multimedia made with respect to its own case reflected unchanged circumstances between 1979 and 1980, except for the addition of Show Biz programming and, possibly, the increased effect upon its syndication efforts of WGN's satellite retransmission to cable systems.[284] The record evidence supports a finding as to the marketplace value, particular benefit to cable operators, and quality of Multimedia's programs. However, with respect to "Donahue," and in light of Multimedia's criticism of the Nielsen study for its preponderant representation of independent stations,[285] the Tribunal notes in the words of MPAA, that "network affiliates are a much less significant factor in the distant signal market than they are in over-the-air markets;"[286] and that "Donahue's" value to cable systems on a distant signal is substantially reduced by its wide availability on local television network affiliates.

The notable addition to the record in the 1980 proceeding was the inclusion of the individual viewing data for the 635 syndicated series appearing in the Nielsen survey.[287] Such specific evidence concerning the marketplace appeal of the programming of other syndicators was not available last year.[288] This year, however, the Tribunal was able to evaluate the entitlement for "Donahue," for example, with full knowledge on a head-to-head basis of the comparative values MPAA proposes for "The Merv Griffin Show" and "The Mike Douglas Show."[289]

Multimedia objected to having viewing data relevant to Multimedia admitted unless the shares were divulged for all 58 members to the MPAA agreement; The tribunal overruled the objection.[290]

We assert, as we have in the past, that in Phase II, as in Phase I, we cannot base our decision upon the application of a single formula; the Nielsen viewing data are at most a useful starting point for the application of our criteria.[291] However, the inclusion of the individual syndicated series viewing data in the record evidence this year has given us cause to revise our assessment of the value and appeal, on a distant signal

[277] FR Vol. 47, No. 45, p. 9895.

[278] Program Suppliers' Proposed Findings of Fact and Conclusions of Law on Phase II Issues, February 9, 1983, pp. 2 and 38.

[279] FR. Vol. 47, No. 45, p. 9892.

[280] FR. Vol. 47, No. 45, p. 9895.

[281] TR. pp. 28 and 29.

[282] MPAA Exhibit GGG.

[283] Proposed Phase II Findings of Fact and Conclusions of Law of Multimedia Program Production, Inc., February 9, 1983, p. 34.

[284] MPAA Phase II Findings of Fact, p. 13, TR, pp. 577-578, Multimedia Phase II Findings of Fact, pp. 8, 11-13.

[285] Multimedia Findings of Fact, pp. 35-36.

[286] MPAA Findings of Fact, p. 16.

[287] MPAA Exhibit GGG.

[288] FR Vol. 47, No. 45, p. 9895.

[289] TR. p. 29.

[290] TR. pp. 17-29.

[291] FR Vol. 47, No. 45, p. 9895.

basis, of Multimedia programming to cable operators.

Taking into consideration the addition of the Show Biz programming in the Multimedia claim this year, and the possible harm that may have resulted from the increase in cable carriage of WGN in 1980 due to satellite retransmission, the Tribunal concludes that a fair and reasonable share for all Multimedia programming is 1.6%.

National Association of Broadcasters

An award of 0.8% to NAB for programming syndicated by broadcast stations was stipulated to by all parties participating in the Phase II proceeding.

The Tribunal did not hear evidence or testimony with regard to this issue and awards NAB 0.8%.

SIN

The Tribunal is satisfied that the entire record supports an award to SIN and that SIN's Spanish language programming is of particular marketplace value and benefit to cable operators in attracting Spanish speaking subscribers. The Tribunal, however, is not persuaded that the record evidence in the 1980 proceeding provides any basis upon which SIN's award should be altered from the 0.7% share of last year.

The Tribunal has consistently rejected the use of any single formula and made its determination on an assessment of the record as a whole. The Tribunal, therefore, is skeptical of SIN's request for an award of $359,047, a figure significantly similar to the award requested last year. Furthermore, the request is based upon a methodology which the Tribunal has repeatedly indicated fails to lend itself to an application of the Tribunal's criteria. SIN acknowledged this limitation; yet persisted in seeking a claim upon this basis.[292]

The Tribunal has consistently refrained from relying upon a strict application of the Nielsen viewing figures. However, figures do provide corroboration for the value the Tribunal has placed upon SIN's programming. The Tribunal has not found SIN's criticism particularly persuasive with respect to the Nielsen methodology in Hispanic households. SIN's testimony and evidence in this regard seemed to relate entirely to over-the-air television viewing and not to the viewing of distant signals by cable television subscribers.[293] The Tribunal did not find that SIN succeeded in identifying the deficiencies that might apply to both, or that the award to SIN should be altered.

Judging the circumstances and issues relating to SIN's claim to have remained essentially the same, and taking the record as a whole, the Tribunal considers the 0.7% award in 1979 to SIN fair and reasonable for 1980.

Unclaimed Funds: We have not employed any single formula in our Phase II allocation and have not found it necessary to create an unclaimed fund.

DISTRIBUTION OF CABLE ROYALTY FEES

[Financial statement of royalty fees for compulsory licenses for transmissions for cable systems for 1980]

Royalty fees deposited	$19,836,294.55
Interest income	528,412.50
Gain on matured securities	4,592,317.62
Total	25,017,024.67
Less:	
Operating costs of the Copyright Office	323,950.00
Refunds issued	59,118.36
Public Law 976-276 Allocation	51,000.00
Approximate CRT Administrative Costs	37,705.00
Total	471,773.36
Approximate amount for distribution on March 31, 1983	24,545,251.31

Allocations

The Tribunal has adopted the following allocation to categories of claimants in Phase I of the specified percentage of the royalty fees available for distribution:

1. Motion Picture Association of America and other program syndicators	70.00
2. Joint Sports Claimants and NCAA	15.00
3. Public Broadcasting Service (for all purposes)	5.25
4. U.S. Television Broadcaster (for all copyrightable interests except program syndication)	4.50
5. Music Performing Rights Societies	4.25
6. Canadian Television Broadcasters (to exclude all radio claims)	0.75
7. National Public Radio	.25
8. Devotional Claimants	.00
9. Commercial Radio	.00

The allocations adopted by the Tribunal under Phase II for the individual claimants is as follows:

	Percent
Program Syndicators:	
Motion Picture Association of America	96.9
Multimedia Program Productions, Inc.	1.6
National Association of Broadcasters	0.8
Spanish International Network	0.7

The Tribunal for lack of any justification has not awarded cable fees to claimants who:

1. Were not associated with Phase II voluntary agreement, or

2. Could not reasonably on the basis of this record be treated according to the terms of voluntary agreements, or

3. Which did not submit adequate entitlement justification.

Commissioner Burg dissented from the Phase I determination. Commissioner Ortega did not participate in Phase I.

Edward W. Ray,

Chairman.

February 28, 1983.

Minority Views of Commissioner Burg

This commissioner cast the only dissenting vote on the Phase I allocations of the 1980 Cable Royalty Fund Distribution Proceeding. The basis for the allocations reached by the majority in Phase I was predicated, as the Joint Sports Claimants state, on the assumption that the Tribunal was bound by the precedents of its previous decisions, and could not alter those previous allocations unless the facts had materially changed.[294] All evidence therefore had to be viewed through the prism of "changed circumstances."

As a practical effect this concept erected an artificial barrier to examining the record evidence of the claimants from, as Music argued, "new, previously unrevealed perspectives."[295] Likewise the Canadians claimed their 1980 case was a "correction and amplification with respect to three evidentiary limitations noted by the Tribunal in the 1979 proceeding."[296] And even though Joint Sports subscribed in theory to the changed circumstances rubric they nevertheless stated, " * * * if the Tribunal believes, in light of its cumulative experience or in light of newly discovered (but not necessarily new) relevant evidence, that changes in prior awards need be made, it must make them."[297]

Counsel for NAB, in his opening statement quoted from a Supreme Court decision which in part said, "cumulative experience begets understanding and insight by which judgments not objective(ly) demonstrable are validated, quantified or invalidated."[298] Those words from that decision define the essence of my dissent. The commissioners of the Tribunal operate in an area, deal with issues, and confront realities that have been demonstrably difficult to quantify or validate. We have repeatedly rejected formluas as the sole basis of our decisions and have consistently relied on the record as a whole. The record evidence in Phase I convinced me beyond doubt that in some instances a persuasive case was made for a shift in the 1980 percentages.

It appears that at least one other Commissioner shares my views.

In a letter to Chairman Ray explaining his vote against the allocation of 1.6% for the Multimedia claim in Phase II, Commissioner Brennan said, "I believe that it would be justified to reopen our Phase I determination

[292] Proposed Findings of Fact and Conclusions of Law of SIN, Inc., Phase II, February 9, 1983, p. 9.

[293] MPAA Phase II Findings of Fact, p. 34; TR. pp. 354-355.

[294] Findings of Fact and Conclusions of Law of Joint Sports, December 13, 1982, pp. 8 and 9

[295] Findings of Fact and Conclusions of Law of Music, December 13, 1982, p. 3

[296] Findings of Fact and Conclusions of Law of CBC, December 13, 1982, pp 1 and 2

[297] Findings of Fact and Conclusions of Law of Joint Sports, pp. 4 and 5

[298] TR 1543

since the rationale adopted may now no longer reflect the majority sentiment of this body." He concluded by saying, "It, however, will be necessary for me to reconsider my Phase I positions in subsequent distribution proceedings in the light of our 1980 deliberations."

If the facts support it, and I think they did, the Tribunal had an obligation to change certain of its 1979 allocations. To do less was to impose too narrow and too restrictive a perspective on the proceeding.

[FR Doc. 83-5596 Filed 3-4-83; 8:45 am]

BILLING CODE 1410-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has resubmitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey to determine the effects on consumers of an amendment to the Safety Standard for Walk-Behind Power Lawn Mowers (16 CFR Part 1205) which allows a rotary power lawn mower with only a manual engine restart mechanism to meet the blade-stop requirements of the standard by means of stopping the engine under certain conditions, specified in the amendment. The amendment to the standard was published in the **Federal Register** of November 5, 1981 (46 FR 54932). Both the amendment of the standard and the survey are required by provisions of section 1212(a) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 724).

The survey will be conducted for the Commission by a private contractor, who will screen a panel of approximately 73,000 consumers by means of a short mail questionnaire to identify about 1,200 persons who have purchased a power lawn mower since July 1, 1982. The consumers selected by this process will be interviewed by telephone about safety features on the mowers they have purchased and the manner in which they use those mowers.

Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Title of information collection: Study to assess the impact on consumers of the amendment to the safety standard for rotary walk-behind power lawn mowers.

Type of request: Approval of new plan.

Frequency of collection: One time.

General description of respondents: Consumers.

Estimated number of respondents: Mailed questionnaire—73,000; telephone interview—1,200.

Estimated number of hours per response: Questionnaire—9 seconds; telephone interview—18 minutes. Total hours for all respondents, 540.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-7313. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: March 1, 1983.

Sheldon Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 83-5603 Filed 3-4-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for Establishment of an Army Senior Reserve Officer's Training Corps Unit, DA Form 918.

College level institutions desiring to host an Army ROTC Unit make application and commit themselves to an agreement by completing and forwarding DA Form 918. Once approved, the application is kept on file as a record of agreement.

Colleges and Universities: 16 responses; 160 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John, V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20301, telephone (202) 695-5111.

March 2, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-5615 Filed 3-4-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Order Amending Authorization To Export Electric Energy: Marias River Electric Cooperative, Inc.

AGENCY: Economic Regulatory Administration, (ERA), DOE.

ACTION: Order Amending Authorization to Export Electric Energy issued to the Marias River Electric Cooperative, Inc. (MRE).

SUMMARY: DOE has ordered that the MRE export authorization be increased from the previously authorized maximum amount of 2,000,000 kWh of electric energy per year at a maximum transmission rate of 500 kW to 3,500,000 kWh at a maximum transmission rate of 750 kW.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Division of Petroleum and Electricity (RG-44), Office of Fuels Programs, Department of Energy, Forrestal Building, Room GA-017, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-5935.

Lise Courtney M. Howe, Office of General Counsel (GC-11), Department of Energy, Forrestal Building, Mail Stop 6F-094, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Order Amending Authorization to Export Electric Energy: Marias River Electric Cooperative, Inc.

On May 14, 1982, the Marias River Electric Cooperative, Inc. (MRE) filed an application with the Department of Energy (DOE) requesting that its authorization to export electric energy granted by the Federal Power Commission on October 19, 1970, in Docket IT–6097 be increased from 2,000,000 kilowatt hours per year at a maximum transmission rate of 500 kilowatts to 3,500,000 kWh per year at a maximum transmission rate of 750 kW.

According to the application, the purchaser of the additional energy to be exported will continue to be Southern Utilities, Ltd., a Canadian corporation engaged in the distribution of electric energy in and around the Town of Coutts, Province of Alberta, Canada. The increased energy will be used by Southern Utilities, Ltd. to meet increased electrical loads. In the applicant's opinion, the increased level of exports, if authorized, will not impair the sufficiency of electrical supply within the United States or to any of the member/consumers within its serving area.

Notice of the application was given by publication in the **Federal Register** on September 22, 1982 (47 FR 41853), requesting any person desiring to be heard or to make any protest with reference to the application to file before October 15, 1982, with the Department of Energy petitions to intervene or protests in accordance with the Rules of Practice and Procedure (18 CFR 1.8, 1.10). No petition, or protest or request to be heard in opposition to the granting of the application has been received.

DOE Finds:

(1) The proposed transmission of electric energy from the United States to Canada, as limited herein and as hereinafter authorized, will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of DOE.

(2) The period of public notice given in this matter is reasonable.

DOE Orders:

(A) Marias River Electric Cooperative, Inc. hereby is authorized to transmit electric energy from the United States to Canada in accordance with the terms and conditions set forth in the application and subject to the provisions of the Order issued by the Federal Power Commission on October 19, 1970, in Docket No. IT–6097, as herein amended.

(B) Paragraph B of the Order issued by the Federal Power Commission on October 19, 1970, in Docket No. IT–6097 is amended to read as follows:

The electric energy which the Marias River Electric Cooperative, Inc. hereby is authorized to transmit from the United States to Canada shall be in an amount not to exceed 3,500,000 kWh per year at a transmission rate not to exceed 750 kW, the energy to be transmitted over the facilities specified in the Presidential Permit signed by the President of the United States on July 28, 1948, in Docket No. E–6108.

Issued in Washington, D.C., on February 28, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 83-5689 Filed 3-4-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–83–003]

Powerplant and Industrial Fuel Use Act of 1978: Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of approval of conservation plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b) (47 FR 25729, June 15, 1982), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **"SUPPLEMENTARY INFORMATION"** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–0620. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on March 7, 1983.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 G, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6162

Allan Stein, Esq., Office of the General Counsel, Forrestal Building, Room 6B–222, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR § 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's

submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR Part 1500 *et seq.*). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR 508.5 and section 808(d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plans are approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 (47 FR 25733, June 15, 1982) identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Steven Ferguson, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-093, 1000 Independence Avenue SW., Washington, D.C. 20585.

The following utilities' conservation plans are approved:

Utilities	FC Case No.
City of Homestead, Homestead, Fla.	51333-9999-99-49
City of Larned, Larned, Kans.	51596-9999-99-49
City of Ruston, Ruston, La.	52542-9999-99-49
Greenwood Utilities, Greenwood, Miss.	51186-9999-99-49
Omaha Public Power District, Omaha, Nebr.	52172-9999-99-49
Sebring Utilities Commission, Sebring, Fla.	52605-9999-99-49
South Carolina Electric and Gas Co., Columbia, S.C.	52602-9999-99-49

Issued in Washington, D.C. on February 28, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-5690 Filed 3-4-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Light Water Reactor Safety Research and Development Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: March 30-31, 1983, 9 a.m. to 5 p.m.

Place: Department of Energy, Room 8E-089, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Contact: Charles E. Cathey, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

- Briefings by Nuclear Steam Supply System vendors
- Briefings on Industry Degraded Core (IDCOR) program
- Comments by National Association of Regulatory Utility Commissions
- Review draft Department of Energy Management Plan for the Conduct of an R, D&D Program for Improving the Safety of Nuclear Powerplants
- Review reports by subpanels

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on February 28, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-5770 Filed 3-4-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF83-191-000]

Altamont Windpower I, Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 2, 1983.

On February 14, 1983, Altamont Windpower I, Ltd., (Applicant), 331 Soquel Drive, Santa Cruz, California 95062, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in the Altamont Pass area of Alameda County, California. The facility will consist of a maximum of thirty wind turbine generators. No oil or gas will be used in the facility. The electric power production capacity of the facility will be 2,250 kilowatts. Installation of the facility is expected to begin in June 1983. There are no other windpowered small power production facilities owned by Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5758 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-193-000]

Black River Power Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 2, 1983.

On February 16, 1983, Black River Power Company, (Applicant), P.O. Box 435, Cheboygan, Michigan 49721, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric small power production facility is located on the Black River between Black Lake and the town of Cheboygan in Cheboygan County, Michigan. The electric power production capacity of the facility is 950 kilowatts. There are no other hydroelectric small power production facilities owned by Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5739 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-322-000]

Empire District Electric Co.; Filing

March 2, 1983.

Take notice that on February 16, 1983, the Empire District Electric Company (Empire) tendered for filing a proposed Amendment to Schedule H, Peaking Power Service, a part of that agreement for interchange of power and interconnected operation between the Empire and Kansas City Power and Light Company (KCPL) designated rate schedule, FERC 88.

The amendment will change the capacity charge from $0.27 per Kw per month to $0.46 per Kw per month and add a $15 per day scheduling and accounting charge.

Empire requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5760 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1811-003]

Ernest D. Huggard; Application

March 2, 1983.

Take notice that on February 22, 1983, Ernest D. Huggard filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Executive Vice President—Atlantic City Electric Company

Director Vice President—Deepwater Operating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5781 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-185-000]

Mountain Fuel Supply Co.; Application

March 2, 1983.

Take notice that on February 7, 1983, Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-185-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 5.09 miles of three-inch diameter pipeline and appurtenances located in Lincoln County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that this request for abandonment authorization is made pursuant to a request by the United States Bureau of Land Management that all surface pipelines in the Moxa Arch area of Lincoln County be buried or removed. Applicant also asserts that no service, sale, or production would be abandoned as wells currently producing into the line proposed to be abandoned would be reconnected to a tap on another main line.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of

Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own reveiw of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5782 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-193-000]

Mountain Fuel Supply Co.; Application

March 2, 1983.

Take notice that on February 9, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-193-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 43.5 miles of 20-inch pipeline and appurtenant facilities, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of approximately 43.5 miles of 20-inch diameter transmission pipeline and related facilities which would begin at a junction with Applicant's transmission Main Line No. 48 north of Randolph, Utah, and extend to Applicant's high pressure distribution system located west of Hyrum, Utah. Applicant states that the proposed pipeline is required to provide increased general system deliverability, improve overall system operation and reliability, and assure a long-lasting uninterrupted natural gas service to its northern distribution system customers. It is stated that in addition to supplying the volumes of natural gas required for the northern distribution system, the proposed pipeline would provide needed additional capacity in the transmission lines downstream of its Eakin Compressor Station and in several major feeder lines in the distribution network. It is further stated that the proposed pipe would be constructed at a cost of approximately $15,068,766. Such cost, it is asserted, would be financed through funds on hand and/or short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5783 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-196-000]

National Fuel Gas Supply Corp.; Application

March 2, 1983.

Take notice that on February 10, 1983, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP83-196-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain pipeline facilities in Erie County, Pennsylvania, and for a certificate of public convenience and necessity authorizing the construction and operation of facilities to replace and/or enlarge the facilities to be abandoned, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to remove a portion of pipeline from its Lines A, B and D in Wayne Township and the City of Corry, Erie County, Pennsylvania, and to replace such facilities with a single new 16-inch steel line to be designed as Line D. It is asserted that the existing facilities would be removed and sold for scrap. Applicant states that total estimated cost of this project is $720,000 which would be financed from internally generated funds and/or interim short-term bank loans.

Applicant states that this proposal is a continuation of a replacement program which was begun by its predecessor-in-interest, Pennsylvania Gas Company, to replace Lines A, B and D with new pipe since such replacement is considered to be the most economical means of maintaining such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and

necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5784 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-170-000]

Niagara Interstate Pipeline System; Application

March 2, 1983.

Take notice that on January 25, 1983, Niagara Interstate Pipeline System (Applicant), Tenneco Building, 1010 Milam, Houston, Texas 77001, filed in Docket No. CP83-170-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities and the transportation of natural gas for certain pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Applicant is a newly-formed interstate pipeline organized under the laws of the state of New York and owned by interstate pipeline affiliates who have the following interests in the partnership:

	Percent
Tennessee Niagara Gas Company	29
Transco Canada Pipeline Company	29
TransCanada Pipeline Niagara Ltd	29
Texas Eastern Niagara, Inc	13

Applicant states that Tennessee Niagara Gas Company is an affiliate of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Transco Canada Pipeline Company is affiliated with Transcontinental Gas Pipe Line Corporation (Transco); Trans-Canada Pipeline Niagara Ltd. is an indirect subsidiary of Trans-Canada PipeLines Limited (TransCanada), and Texas Eastern Niagara is an affiliate of Texas Eastern Transmission Corporation (TETCO).

Applicant requests authorization to render a transportation service for four pipeline shippers: Transco, TETCO, Tennessee and Algonquin Gas Transmission Company (Algonquin) and to construct and operate certain pipeline, compression, measurement and other related facilities which would be required to enable Applicant's to render the proposed transportation services.

It is stated that Applicant pipeline system would be constructed and operated in two segments. Applicant states that the "Northern Segment" between the U.S.-Canada border and East Aurora, New York, would be constructed and operated by Tennessee pursuant to a construction and operating agreement to be executed between Applicant and Tennessee. It is further asserted that the "Southern Segment" between East Aurora and Tamarack, Pennsylvania, near the Leidy Storage Field, would be constructed and operated by Transco under a similar construction and operating agreement with Applicant.

It is indicated that Tennessee has applied for authorization to import from Canada a total of approximately 609,000 Mcf of gas per day in the consolidated proceedings set for hearing in *Boundary Gas, Inc.*, Docket No. CP81-107-000, *et al.* In addition, it is indicated that Tennessee proposes in those proceedings to transport for Boundary Gas, Inc. (Boundary), the 185,000 Mcf of gas per day which Boundary proposes to import from Canada. All of these imported volumes would be purchased from TransCanada at the proposed interconnection between the proposed facilities of Applicant and TransCanada on the international border near Niagara Falls, New York, it is explained.

Applicant further states that Transco has applied for authorization in Docket Nos. CP82-125-000 and -005 to import from Canada up to 413,000 Mcf of gas per day. It is stated that in addition Transco proposes in Docket No. CP82-503-000 to render a related new storage service for its customers. Transco, TETCO and Algonquin have proposed in Docket No. CP82-46-000 to import from Canada up to 305,882 Mcf of gas per day. It is stated that these volumes would be allocated equally to each of these shippers. Finally, TETCO has proposed in Docket Nos. CP82-326-000 and CP82-423-000 to import from Canada up to 200,000 Mcf of gas per day.

Applicant explains that the proposed facilities would initially be allocated to the four shipper pipeline companies to provide transportation of gas in the following quantities:

I. Northern Segment (U.S.-Canada border to East Aurora, New York)—

Shipper	Mcf/d
Algonquin	101,961
Tennessee[1]	1,000,000
TETCO	301,961
Transco	1,114,961

[1] Up to 185,000 Mcf of gas per day of Tennessee capacity is reserved for the benefit of Boundary Gas, Inc., and its customers pursuant to a transportation agreement by and between those parties.

II. *Southern Segment* (East Aurora to Leidy, Pennsylvania)—

Shipper	Mcf/d
A. East Aurora to Tennessee Station 313—	
Algonquin	101,961
Tennessee	285,000
TETCO	301,961
Transco	1,114,961
B. Tennessee Station 313 to Leidy—	
Algonquin	101,961
TETCO	301,961
Transco	1,114,961

Applicant states that the proposed transportation services would be rendered in accordance with the terms of the *pro forma* Canadian gas transportation contract and *pro forma* Rate Schedule T. The proposed transportation service would be rendered for fifteen years, it is submitted.

Applicant states that the transportation charges to be paid by the shippers are based upon an allocation of the cost of service among the shippers on an Mcf/mile demand basis by delivery point and that the design of rates is on a demand-commodity basis. It is stated that the demand rate is designed to recover debt service charges, operation and maintenance expenses, and taxes other than income taxes. It is further stated that shippers would furnish fuel gas based on the ratio of each shipper's transportation requirements to total transportation requirements and miles of transportation. Applicant states that shippers would be obligated to pay the demand charge and a minimum annual commodity charge based on 75 percent of annual contract quantities. The annual depreciation rate would be 6.7 percent, it is asserted.

Applicant asserts that the proposed facilities are an integral part of a much needed larger effort by the pipeline shippers to acquire new long-term gas supplies from Canada to meet the market needs of their customers. Applicant submits that its proposed facilities would remove the need for duplicative facilities and would permit the shippers to utilize a single pipeline system to transport imported gas volumes in an efficient and cost-effective manner. Applicants state in addition that construction and operation of one large-diameter pipeline as proposed by Applicant to transport new long-term gas supplies for the shippers

would have a substantially lesser environmental impact that constructing and operating the separate pipelines previously proposed by Tennessee and Transco's affiliate, Trans-Niagara Pipeline.

The application shows that the facilities would consist of approximately 0.25 mile of dual 36-inch pipeline from the United States-Canada border across the Niagara River, approximately 48.6 miles of 48-inch pipeline from the Canadian border to East Aurora, New York, and approximately 112.7 miles of 42-inch pipeline from East Aurora to Tamarack, Pennsylvania, together with 21,000 horsepower of compression at East Aurora and 38,000 horsepower of compression at Tamarack, measurement and other related facilities as well as certain modifications required to be made to existing facilities.

The total cost of the proposed facilities is estimated to be $417,617,000 which cost would be financed with project financing. Applicant would attempt thereby to obtain a 75 percent/25 percent debt/equity financial structure, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5765 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-195-000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

March 2, 1983.

Take notice that on February 9, 1983, Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-195-000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Libbey-Owens-Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they are presently authorized to transport 1,200 Mcf of natural gas on a firm basis and 1,700 Mcf of natural gas per day on a best-efforts basis for LOF. Applicants receive said gas from LOF in Woods County, Oklahoma, and transport and redeliver such gas to Transcontinental Gas Pipe Line Corporation Northern Natural Gas Company, Division of InterNorth, Inc., and Columbia Gas Transmission Corporation for the account of LOF for further transportation and ultimate redelivery to LOF.

It is stated that LOF has sold its reserves from which production was being transported and, therefore, terminated its transportation agreement with Applicants by letter dated July 30, 1982. Applicants state that LOF has advised that there is no possibility that it would desire further transportation service under the existing agreement. Applicants, therefore, request approval to abandon the transportation of natural gas for LOF.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5766 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-187-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

March 2, 1983.

Take notice that on February 8, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-187-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf of natural gas per day, on a best-efforts basis, for Mid Louisiana Gas Company (Mid Louisiana) pursuant to a transportation agreement dated September 2, 1982, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas produced from the Eros Prospect Field and sold to Mid Louisiana. It is stated that Tennessee

would receive such volumes at a point located on its existing facilities in Jackson Parish, Louisiana, and would deliver equivalent volumes to Mid Louisiana in Ouachita Parish, Louisiana. It is asserted that the rate proposed to be charged by Tennessee is 3.37 cents per Mcf multiplied by the total quantity of gas received by Tennessee during the month. Mid Louisiana would provide Tennessee 1.2 percent of the quantity of gas received by Tennessee to compensate for fuel and use requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5787 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-200-000]

United Gas Pipe Line.; Application

March 2, 1983.

Take notice that on February 16, 1983, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-200-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the reduction of certain natural gas allocations to the Town of Carencro, Louisiana, and for permission and approval to abandon certain pipeline facilities by sale to Trans-Louisiana Gas (Trans-La), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the reduction of certain natural gas allocations to the Town of Carencro, Louisiana, and the transfer of said allocations to Trans-La in light of the sale by the Town of Carencro of a portion of its local distribution system to Trans-La. Applicant states that it would reduce Carencro's maximum daily delivery obligation from 2,294 Mcfd to 2,065 Mcfd. Applicant further states it would enter into a new gas service agreement with Trans-La wherein the contractual maximum daily delivery obligation would be 229 Mcf.

It is asserted that to effect the delivery of these supplies to Trans-La it would install, at Trans-La's expense, a new metering and regulation station at a point on Applicant's Iowa-Franklin line near Lafayette Parish, Louisiana.

Applicant further proposes to abandon by sale to Trans-La approximately 15,565 feet of Applicant's Iowa-Franklin 8-inch line and 26,446 feet of the 6-inch and 8-inch Lafayette Lateral.

It is asserted that Applicant is currently serving one customer, B. F. Trappey's and Sons, Inc., through the lines which Applicant proposes to sell to Trans-La in order to continue service to that customer.

Applicant states that the sale of the subject lines to Trans-La will be beneficial both operationally and financially. It is indicated that Trans-La has two separate distribution systems in Lafayette which cross these two sections of lines and that by connecting the lines to its system, Trans-La would be able to alleviate the pressure problems currently experienced on one of its systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriated action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5788 Filed 3-4-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), the following meeting notices are provided:

Meetings of the International Energy Agency (IEA) Group of Reporting Companies will be held: (1) On March 17 and 18, 1983, at the Instituto Di Aggiornamento E Formazione ENI, Castelgandolfo, Italy, beginning at 2:30 p.m. on March 17; and (2) on March 29,

1983, at the offices of Texaco, Inc., 2000 Westchester Avenue, White Plains, New York, beginning at 9:00 a.m. These are briefing meetings for personnel of IEA Reporting Companies and their affiliates and for Reporting Company members of the IEA Industry Supply Advisory Group (ISAG) who will participate in the Fourth IEA Allocation Systems Test (AST–4).

The agenda for each meeting is as follows:

1. Opening remarks.
2. Background on the IEA and the International Energy Program.
3. Review emergency sharing system.
4. Review AST–4 Test Guide:
a. Objectives and scope;
b. Scenario and timing;
c. Organizational structure;
d. National Emergency Sharing Organization (NESO) participation;
e. Data base and use; and
f. Communications, including a description of the voluntary offer submission system.
5. Test appraisal.
6. Legal considerations and clearances.
7. Supplemental discussion for ISAG:
a. Assignments and overall responsibilities;
b. Industry Supply Operations Manual (ISOM) overview and ISAG formats;
c. The voluntary offer process and computer support;
d. Appraisal activities;
e. IEA security and document flow; and
f. Personnel considerations.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., February 28, 1983.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc 83-5691 Filed 3-4-83; 8:45 am]

BILLING CODE 6450-01-M

Public Hearings To Announce Proposal To Nominate a Site Within the State of Nevada for Characterization Studies

AGENCY: Department of Energy.

ACTION: Notice of public hearing and solicitation of comments.

SUMMARY: The U.S. Department of Energy has identified a potentially acceptable site in Nevada for a high level radioactive waste repository and proposes to nominate this site for site characterization pursuant to Section 113 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). Pursuant to Section 112 an environmental assessment will accompany such nomination. Further, before proceeding to sink shafts, a Site Characterization Plan will be issued. The site is located in Nye County, on and adjacent to the southwest corner of the Department's Nevada Test Site. A major objective of the site characterization activity will be the acquisition of geologic information necessary to the evaluation of the suitability of the Nevada site for a repository. Site characterization activities at all candidate sites must be completed within the next four years to support a Departmental recommendation to the President and subsequent Presidential recommendation of a site to the Congress by March 31, 1987. This notice establishes hearing dates and locations, and a public comment period to solicit comments on the nomination, issues to be included in an environmental assessment supporting the nomination, and issues to be addressed in the site characterization plan.

DATES: The Hearings are scheduled as follows:.

1. March 30, 1983, 9:00 a.m. to 5:00 p.m., PST, Las Vegas, Nevada.

2. March 31, 1983, 10:00 a.m. to 6:00 p.m., PST, Reno, Nevada.

Written Requests to schedule time for oral presentation are due by March 20, 1983.

Written Comments are due by March 31, 1983.

ADDRESSES: The Hearings will be held at the following locations:

1. March 30, 1983, University of Nevada, Moyer Student Union Ballroom, 4505 S. Maryland Pky, Las Vega, Nevada 89109.

2. March 31, 1983, University of Nevada, Jot Travis Student Union, UNR Campus, North Virginia Street, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Dr. Donald L. Veith, U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 89114, Telephone: (702) 734–3662.

Public Hearings

Hearings will be conducted by the Department of Energy in Las Vegas, Nevada on March 30, 1983, and in Reno, Nevada on March 31, 1983. The purpose of these hearings is to inform the public of the activities and considerations that led to this proposed nomination and to receive comments. The Department of Energy will develop an Environmental Assessment that addresses site characterization activities. Pub. L. 97–425, Section 112(b)(1)(E), identifies issues that must be addressed by the Environmental Assessment.[1] An additional purpose of the Hearings is to solicit and receive recommendations with respect to specific issues that should be addressed in the aforementioned Environmental Assessment and also specific issues that should be addressed in any Site Characterization Plan which would subsequently be issued, if and when the location is approved by the President as a candidate Site for site characterization.

Presentations

Parties interested in providing oral presentations at the Hearings, may request time not to exceed ten minutes for the purpose of delivering that presentation. Requests for scheduling of oral presentation at a particular hour will be considered but cannot be guaranteed. A typewritten copy of all the material to be presented is requested and should be delivered to the presiding officer before being presented at the Hearing. Requests for scheduled presentations must be written and mailed or delivered so as to be received at the address below no later than March 20, 1983. U.S. Department of Energy, Public Hearings on Nevada Site Characterization, Attn: Presentation Schedule, Mail Stop 555, P.O. Box 14400, Las Vegas, Nevada 89114.

Individuals who do not make advance requests to speak at a Hearing may register to speak with the presiding officer prior to the start of a Hearing. An opportunity to speak will be provided to these individuals if time permits. However, time for these unscheduled presentations will be limited, depending on the number of requests received and time available.

Written Comments

Parties may also submit written comments on the proposed nomination; the issues to be addressed in the Environmental Assessment; and the issues to be addressed by any Site Characterization Plan, if developed. These comments will be added to the Hearing transcripts for both locations and become an official Departmental record of the Hearings. Written comments should be mailed to reach the following address by March 31, 1983. U.S. Department of Energy, Public Hearings on Nevada Site Characterization, Mail Stop 555, P.O. Box 14400, Las Vegas, Nevada 89114.

Conduct of Hearings

DOE reserves the right to arrange the schedule of presentations to be heard and to establish additional procedures governing the conduct of the Hearing.

[1] Pursuant to Section 112a, proposed general guidelines for the recommendation of sites for repositories were published in the **Federal Register** on February 7, 1983 (48 FR 5670).

Questions may be asked only by those conducting the Hearing. Cross examination of persons presenting statements will not be permitted. Anyone present who wishes to ask a question at the Hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be answered. Any further procedural rules needed for the proper conduct of the Hearing will be announced by the presiding officer.

Transcripts of the Hearings will be made, and the entire record of the Hearings, including the transcripts will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Nevada Operations Office, P.O. Box 14400, Las Vegas, Nevada 89114, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Additional copies of the complete transcripts will also be available at the public document centers noted below. Any person may purchase a copy of the transcript for each Hearing from the reporter so identified by the presiding officer.

The record of both Las Vegas and Reno Hearings will be available for public inspection at:

U.S. Department of Energy, Public Reading Room, FOI, Room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585

and the following Department of Energy field offices:

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico

Chicago Operations Office, Room 1136, 175 West Jackson Boulevard, Chicago, Illinois

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee

Richland Operations Office, Federal Building, Richland, Washington

San Francisco Operations Office, Wells Fargo Building, 1333 Broadway, Oakland, California

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

For the Department of Energy March 2, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc 83-5771 Filed 3-4-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM—FRL 2316]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Grants Programs

- Title: EPA Form 5700–31 "Application for Federal Assistance (short form)" (EPA ID 0873).

Abstract: State governments use the "Application for Federal Assistance (short form)" to apply for financial support under EPA State Management Assistance Grants. This form provides EPA with the information it needs to award a grant and to assure grantee compliance with Federal requirements.

Respondents: State governments.

* * * * *

Agency Forms Cleared by OMB

Between February 8 and February 18, 1983

EPA ID 0807, Information Requirements for RCRA Closure and Post-Closure Plans, was cleared on February 16 (OMB #2050–0008).

EPA ID 0959, Reporting, Recordkeeping and Planning Requirements for Groundwater Monitoring, was cleared on February 18 (OMB #2000–0423).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW, Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: February 28, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83-5557 Filed 3-4-83; 8:45 am]

BILLING CODE 6560-50-M

[A-10 FRL 2316-3]

Issuance of PSD Permit to Washington Water Power Co., Creston Generating Station, Creston, Washington; Region 10

Notice is hereby given that on November 17, 1982, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to The Washington Water Power Company (TWWPCo) to construct a four unit coal-fired generating station (2280 mw) near Creston, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulation, subject to certain conditions specified in the permit.

On December 15, 1982 attorneys for TWWPCo filed a petition with the Administrator for review of the PSD permit. On January 24, 1983 the petition was withdrawn by the company prior to any rulings by the Administrator. The permit is therefore final.

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

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

Dated: February 18, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-5745 Filed 3-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-225]

Fountainebleau Federal Savings & Loan Association, Slidell, La., Final Action; Approval of Conversion Applications

Notice is hereby given that on February 25, 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 Fountainebleau Federal Savings and Loan Association, Slidell, Louisiana, 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 NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: March 1, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-5753 Filed 3-4-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-12]

Prudential Lines, Inc. v. Farrell Lines, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Prudential Lines, Inc. against Farrell Lines, Inc. was served February 25, 1983. Complainant alleges that respondent has violated sections 16, 17 and 18 of the Shipping Act, 1916, by operating under the subterfuge of an all water tariff under Rate Agreement No. 10261 while actually performing an overland intermodal service without proper tariff authority.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations precribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-5709 Filed 3-4-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Study of Blue Sky Securities Laws; Survey of State Registrations of Securities

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of a survey of State registration decisions on common stocks.

SUMMARY: The purpose of the survey is to determine which of the securities issued in 1976 were registered in the individual states. The survey will form part of a study conducted by the FTC's Bureau of Economics: Blue Sky Securities Laws As Investor Protection Regulation. Data from the survey will be analyzed in conjunction with risk and rate of return observations on these securities to assess the impact of State securities regulations on the distribution of securities and on investor welfare.

DATES: Comments on the proposed survey must be submitted on or before April 6, 1983.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John C. Hilke, Division of Industry Analysis, Bureau of Economics, Federal Trade Commission, Washington, D.C. 20580 (202) 634-7688.

By direction of the Commission.

John H. Carley,

General Counsel.

[FR Doc. 83-5789 Filed 3-4-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Long Range Policy and Planning Subcommittee of the National Archives and Records Service Advisory Committee on Preservation will meet on March 21, 1983 from 10:00 a.m. to 4:00 p.m., and March 22, 1983 from 9:00 a.m. to 4:00 p.m. in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to machine-readable pre-accessioning possibilities as related to the mission of the National Archives.

This meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: February 18, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-5901 Filed 3-4-83; 10:32 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Contol

Project Grants for Preventive Health Services—Childhood Immunization; Program Announcement

I. Introduction

A. Purpose and Authority

The purpose of the Immunization Program is to prevent the occurrence and transmission of diseases preventable through immunizations. Immunization grants are awarded to States and local governments to assist in establishing integrated and comprehensive immunization delivery systems capable of making immunizations for vaccine-preventable childhood diseases available to every child in the United States and to assist in maintaining interruption of indigenous measles transmission.

Finanical and direct (i.e., "in lieu of cash") assistance as described in the Catalog of Federal Domestic Assistance Number 13.268 is authorized under Section 317 of the Public Health Service Act (42 U.S.C. 247b) as amended.

Regulations governing the implementation of this legislation are covered under 42 CFR Part 51b.

B. National Program Goals

1. Reduce morbidity and mortality due to vaccine-preventable diseases of childhood.

2. Maintain interruption of indigenous measles transmission.

3. Maintan 90 percent immunization levels for school children under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella. Maintain 95 percent immunization levels for school enterers and 90 percent immunization levels for children enrolled in licensed day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, and mumps.

4. Develop, test, and implement systems for use in the States to ensure that 90 percent or more of children complete basic immunizations by age 2.

C. Eligible Applicants

Grant funds are available to assist official health agencies of any State or local government, the District of Columbia, or United States Territory to plan and carry out an immunization program directed toward vaccine-preventable diseases of childhood. For purpose of these guidelines, United States Territories include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Before making a grant to a local public health agency, the granting agency of the Public Health Service (PHS) will discuss the proposed program with the State health authority.

II Application Procedure

A. Forms

Application for grants must be made on standard project application forms (PHS 5131) which may be obtained from the appropriate Health and Human Services (HHS) Regional Office as set forth below.

B. Consultation

Consultation and assistance in developing applications and program plans are available through HHS Regional Offices.

C. Budget Information

Applications shall be submitted for a 1-year budget period and a 5-year project period. Although there are no specific matching fund requirements, information must be provided in the narrative portion of the application on the expenditures for childhood immunization programs made from Federal, State, and other funds obligated by the applicant during its most recent accounting period, a description of the services provided by the applicant for this accounting period, and estimates of support for future accounting periods including, at a minimum, funds to be available during the budget period for which grant support is requested. Information which justifies or explains budget items must also be included in the narrative part of the application; in some instances, information on commitment of applicant support of specific items (such as vaccine) during the budget period may be required. Applicant contributions to the program do not need to be provided on the budget pages of the application unless the applicant desires that these contributions be included as part of the approved budget on the grant award.

D. Submission of Applications

Information about the timing and routing of applications and the consequences of late submission will be included in each request for application from the appropriate HHS Regional Office as set forth below.

Applications are subject to review as governed by OMB Circular A-95 and regulations (42 CFR Part 122—amendment published 47 FR 3551, January 26, 1982—and Part 123) implementing the National Health Planning and Resource Development Act of 1974.

E. Program Narrative

New applications must include a description of the need for project grant support, the long- and short-term objectives of the proposed program, the activities which will be undertaken to accomplish the objectives (including the timing of such actions), the methods which will be employed to evaluate program activities, and any other information which will support the request for grant assistance. Continuation applications need only provide new short-term objectives for the new budget period, a budget justification, a progress report on activities performed during the prior budget period, and a description of any changes in the method of operation, long-term objectives, need for grant support, and evaluation procedures compared to information provided in previous applications.

III. Requirement of an Approved Program

A. Assessment of the Need for a Program

Estimates of the target population must be developed which include susceptible adolescents and young adults in high schools and colleges.

B. Objective Setting

1. Objectives must be established which are specific, measurable, and realistic.

2. Objectives must be related to the National Program Goals, although specific targets will depend upon the level of immunizations currently being achieved in each project area.

3. Both short-term objectives (1 year), which will be reached during the ensuing funding period, and long-term objectives (2 to 3 years) must be developed.

C. Methods of Operation

1. Service Delivery.

This involves a plan to assure that children found to be susceptible *begin* and *complete* their immunizations. Use of several or all of the approaches listed below is indicated:

Required—Systematic immunization of susceptible children at school entry to ensure 95 percent immunization levels against measles, mumps, rubella, polio, diphtheria, pertussis, and tetanus.

Recommended—Use of a standard personal immunization record card should be implemented and accepted as the official record for all preschoolers which will meet immunization requirements at school entry.

Recommended—Systematic and routine immunization of susceptible preschool children in Head Start; Early and Periodic Screening, Diagnosis and Treatment Program; Special Supplemental Food Program for Women, Infants, and Children; and recipients of Aid to Families with Dependent Children (AFDC) and their siblings.

Recommended—Scheduling of special immunization clinics in defined geographic areas in population groups of particularly high susceptibility.

Recommended—Close liaison with neighborhood health centers, Health Maintenance Organizations, health department immunization and well-baby clinics, and other health care providers to ensure that needed immunizations are provided as part of routine primary health care.

2. Assessment of Immunization Status.

A. School

Required—An annual determination must be made by December 31 of each year of the immunization levels of children entering school using procedures outlined in The Guidelines for Assessing Immunity Levels, Centers for Disease Control (CDC), August 1978.

Required—Procedures to assess the reliability and validity of assessment data must be instituted.

Required—Throughout the school year, immunization records of incoming transfer students at all grade levels must be reviewed.

Recommended—A standard Statewide school immunization record should be adopted and implemented. The prototype form developed by PHS is recommended.

B. Preschool

Required—An annual inventory must be conducted of the immunization records of children attending licensed day-care centers to ensure appropriate documentation of vaccines and that 90 percent immunization levels have been attained against measles, mumps, rubella, polio, diphtheria, pertussis, and tetanus.

Required—Systematic review of immunization status of all children under age 2 and new enrollees under age 5 served in public clinics must be conducted.

Required—Immunization records of all new enrollees in licensed day-care centers throughout the year must be reviewed.

Recommended—Where records are not being kept by day-care centers, Head Start programs, health departments, etc., efforts should be made to establish a recordkeeping system. A standard immunization record should be implemented which is compatible with the standard school immunization record card. The prototype form developed by PHS is recommended.

Recommended—Specific plans to bring delinquents back on schedule should be developed.

Recommended—Private physicians and other health-care providers should be encouraged to review systematically the immunization status of the children they serve.

Recommended—Use of a standard personal immunization record card should be implemented and accepted as the offical record for preschoolers which will meet immunization requirements at school entry. The prototype form developed by PHS is recommended.

Recommended—Special surveys for other preschool population groups such as in Head Start programs, unlicensed day-care centers, and recipients of AFDC and their siblings should be considered.

3. Surveillance and Outbreak Control.

Required—A plan for surveillance of vaccine-preventable diseases of childhood that includes morbidity and mortality reporting, as well as field and laboratory investigations, must be developed and implemented.

Required—Procedures must be established for prompt review of the data collected from the morbidity surveillance system to allow for immediate response to all occurrences of suspected measles, diphtheria, and polio cases upon notification.

Required—For controlling measles outbreaks, there must be a procedure that covers all of the following steps:

1. Immediate response to the suspected occurrence of measles to determine compatibility with measles.

2. Confirmation of the diagnosis using the standard clinical classification and laboratory testing where possible.

3. Evaluation of the extent of the outbreak.

4. Identification of a zone of risk which includes all susceptible persons who might possibly have had contact with any suspect cases or incubating contacts.

5. Initiation of necessary action to immunize all persons at risk and to limit contact of actively transmitting cases with other susceptibles, including susceptible adolescents and young adults.

6. Evaluation of effectiveness.

Required—Improvement of the system for monitoring vaccine associated reactions, including a mechanism for responding to persons with vaccine-related complaints, as outlined in Monitoring System for Adverse Reactions to Vaccination, CDC, October 1978. The system should include:

1. All reports from both the public and private sectors, should be made through the State health department to the Centers for Disease Control.

2. All forms ("Report of Illness Following Vaccination," CDC 10.36, 5–79) should be reviewed for completeness and accuracy before forwarding to the Centers for Disease Control.

3. Only cases that fulfill the following criteria should be forwarded to the Centers for Disease Control: illness which began within 4 weeks of receipt of vaccine and was severe enough to require hospitalization or a visit to a physician or other medical care personnel.

4. A report of illness following vaccination which resulted in a death should be reported immediately to the Centers for Disease Control at (404) 329–1860.

Recommended—Appropriate disease case investigation forms should be developed and used.

Recommended—Improvement of pertussis surveillance so that at least 50 percent of cases reported have case investigation forms completed (form CDC 71.14A).

4. Maintenance of Immunization Levels.

Required—A plan must be developed to implement a system to ensure that 90 percent of children born each year complete their immunization by age 2. Unless there is in existence a system which can achieve this goal, such a system must include the following activities:

1. Provider-based tickler systems (public and private) for the recall of children for immunizations.

2. Adoption of a standard immunization record card for the State.

3. A hospital-based immunization/education program for new mothers.

5. Information/Education.

Required—A plan must be developed and implemented for promotion of immunization for children and other appropriate population groups.

Required—A plan must be developed and implemented for informing and seeking support from health professionals to:

1. Encourage immediate reporting of vaccine-preventable diseases.

2. Institute tickler systems for the recall of children for immunizations.

3. Use standard immunization record cards recommended by State health departments.

6. Enforcement of School Immunization Laws.

Required—A plan must be developed and implemented to ensure that every effort is made to obtain compliance with existing school and day-care center immunization laws/regulations.

7. Vaccine Storage, Supply, Delivery, and Inventory.

Required—A plan must be developed and implemented to maintain adequate storage of vaccine and a system for monitoring vaccine distribution and usage among physicians, health departments, schools, and other health-care providers, and to monitor vaccine expiration dates to reduce wastage to less than 5 percent.

8. Citizen Participation.

Recommended—A plan should be developed for active citizen participation in the planning and implementation of the various components of the program.

D. Evaluation

Measures must be established to evaluate the achievement of all project objectives and elements listed under Item III.C.—"Requirement of an Approved Program, Methods of Operations."

IV. Criteria for Review and Award of Grants

A. Each application will be reviewed and evaluated according to the following criteria:

1. Is each program element addressed by the applicant? Will the proposed activities result in a balanced program of service delivery, surveillance of disease and adverse events, assessment, outbreak control, maintenance of immunization levels, and public and professional education?

2. Are the budget requests and proposed use of project funds appropriate and reasonable for a balanced program?

3. Are the project objectives specific, measurable, realistic, and related to the national goals?

4. If the applicant has previously had an immunization grant, does the application detail progress toward previously established objectives and satisfactorily explain any areas in which the objectives were not met?

5. Does the application describe how all of the grant requirements will be met to ensure appropriate provision of information relating to risks and benefits of vaccination to all vaccinees (parents or guardians) receiving vaccination, as stated in Item VI?

6. does the application describe the method for attaining or plans to attain the required activities as stated under Item III.C., "Requirement of an Approved Program, Methods of Operations."

V. Reporting Requirements

Reports are to be submitted to the HHS Regional Offices. Reporting forms and a description of procedures are available from the HHS regional Offices.

A. Monthly

1. Forms reporting adverse events following immunizations should be sent to HHS Regional Offices within 10 days after the end of the month.

B. Quarterly

1. Tabulation of vaccine distributed and vaccinations administered by antigen and age group (<1, 1–4, 5–9, 10–14, 15–19, 20+) within 30 days after the end of the quarter in which they are given or distributed. This includes a tabulation of project vaccine administered by private physicians by antigen and the above age groups.

2. Narrative progress reports must be submitted within 30 days after the end of each calendar quarter (March 31, June 30, September 30, and December 31). Narratives should adress progress being made in achieving project objectives (and methods being used to resolve problems) and other information which, in the grantee's opinion, may be useful to the HHS Regional Office, CDC, or other projects.

C. Annually

1. Antigen-specific projections of public sector vaccine to be administered by quarter (by September 1 of each year).

2. Immunization level assessment data:

a. School-enterers survey by March 31 of each year.

b. Day-care survey by March 31 of each year.

In addition, we encourage health agencies to continue to supplement normal MMWR weekly reporting procedures for measles with detailed telephone summaries of measles cases and related investigations.

VI. Use Of Information Statements On Risks and Benefits of Vaccination

A. In order to assure appropriate provision of information relating to risks and benefits of vaccination in programs for which funds are made available pursuant to this grant, grantees shall take the following steps:

1. Establish procedures for providing copies of the appropriate "Important Information" forms to all vaccinees (parents or guardians) receiving vaccinations in public clinic settings and to private physicians for use if they elect to use the forms in accordance with the conditions specified in the "Private Physician Certification" form. A copy of the "Private Physician Certification" form is available from CDC. Grantees may include appropriate health department identification on the forms. Any other addition to the forms, or variations from the language or format of them, must have the prior written approval of the Director, Centers for Disease Control.

2. Arrange for documentation of the receipt by vaccinees (parent or guardians) of the "Important Information" form relating to the disease or diseases for which vaccines are purchased or furnished as specified above. The documentation shall consist of the signed lower portion of the "Important Information" forms, or a separate signature card or log sheet which contains the following:

"I have read the information contained in the 'Important Information' form(s) about the disease(s) and the vaccine(s). I have had a chance to ask questions which were answered to my satisfaction. I believe I understand the benefits and risks of the vaccine(s) and request that the vaccine(s) indicated below be given to me or to the person named below for whom I am authorized to make this request."

This statement must appear at the top of the signature card or log sheet and the form must include at a minimum the following entries: Name, address, date of birth, age, type of vaccine(s), clinic identification, date of vaccination, site of vaccination, manufacturer and lot number, signature of person to receive vaccine or person authorized to make the request, date of signature, and date printed on the appropriate "Important Information" form.

3. Obtain a signed copy of the "Private Physician Certification" form from all physicians to whom the grantee furnishes vaccine which is to be used in private practice and which was purchased or furnished as described above.

4. Establish procedures for the retention of the signed portion of the "Important Information" forms and "Private Physician Certification" forms, and other types of approved documentation, as detailed in the memorandum from the Director, Centers for Disease Control, dated September 1, 1982. All documentation shall be available to the Director, Centers for Disease Control, upon written request.

5. In the case of a school-based program, or other programs where the information form is to be read and signed in advance of the vaccination by a parent, guardian, or other authorized person who will not be present at the vaccination site when the vaccination is given, procedures shall be established and made known for answering questions by telephone or otherwise.

B. The grantee must use the most current important information forms for measles, mumps, rubella, and combinations thereof, inactivated polio (IPV), oral polio (OPV), and diphtheria, tetanus, and pertussis (DTP).

C. As indicated above, grantees must make copies of the information forms available to private physicians who receive vaccine purchased or furnished pursuant to immunization project grant awards. An exception to the requirement for use of the information forms may be made only where vaccine is administered in the usual private physician-patient situation; i.e., by a physician in the course of discharging his/her responsibilities in the treatment of an individual patient according to scheduling and other procedures normally used in the private practice of medicine. Thus, the information forms must be used in clinic situations even though the clinics are supervised by private physicians.

D. At each immunization clinic, one or more persons shall be available to take responsibility for ensuring that prospective vaccinees (parents or guardians) can read the information provided and to answer questions about the vaccine, its expected benefits, its normal risks, its contraindications (special warnings to vaccinees with low resistance to infections), alternatives to vaccination, and to provide advice regarding medical assistance in the event of suspected vaccine reactions. If an immunization clinic serves significant numbers of people for whom English is not a first language, the written information shall be available in the native language. CDC will provide prototype information forms in English, Spanish, French, Vietnamese, and Chinese.

At each immunization clinic, the person administering the "Important Information" form(s) must routinely ask all vaccinees (parents or guardians) receiving vaccinations if they understand the information provided to them and if they have any questions.

E. These required steps may be supplemented as appropriate with:

1. The provision of pamphlets and the display of posters at clinic sites and physicians' offices on risks and benefits of immunization.

2. The use of audio or audiovisual techniques.

3. Preclinic publicity through the mass media and through other information channels.

VII. Use of Grant Funds

A. Grant funds may be used for costs associated with planning, organizing, and conducting childhood immunization programs and for the purchase of vaccine and toxoids to protect against polio, measles, mumps, rubella, diphtheria, pertussis, and tetanus. Vaccine will be available "in lieu of cash" if requested by applicants. Monovalent mumps vaccine purchased with grant funds may only be used in the population under age 7. (The previous restriction for combined measles, mumps, and rubella is deleted.)

B. No charge may be made to patients for the cost of vaccines provided through project grant funds, whether administered in public clinics or by private physicians. No one in a public clinic may be denied vaccine provided through project grant funds for failure to pay an administration fee.

C. Grant funds may be used to supplement (not substitute for) existing immunization operations and services.

Dated: February 28, 1983.

William H. Foege, M.D.,

Director, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10278, (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, Room 1185, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837-4461

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S./402, Seattle, Washington 98121, (206) 442-0430.

[FR Doc. 83-5754 Filed 3-4-83; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreements; Preventive Health Services-Tuberculosis Control; Availability of Funds for Fiscal Year 1983

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1983 for Cooperative Agreements for Tuberculosis Control Programs, Catalog of Federal Domestic Assistance Number 13.116. This program is authorized by Section 317(a) of the Public Health Service (PHS) Act (42 U.S.C. 247b), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b. Subpart A contains general provisions relating to these programs. A new subpart governing tuberculosis control programs is being developed.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. However, because of the limited funds available in Fiscal Year 1983, award will be limited to support of programs in States which reported 100 or more new cases of tuberculosis for each of the years 1980 and 1981 or had an incidence rate greater than the national tuberculosis incidence rate reported in 1981 (11.9 per 100,000 population) for both 1980 and 1981, and to selected urban areas as described below.

Cooperative agreements may also be awarded directly to a local health agency serving a high-priority urban area with a city of at least 250,000 population which reported 200 or more new cases of tuberculosis in each of the years 1980 and 1981 or had an incidence rate greater than the rate for U.S. cities over 250,000 population in 1981 (24 per 100,000 population) for both 1980 and 1981. Although certain local health agencies will be eligible for direct funding, eligible local health agencies within a State are strongly encouraged to include their request for assistance in the State application to ensure effective coordination of State/Local/Federal resources.

State and local applicants must show that tuberculosis cooperative agreement fund will be directed primarily to support outreach activities in high incidence population groups and selected geographical areas with: (1) A significant level of tuberculosis; and (2) an incidence rate greater than the State as a whole.

Applications meeting these requirements will be evaluated and priority for funding of new projects established, based upon the following factors, using data for both 1980 and 1981: (1) The total number of cases reported; (2) the number of bacteriologically confirmed cases reported; (3) the bacteriologically substantiated incidence rate of disease; (4) the number of tuberculosis cases among children 0-14 years of age; (5) significant levels of tuberculosis among individuals who were born in countries with high rates of tuberculosis; and (6) a significant increases in tuberculosis morbidity.

In addition, the overall potential effectiveness of the applicant's plan of operation in meeting the objectives of the proposed project will be considered in evaluating and prioritizing applications. These factors were chosen to establish the extent of an applicant's tuberculosis problem and incorporate

the intent of Congress for expenditure of these funds.

Purpose and Cooperative Activities

A. Purpose

The national goal in tuberculosis control is to reestablish an annual reduction of reported tuberculosis cases of at least 5 percent. The minimum short-term objectives needed to meet this goal include:

1. At least 75 percent of all initially infectious patients will become noninfectious (convert their sputum from positive to negative) within 3 months of starting treatment, and at least 95 percent will become noninfectious with 6 months.

2. At least 90 percent of all reported cases of tuberculosis will complete an American Thoracic Society/Centers for Desease Control (ATS/CDC) recommended regimen of antituberculosis drug therapy.

3. At least 95 percent of all close contacts to infectious cases will receive examinations, with at least 95 percent of all those under 15 years of age and 75 percent of all infected persons 15 years of age and over placed on preventive treatment.

4. For close contacts and other high risk individuals placed on preventive therapy, at least 90 percent of those persons under 15 years of age and 75 percent of all others will complete a recommended course of preventive therapy.

B. Cooperative Activities

The collaborative and programmatic involvement of recipients of funds and CDC is as follows:

1. *Recipient Public Health Agency Activities.* a. Reporting of all tuberculosis cases, suspects, and significant laboratory results by health care providers and laboratories in both the public and private sectors; analysis of reporting trends; and implementation of updated public health record systems needed to monitor the current care status of patients, suspects, contacts, and high-risk infected persons in the community.

b. Deployment of outreach personnel for followup of patients and their contacts; application or intensification of directly administered daily or intermittent drug treatment.

c. Providing tuberculosis diagnostic, treatment, and prevention services adapted to the characteristics of tuberculosis population subgroups; and implementation of special approaches to meet the needs of immigrants with inherent language and cultural barriers.

d. Development or continuation of cost effective, medically sound tuberculosis medical care and public health policies. A major policy component should be the use of recommended ATS/CDC treatment regimens.

e. Epidemiological analysis and rapid followup for laboratory reports of drug resistant organisms.

f. Program evaluation and special epidemiological investigation/analysis of unique tuberculosis problems such as tuberculosis in foreign born, drug resistance, etc. Activities should include detailed investigation of all cases in children to identify causes of community control failure and to design more effective prevention and control actions.

2. *Centers for Disease Control Activities.* a. Collaboration in the development and operation of tuberculosis case reporting and program management record systems. Assistance in analysis and evaluation of morbidity, mortality, and program management information.

b. Assistance in improving program performance through onside assistance and the provision of training materials for use by project staff.

c. Provision of onsite technical assistance in the planning, operation, and evaluation of program activities.

d. Provision of medical and programmatic consultation through telephone and written consultation.

e. Development and dissemination of public health and medical policies and recommendations for the diagnosis, treatment, and prevention of tuberculosis (including the development of joint ATS/CDC statements). Development of patient education and motivation materials.

Quarterly and/or semiannual narrative and performance statistical reports may be required subject to approval by the Office of Management and Budget (OMB). Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

During fiscal year 1983, $5 million will be available to fund between 25 and 35 new cooperative agreements and continue 8 to 12 agreements initiated in 1982. Individual awards are expected to range from $30,000 to $500,000.

Applications should be submitted for a 1-year budget period and a 1 to 5 year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties.

Cooperative agreement funds may be used to support both local personnel and the employment of individuals in direct assistance (i.e., "in lieu of cash") positions under Section 317 of the Public Health Service Act, and to purchase supplies and services directly related to the public health tuberculosis outpatient activities, particularly mobidity surveillance, outreach, and assessment. Project funds may not be used to supplant State or local funds available for tuberculosis control or to support construction costs or inpatient care.

New applications for a cooperative agreement must include a narrative which summarizes: (1) The background and need for support including information that relates to factors by which the applications will be evaluated; (2) both long- and short-term objectives of the proposed project which are consistent with the national goal outlined above, and which are specific, measurable, realistic, and time-framed; (3) the activities and methods which will be employed to accomplish the objectives (of special importance will be the employment of outreach workers in high incidence areas for use in patient followup and directly administered therapy programs); (4) the methods which will be employed to evaluate program activities; (5) fiscal information of the applicant pursuant to provisions of Section 317(b)(2) of the PHS Act, although there are no matching or cost participation requirements; and (6) any other information which will support the request for assistance.

Continuation applications need only provide new short-term objectives for the new budget period; a progress report on activities performed during the prior budget period; a description of any changes in the method of operation, long-term objectives, need for grant support, and evaluation procedures compared to information provided in previous applications; and fiscal and other supporting information as indicated in (5) and (6) above.

The original and one copy of the application must be submitted to the address in 1.a. below on or before 4:30 p.m. (e.d.t.) on May 25, 1983. Applications may meet the deadline by either delivering or mailing the application on or before that date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Rd., NE., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants must be cautioned to request a legible U.S. Postal Service postmark or to use U.S. Postal Service express mail or certified or registered mail and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received at the place specified in paragraph 1. above before close of business on or before the deadline date (4:30 p.m. e.d.t., May 25, 1983).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are consdidered later applications. In that event the application will not be considered in the current competition.

4. *Copies of Applications.* A copy of the application should be simultaneously submitted to the appropriate Department of Health and Human Services Regional Office listed below. For applicants who are other than State agencies, the appropriate State health agency should be notified of the submission of the application.

Applications are subject to review as governed by OMB Circular A-95 and regulations (42 CFR Part 122—amendment published 47 FR 3551, January 26, 1982—and part 123) implementing the National Health Planning and Resource Development Act of 1974. Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, at the address in paragraph 1.a. above, telephone (404) 262-6575, or FTS: 236-6575. Technical assistance may be obtained from John J. Seggerson, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-2508, or FTS: 236-2508. Technical assistance is also available from the appropriate Department of Health and Human Services Regional Office.

Dated: February 28, 1983.

William H. Foege,

Director, Centers for Disease Control.

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)—REGIONAL OFFICES

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building No. 1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837-4461

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S./402, Seattle, Washington 98121, (206) 442-0430

[FR Doc. 83-5735 Filed 3-4-83; 8:45 am]

BILLING CODE 4160-18-M

Public Health Service

Privacy Act of 1974; Termination of Three Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of termination of three systems of records: 09-25-0043, "Clinical Research: Pharyngeal Development Patients, HHS/NIH/NIDR"; 09-25-0123, "Clinical Research: Clinical Trials Dealing with Fertility-Regulating Methods, HHS/NIH/NICHD"; and 09-25-0127, "Clinical Trials Dealing with Phototherapy for Neonatal Hyperbilirubinemia, HHS/NIH/NICHD."

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of termination of three systems of records maintained by the National Institutes of Health (NIH): 09-25-0043, "Clinical Research: Pharyngeal Development Patients, HHS/NIH/NIDR"; 09-25-0123, "Clinical Research: Clinical Trials Dealing with Fertility-Regulating Methods, HHS/NIH/NICHD"; and 09-25-0127, "Clinical Trials Dealing with Phototherapy for Neonatal Hyperbilirubinemia, HHS/NIH/NICHD."

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205, or call 301-496-4606.

SUPPLEMENTARY INFORMATION: NIH has terminated three systems of records: 09-25-0043, "Clinical Research: Pharyngeal Development Patients, HHS/NIH/NIDR", maintained by the National Institute of Dental Research (NIDR); 09-25-0123, "Clinical Research: Clinical Trials Dealing with Fertility-Regulating Methods, HHS/NIH/NICHD"; and 09-25-0127, "Clinical Trials Dealing with Phototherapy for Neonatal Hyperbilirubinemia, HHS/NIH/NICHD", both maintained by the National Institute of Child Health and Human Development (NICHD). The study supported by system 09-25-0043 has been completed and the records in this system have been destroyed. Data collection in systems 09-25-0123 and 09-25-0127 is complete, and NICHD has removed from the records all information identifying individuals. Data will be used for aggregate analysis only, and there will be no further studies under these systems. Systems of records 09-25-0043, 09-25-0123, and 09-25-0127 were last published in the **Federal Register** on October 13, 1982 (47 FR pp. 45800-01, 45831-32, and 45834-35, respectively).

Dated: March 2, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83-5736 Filed 3-4-83; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Advisory Council on Social Security; Public Hearing

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of public hearing.

SUMMARY: The Secretary of Health and Human Services announced on September 16, 1982 the establishment of the Advisory Council on Social Security. The Council is charged to place particular emphasis on a review of the Medicare program, and to perpare and submit reports on its findings and recommendations.

In an effort to obtain the views of interested organizations and individuals on the subject of physician assignment

in Medicare, the Council will hold a 1-day public hearing in Washington, D.C. on April 6, 1983. One-day hearings have been previouly announced in the Federal Register in different sites around the country. This is the first public hearing, however, which will focus on a single topic.

ADDRESS: This hearing will be held in the first floor auditorium of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, and will begin at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory Council on Social Security, 200 Indedpendence Avenue, SW., Washington, D.C. 20201; telephone (202) 755-8670/71.

SUPPLEMENTARY INFORMATION: This hearing will address the matter of physician assignment exclusively. Assignment occurs when a physician agrees to accept the Medicare allowed charged as payment in full and to bill the beneficiary only for deductible and coinsurance amounts related to that charge. If the physician chooses not to accept assignment, the beneficiary is responsible for all charges beyond the Medicare allowable payment. The decision to accept assignment is made by the physician on a claim-by-claim basis.

For the hearing, the Council welcomes comments, observations, suggestions and recommendations on this significant feature of the Medicare program.

The hearing is open to the public. Attendance will be limited to the space available. Interested parties are invited to present testimony on this subject only; however, only those requesting in advance, preferably in writing, to appear will be permitted to present oral statements. Presenters should submit, 5 days in advance, 20 copies of their presentation, and should bring an additional 50 copies to the hearing to be made available to the public. Oral presentation should summarize the written statement, and will be limited to a maximum of 5 minutes. Other written material can be submitted for the record. Submit written requests to present testimony to the Advisory Council on Social Security, ATTN: Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone (202) 755-8670/71. The designated chairperson or the Executive Director reserves the right to determine order of presentation, but will make every effort, within available time, to hear all who wish to be heard.

Sign language interpreting services will be provided if requested in advance.

Records will be kept of all public hearings and will be available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317-H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83-5790 Filed 3-4-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-83-1211]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Davis S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: State Agency Monitoring Handbook.

Office: Housing.

Form No: None.

Frequency of submission: On Occasion.

Affected Public: State or Local Governments.

Estimated burden hours: 100.

Status: New.

Contact: Elizabeth Taylor, HUD, (202) 755-6887; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-5742 Filed 3-4-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1210]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of the Secretary, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposed described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Cost of Handling Mortgages Insured Under Section 235.

Office: Housing.

Form No.: NH–76–18.

Frequency of submission: On Occasion.

Affected public: Businesses or Other Institutions (except farms).

Estimated burden hours: 20.

Status: Extension.

Contact: Alma Boone, HUD, (202) 755–6672; Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 31, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-5743 Filed 3-4-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

McGee Creek Project, Oklahoma; Public Hearings on Draft Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement for the McGee Creek Project, Oklahoma. This supplement was filed and made available to the public on February 23, 1983.

The draft supplement covers impacts of two recent plan changes for development of the project including potential oil and gas mineral development on project lands and modification of the proposed fishing/recreation corridor below McGee Creek Dam. Also addressed are impacts of potential oil and gas development on flood plains and wetlands.

Public hearings will be held at the following listed locations at the time indicated to receive views and comments from interested organizations or individuals relating to the environmental impacts of these plan changes and the adequacy of the supplement:

April 27, 1983—7:30 p.m.—Oklahoma Department of Wildlife conservation Auditorium, Wildlife Building, 1801 North Lincoln, Oklahoma City, Oklahoma

April 28, 1983—7:30 p.m.—Kiamichi Area Vo-Tech School Auditorium, Atoka, Oklahoma (Located on State Highway 3, 1.5 miles west of the intersection of State Highway 3 and U.S. Highway 69).

Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible, and any scheduled speaker not present when called will lose his or her position in the scheduled order. His or her name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted up to 4:30 p.m. on April 26, 1983, and any subsequent requests will be handled on a first-come, first-served basis following the scheduled presentations.

Organizations or individuals desiring to present their statement at the hearing should contact Mr. Wil Banner, Office of Environmental Affairs, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, telephone (806) 378–5464, and announce his or her intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be sent on or before April 26, 1983, so that they can be included in the hearing record.

Dated: March 1, 1983.

Bob Broadbent,

Commissioner of Reclamation.

[FR Doc. 83-5731 Filed 3-4-83; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395–7313.

Type of clearance—Extension.

Bureau/office—Office of Proceedings.

Title of form—Application for Authority under 49 U.S.C. 11343, 11344 to acquire control of a motor carrier or motor carriers through ownership of stock or otherwise.

OMB Form No.—3120—0100.

Agency Form No.—OP–F–45.

Frequency—Non-Recurring.

Respondents—Privately and publicly held motor carriers.

Number of respondents—75.

Total burden hours—9,000.

Type of clearance—Extension.

Bureau/office—Bureau of Accounts.

Title of form—Quarterly Report of Freight Commodity Statistics Class I Railroads.

OMB Form No.—3120—0031.

Agency Form No.—QCS.

Frequency—Quarterly.

Respondents—Class I Railroads Freight Commodity.

Number of respondents—38.

Total burden hours—41,230.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5748 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

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.

For status, please call Team 2 at 202-275-7030.

Volume No. OP2-085

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC-81164. By decision of February 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181 Review Board Number 1 approved the transfer to SEA KING SALES, INC., Kingston, NH, of License No. MC-130773F, issued November 19, 1980, to WORLDWIDE TRANSPORT SALES, INC., Somerville, MA, authorizing operations as a broker, arranging for the transportation of general commodities (except household goods), between all points in the U.S. Representative: Donald F. Singer, 278 Mystic Ave., Medford, MA 02155.

MC-FC-81192. By decision of February 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181, Review Board Number 1 approved the transfer to transferee OHIO MOTORWAYS TRANSPORTATION, INC., Hebron, OH, of Certificate No. MC-150432 (Sub-No. 10), issued March 10, 1981, to H & M TRANSPORTATION, INC., Reynoldsburg, OH, authorizing the transportation of general commodities (except household goods, commodities in bulk, those requiring special equipment, classes A and B explosives, and those of unusual value), between points in Franklin, Pickway, Madison, Licking, and Delaware Counties, OH, and Erie County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). An application for temporary authority has been filed. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036, for transferee and transferor.

MC-FC-81209. By decision of February 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181, Review Board Number 1 approved the transfer to SUNDERLAND MOVING AND STORAGE, INC. d.b.a. COLLINGS MOVING & STORAGE, Westerly, RI, of Certificate ME-75283, issued June 5, 1963, to transferor COLLINGS MOVING & STORAGE, INC., Westerly, RI, authorizing the transportation of (1) New furniture, From Westerly, RI, to points in CT, DE, MD, MA, ME, NH, NJ, NY, PA, RI, VT, and DC, (2) new furniture, in the process of manufacture, and rejected shipments of new furniture, from the above-specified destination points to Westerly, RI, and (3) household goods, as defined by the Commission, between Westerly, RI, and points in CT and RI within 25 miles of Westerly. Representative: Russell B. Curnett, P.O. Box 366, 826 Orleans Road, Harwich, MA 02645-0366.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-MC-FC-73

Decided: February 24, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81183. By decision of February 24, 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 M.V.M. VAN LINES CO., INC., of Bowmansville, NY, of Certificate No. MC-52014, issued January 31, 1942, to LAFAYETTE STORAGE & MOVING CORPORATION, of Bowmansville, NY, authorizing the transportation of *household goods*, (a) between Buffalo, NY, and points within 35 miles of Buffalo, on the one hand, and, on the other, points in CT, DE, KY, WI, IL, OH, IN, TN, MO, IA, ME, MD, MA, MI, NH, NJ, NY, NC, KS, PA, RI, VA, VT, WV, and DC, and (b) between New York, NY, and the boundary of the United States and Canada through the ports of entry at Trout River and Rouses Point, NY. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-MC-FC-74

Decided: February 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81044. By decision of February 24, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to THUNDERBOLT, INCORPORATED of Park Forest, IL, of Certificate No. MC-153515 Sub-No. 1, issued October 19, 1981, to JO'CEE TRANSPORT CO., INC., of Chicago, IL, and authorizing the transportation of *general commodities* (except classes A and B explosives), between points in IA, IL, IN, MI, MN, MO, OH, and WI. Representative: Fred Carter, 267 Somanauk Drive, Park Forest, IL 60466.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-MC-FC-80

Decided: February 28, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81191. By decision issued February 28, 1983 under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to BENNETT TRUCK LINE, INC., Paragould, AR, of Certificate No.

MC-151645 issued May 6, 1981 and Certificate No. MC-151645 (Sub-No. 1) issued December 2, 1981, to K.S.R., INC., Paragould, AR, authorizing the transportation of *general commodities* (except household goods and classes A and B explosives), between points in Pulaski County, AR, on the one hand, and, on the other, points in the United States and (1) *Chemicals and related products*, between points in Shelby County, TN, and Tunica County, MS, on the one hand, and, on the other, points in the United States and (2) *fabricated metal products, plastic products, and canned beverages*, between points in Green County, AR, on the one hand, and, on the other, points in the United States. An application for temporary authority has been filed. Representative: R. CONNOR WIGGINS, JR., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526-4114.

For status, please call Team 5 at 202-275-7289.

Volume No. OP5-FC-84

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81208. By decision of February 24, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to ULTRAHAUL, INC., of Kitchener, Ontario, Canada of Certificate No. MC 146559 Sub 3 and Permit No. MC 146559 Sub 4 both issued November 19, 1982 to BIG BEAR SERVICES, INC., of Waterloo, Ontario, Canada, authorizing the transportation (1) In Sub 3 of *glass*, from the facilities of LOF Glass, Inc. and LOF Co., at or near Laurinburg, NC, and Toledo, OH, to ports of entry on the international boundary line between the U.S. and Canada, and (2) in Sub 4 of *lumber and lumber products*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Sinclair Lumber Company, Inc., of Laurinburg, NC. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733 Investment Bldg., Washington, DC 20005.

MC-FC-81234. By decision of February 24, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to STEVEN P. LIECHTY, of Archbold, OH of Certificate No. MC 124528 issued May 4, 1966 to PAUL E. LIECHTY (Irene M. Liechty, Executrix) AND HELEN M. LIECHTY, (Frederick Stamm, Executor), a Partnership, d.b.a. PAUL'S FRIENDLY SERVICE, of Archbold, OH, authorizing the transportation of *disabled and wrecked vehicles*, in wrecker service, and in connection with wrecker service, *parts and equipment* for disabled and wrecked vehicles, between points in that part of OH on and north of U.S. Hwy 224 and west of OH Hwy 13, on the one hand, and, on the other, points in IL, IN, PA, and the lower peninsula of MI, restricted against the transportation of mobile homes and/or house trailers. Representative: Stephen L. Oliver, 275 East State St., Columbia, OH 43215.

For status, please call Team 5 at 202-275-7289.

Volume No. OP5-FC/85

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81211. By decision of February 23, 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 SEAFOOD, INC., of Henderson, LA, of Permit No. MC-143788 issued September 7, 1978, to SEA KING CRABS, INC., of Baltimore, MD, authorizing the transportation of (1) *Metal and plastic seafood containers*, from Baltimore and Baltimore County, MD, to Coden and Bayou La Batre, AL, Harahan, Westwego, Lafitte, Pierre Part, Holly Beach, La Combe, Abbeyville, and Port Sulphur, LA, Palacios, TX, and Biloxi, MS, under continuing contract(s) with Independent Can Company, Sea King, Inc., and Steel Tin Can Corporation, of Baltimore, MD., and (2) *Empty wooden boxes and fish bait*, from Baltimore and Baltimore County, MD, to Coden and Bayou La Batre, AL, Harahan, Westwego, Lafitte, Pierre Part, Holly Beach, La Combe, Abbeyville and Port Sulphur, LA, Palacios, TX, and Biloxi, MS, under continuing contract(s) with Sea King, Inc., of Baltimore, MD. Representative: Charles Friedman, Rt 5, Box 360, Henderson, LA 70517.

MC-FC-81219. By decision of February 23, 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 ROBERT LYNCH, d.b.a. LYNCH TRANSFER, Prairie Farm, WI, of Certificate No. MC-105489 issued June 6, 1969, to GARY GULDVOG, Prairie Farm, WI, authorizing the transportation of livestock, feed, and flour, between Dallas, Maple Grove, Prairie Farm, and Barron, Ridgeland, Sand Creek, Wilson, and Sheridan, WI, on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Stillwater, MN.

[FR Doc. 83-5720 Filed 3-4-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 25]

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 Commisssion.

By the Commission.

Agatha L. Mergenovich,

Secretary.

New York Docket No. T-10138, filed February 8, 1983. Applicant: SHLEPPERS MOVING & DELIVERY SERVICE INC., 16 East 79th Street, New York, NY 10021. Representative: Shlomo Benjamin, 16 East 79th St., New York, NY 10021. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of:

Household goods and office furnishings: Between all points in the Counties of Livingston, Sullivan, Washington, Oneida, Montgomery, Sullivan, Ontario, Madison, Steuben, St. Lawrence, Putnam, Jefferson, Tompkins, Greene, Clinton, Columbia, Erie, Orange, Wayne, Schoharie, Rensselaer, Albany, Rockland, Otsego, Dutchess, Cortland, Saratoga, Monroe and Ulster.

Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-1809, filed February 8, 1983. Applicant: LOCK CITY TRUCKING INC., 241 So. Niagara Street, Lockport, NY 14094. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities:* Between all points in Erie, Chautauqua, Niagara, Genesee, Orleans and Monroe

Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-5719 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. 39025 et al.[1]]

Motor Carriers; Chem-Haulers, Inc.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Seven motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted in part.

DATES: Comments are due March 22, 1983. The sought relief will become effective on April 6, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washinton, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robin Williams (202) 275-7697
or
Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

The seven motor contract carriers identified in the appendix filed individual petitions requesting exemptions under the three exemption provisions mentioned above. As the issues presented and the relief sought by these petitioners are substantially similar, we are consolidating them for notice purposes.

The petitioners hold a number of contract carrier permits to serve various shippers transporting a wide variety of commodities. They argue, generally, that the tariff filing requirements represent an undue burden on their ability to compete effectively and to offer their shippers the immediate service often required. Petitioners assert that they are interested in avoiding unnecessary expenses which handicap their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which keep contract carriers from realizing their full potential.

One petitioner, Ed Hopson Produce Co., Inc. request that the exemptions sought apply to both existing and future contracts. Several petitioners state that they will provide interested parties with copies of their rates if requested.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption for existing and future contracts. It appears that exemption of these carriers from the requirements that they file tariffs covering their contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. We will not order these carriers to provide copies of their rates upon request by interested parties, since we have not imposed that requirement for other recent filings. See No. 38828, *Three Way Corporation, Petition for Exemption from Tariff Filing Requirements* (not printed), decided June 25, 1982.

We provisionally grant the sought relief. This provisional relief will become effective unless the Commission issues a further decision modifying or withdrawing the relief in response to adverse comments that may be filed.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

Authority: 49 U.S.C. 10702(b), 10761(b) and 10762(f).

Decided: February 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison. Chairman Taylor concurred. He would have preferred to decide the issue of future exemptions on the basis of the record in Ex Parte No. MC-165. Commissioner Simmons dissented in part. He would have granted an exemption for existing contracts but not for future contracts.

Agatha L. Mergenovich,
Secretary.

Appendix

The dockets embraced by this proceeding are as follows:

No. 39025 Chem-Haulers, Inc.
No. 39040 Rush Transport, Inc.
No. 39041 Ed Hopson Produce Co., Inc.
No. 39042 Warren Transport Inc.
No. 39045 Dallas Carriers Corporation.
No. 39046 BCT, Inc.
No. 39057 Bekins Van Lines Co.

[FR Doc. 83-5715 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Decision-Notice OP5MCF-88]

Motor Carriers; Operating Rights and Properties

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

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[1] This proceeding embraces seven petitions for exemption filed by motor contract carriers, as set forth in the appendix.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-15111, filed February 2, 1983. UNITED SALES & LEASING COMPANY, INC. (UNITED), d.b.a. PATH TRUCK LINES (3649 East Lake Road, P.O. Box 210, Dunkirk, NY 14048)—Purchase (Portion)—THE CHIEF FREIGHT LINES COMPANY (DEBTOR-IN-POSSESSION) (CHIEF) (2401 North Harvard, Tulsa, OK 74115). Representative: Michael C. Foley, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. United seeks authority to purchase a portion of the interstate operating rights and property of Chief. Fred V. Payne and Carter H. Smith, sole stockholders of United, seek authority to acquire control of said rights through the transaction.

United is seeking to acquire that portion of Chief's operating rights contained in No. MC-71478 (Sub-No. 40), issued December 2, 1980, authorizing the transportation of (1) *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading): over (a) regular routes, between specified points in New York, serving intermediate and off route points; (b) alternate routes, between specified points in New York, serving no intermediate points; (c) irregular routes, radially between Buffalo, NY, and points in three specified Ohio counties, and (2) *dried fruits,* over irregular routes, from Rochester, NY, to points in Suffolk County, NY.

United is authorized to operate as a motor common carrier in No. MC-147309 and sub-numbers thereunder. Condition: Although Fred V. Payne signed the application on behalf of United, as its president, it does not appear that he has signed the application, individually as a party in control of United. Therefore, Mr. Payne must seek joinder in the application as a person in control of United.

Notes.—(1) An application for temporary authority has been filed. (2) Transferor, in the recent past, has not operated. Thus, the operating rights to be acquired may be dormant.

[FR Doc. 83-5718 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

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, 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, 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 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.

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 inquiries to Team 2, (202) 275-7030.

Volume No. OP2-084

Decided: February 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-663, filed February 2, 1983. Applicant: OCEAN EXPRESS LINES, INC., 840 Mark St., Elk Grove Village, IL 60007. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Avenue NW., Washington, DC 20036, 202-223-5900. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between San Diego, Los Angeles, San Francisco, and Oakland, CA, Portland, OR, Tacoma and Seattle, WA, El Paso, Laredo, Corpus Christi, Houston, and Galveston, TX, Milwaukee, WI, Chicago, IL, Detroit, MI, Cleveland, OH, Buffalo, New York, and Champlain, NY, Portland and Searsport, ME, Portsmouth, NH, Boston and New Bedford, MA, Providence, RI, Elizabeth, Camden, and Newark, NJ, Philadelphia, PA, Baltimore, MD, Wilmington, DE, Norfolk and Newport News, VA, Wilmington, NC, Charleston, SC, Savannah, GA, Pensacola, Tampa, Ft. Lauderdale, West Palm Beach, Miami, and Jacksonville, FL, Mobile, AL, Biloxi and Gulfport, MS, and New Orleans, LA, on the one hand, and, on the other, points in the U.S.

MC 3753 (Sub-38), filed February 4, 1983. Applicant: AAA TRUCKING CORP., 3630 Quakerbridge Rd., P.O. Box 8042, Trenton, NJ 08650. Representative: Zoe Ann Pace, 387 Park Ave. South, New York, NY 10016, 212-532-1800. Transporting *general commmodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 6992 (Sub-23), filed February 3, 1983. Applicant: AMERICAN RED BALL TRANSIT COMPANY, INC., 1335 Sadlier Cir., E. Dr., Indianapolis, IN 46206. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, 202-833-8884. Transporting *general commmodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Red Ball Forwarders, Inc., of Indianapolis, IN.

MC 149313 (Sub-5), filed February 15, 1983. Applicant: BESTWAY CARTAGE, INC., P.O. Box 2157, Memphis, TN 38101. Representative: Ronald N. Cobert, 1730 M St. NW., Suite 501, Washington, DC 20036, 202-296-2900. 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 151463 (Sub-5), filed January 25, 1983. Applicant: BIGBEE TRANSPORTATION, INC., P.O. Box 9010, Columbus, MS 39701. Representative: Norman J. Philion, 1920 N St., NW, Suite 700, Washington, DC 20036, (202) 331-8800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Garrard Transportation Service, of Columbus, MS.

MC 153743 (Sub-1), filed February 4, 1983. Applicant: IMPERIAL SWEETENER DISTRIBUTORS, INC., 8016 Hwy US 90-A, P.O. Box 9, Sugar Land, TX 77478. Representative: James R. Skiles (same address as applicant), 713-491-9181. Transporting *liquid sugar and corn syrup*, between points in the U.S. (except AK and HI), under continuing contract(s) with Coca-Cola USA, of Atlanta, GA.

MC 164003 (correction), filed December 8, 1982, published in the **Federal Register**, issue of December 21, 1982, and republished, as corrected, this issue: Applicant: CASEBIER BULK TRANSPORT CO., INC., 1048 Creekside Drive, Wheaton, IL 60187. Representative: Robert G. Paluch, 7800 West 60th Place, P.O. Box 356, Summit, IL 60501, (312) 563-0660. Transporting *chemicals and related products*, between points in KY, on the one hand, and, on the other, points in IL, IN, KY, OH and TN.

Note.—The purpose of this republication is to reflect the change of the above application to *common carrier*, instead of *contract carrier*, as originally published.

MC 166043, filed February 3, 1983. Applicant: DONALD R. SPENCE AND TERRI L. SPENCE, d.b.a. KELDORN TRUCKING, 15135 Grant, Dolton, IL 60419. Representative: Daniel O. Hands, 104 S. Michigan Avenue, Suite 410, Chicago, IL 60603, (312) 641-1944. Transporting (1) *general commodities* (except classes A and B. explosives and household goods), between Chicago, IL, and points in Cook and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in IL, IN, IA, MI, MO, OH and WI, and (2) *food and related products*, between points in IL, IN, IA, MI, MO, OH and WI.

MC 166053, filed February 2, 1983. Applicant: EARL PILE, d.b.a. PILE TRUCKING, Rte One, West Highway 50, Garden City, KS 67846. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting *food and related products*, between points in Potter County, TX and Finney and Lyons Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 (202) 275-5223.

Volume No. OP3-67

Decided: February 28, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 1515 (Sub-326) (partial republication), filed January 11, 1983, and previously republished on February 10, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant), (602) 248-2942. Over regular routes, transporting *passengers*, (2) between Nashville, TN and Mobile, AL, serving the off-route points of Columbia, TN, and Athens, Decatur, Hartselle, Cullman, Calera, Clanton, Greenville, Georgiana, Evergreen, Atmore, and Bay Minnette, AL, over Interstate Hwy 65.

Note.—This partial republication includes the city of Decatur, AL.

MC 2934 (Sub-131) filed February 7, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant) (317) 875–1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with ARA Services, Inc., of Philadelphia, PA.

MC 2934 (Sub-132) filed February 7, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant) (317) 875–1142. Transporting *household goods and electronic equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Applied Technology Ventures, of Santa Ana, CA.

MC 61264 (Sub-44) filed February 7, 1983. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 27153, Winston-Salem, NC 27153. Representative: A. R. Hastings (same address as applicant), (919) 722–3421. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company and its subsidiary, Canadian General Electric Ltd., both of Bridgeport, CT.

MC 67234 (Sub-80) filed February 3, 1983. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 So. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Volkswagen of America, Inc. of Warren, MI.

MC 73134 (Sub-5) filed February 7, 1983. Applicant: SUPREME EXPRESS & TRANSFER CO., 3311 Chouteau Ave., St. Louis, MO 63103. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128235 (Sub-32), filed February 7, 1983. Applicant: AL JOHNSON TRUCKING, INC., 1561 Marshall Street NE., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413, (612) 781–6653. Transporting *such commodities* as are dealt in or used by manufacturers of paint and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Valspar Corporation, of Minneapolis, MN.

MC 133154 (Sub-16), filed February 7, 1983. Applicant: BELL TRANSPORT COMPANY, 14000 E. 183rd St., La Palma, CA 90623. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT WA, and WY.

MC 133294 (Sub-7), filed February 7, 1983. Applicant: ECONO-LINE EXPRESS, INC.,426 Boyce Rd., Fremont, CA 94538. Representative: Donald R. Stone (same address as applicant), (415) 657–5440. Transporting *general commodities*, between points in AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY. Condition: The certificate to be issued in this proceeding to the extent it authorizes the transportation of classes A and B explosives shall expire 5 years from the date of issuance.

MC 139294 (Sub-10), filed February 3, 1983. Applicant: H.T.L., INC., P.O. Box 122, Fairfield, AL 35064. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergeen, AL 36401, (205) 867–2931. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between point in the U.S. (except AK and HI).

MC 140334 (Sub-14), filed February 7, 1983. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. 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 Allied Corporation, Fiber & Plastics Company of New York, NY.

MC 146585 (Sub-9), filed February 7, 1983. Applicant: DOUBLE DD TRUCK LINE, INC., 8860 S. Lone Elder Rd., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, P.O. Box 28, Marylhurst, OR 97036, (503) 635–5600. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S. (except HI).

MC 147264 (Sub-15), filed February 7, 1983. Applicant: JAT EXPRESS, INC., 901 Riggin Road, Muncie, IN 47302. Representative: H. Barney Firestone, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601, (312) 263–1600. 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 151655 (Sub-14), filed February 7, 1983. Applicant: FRANK BROS. TRUCKING CO., P.O. Box 241, 349 Abbott Ave., Hillsboro, TX 76645. Representative: Charles E. Munson, 500 W. Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *Mercer commodities*, (a) between points in TX, LA, OK, NM, and AR and (b) between points in TX, LA, OK, NM, and AR, on the one hand, and, on the other, points in CA, IN, MI, WI, MN, IA, FL, GA, AL, TN, MS, MO, IL, KS, ND, SD, NE, WY, UT, MT, AZ, WV, KY, OH, and PA.

MC 154054 (Sub-2), filed February 7, 1983. Applicant: WOOD BROS, TRANSFER, INC., 2410 Commerce St., Houston, TX 77009. Representative: Paul S. Brossard, 501 Crawford, Suite 401, Houston, TX 77002, (713) 227–9735. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, CO, KS, LA, MS, TX, and WY.

MC 154115 (Sub-2), filed February 7, 1983. Applicant: SERVICE TRUCKING, INC., Route No. 1, Pratt, KS 67124. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *grain products*, between points in McPherson County, KS, and Lee County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155025 (Sub-1), filed February 3, 1983. Applicant: ARNOLD BERG, JR. d.b.a. BERG GRAIN AND PRODUCE, 2202 5th Ave., No., Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502, (701) 223–5300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ND, SD, MN, MT, and WI, on the one hand, and, on the other, points in the U.S. (except HI).

MC 163965, filed February 2, 1983. Applicant: BONNEY VAN LINE, INC., 222 U.S. Highway 1, Tequesta, FL 33458. Representative: Charles Moran, Suite 320, 2501 M St., NW., Washington, DC 20037, (202) 737–7661. Transporting *household goods*, between points in the U.S. (except OR).

MC 165824, filed February 7, 1983. Applicant: CHARLES WILSON, d.b.a. SKEETER WILSON TRUCKING, 1167 Viking Rd., Story City, IA 50248. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309,

(515) 244–2329. Transporting *meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Description in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 between points in Tama County, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, ND, NE, OK, SD, TX, and WI.

MC 166045, filed February 3, 1983. Applicant: AG CARRIERS, INC., P.O. Box 2460, Leesburg, FL 32748. Representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St. NE., Atlanta, GA 30303, (404) 522–2322. Transporting *such commodities* as are dealt in or used by food business houses, between points in the U.S. (except AK and HI).

MC 166075, filed February 7, 1983. Applicant: A.B.C. FREIGHT SALES CO., 212 E. Grand Blvd., Suite D, Corona, CA 91702. Representative: Robert W. Le Tourneau (same address as applicant), (714) 734–3410. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166084, filed February 7, 1983. Applicant: JAMES E. WHALEN, d.b.a. WHALEN SERVICE, 11403 Tomarsue Dr., Marilla, NY 14102. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Carhart Photo, Inc., of Rochester, NY.

MC 166105, filed February 7, 1983. Applicant: MARTIN TRUCK CENTER, INC., 500 N. Lindell St., Martin, TN 38227. Representative: Howard L. Usery (same address as applicant), (901) 587–2307. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AL, AR, GA, IL, IN, IA, KY, LA, MI, MS, MO, OH, TN, TX, and WS.

Volume No. OP3–71

Decided: February 28, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 107515 (Sub-1428), filed February 14, 1983. Applicant: RTC TRANSPORTATION, INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326, (404) 262–7855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Nabisco Brands, Inc., of East Hanover, NJ.

MC 125994 (Sub-5), filed February 8, 1983. Applicant: BILL WOCKNER TRUCKING CO., INC., P.O. Box 418, Arlington, WA 98223. Representative: Robert Manning, (same address as applicant), (206) 435–5727. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA and OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 135364 (Sub-54), filed February 9, 1983. Applicant: MORWALL TRUCKING, INC., R.D. No. 3, Box 76–C, Moscow, PA 18444. Representative: Raymond Talipski, 121 S. Main St. Taylor, PA 18517, (717) 344–8030. 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 Salax Transport Corp., of New York, NY.

MC 148484 (Sub-4), filed February 11, 1983. Applicant: REID HOT SHOT SERVICE, INC., 23183 Mindanao Circle, Laguna Nigel, CA 92677. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153924 (Sub-2), filed February 10, 1983. Applicant: DONALD A. TUOZZO, d.b.a. DONALD A. TUOZZO TRUCKING, 10907 Fruitwood Dr., Mitchellville, MD 20715. Representative: Donald A. Tuozzo (same address as applicant), (301) 262–5884. Transporting *printed matter*, between points in the U.S. (except AK and HI).

MC 159884 (Sub-1), filed February 11, 1983. Applicant: JOSEPH BARRON, 159 Blvd. Ave., Throop, PA 18512. Representative: Joseph Barron (same address as applicant), (717) 343–5647. Transporting *food and related products*, between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162455 (Sub-2), filed February 3, 1983. Applicant: CASWELL TRUCKING, INC., Rt. 1, Box 30, St. Charles, IA 50240. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309 (515) 282–3528. Transporting *animal feed supplements, salt*, and *chemicals*, between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164985, filed February 11, 1983. Applicant: KENNETH A. JENNINGS, d.b.a. JENNINGS TRUCKING, 1144 W. Blodgett, Marshfield, WI 54449. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with Modern of Marshfield, Inc., Marshfield, WI.

MC 166174, filed February 9, 1983. Applicant: VANCE A. TRIVELY, d.b.a., TRIVELY TRUCKING CO., 2920 Franklin Ave., Council Bluffs, IA 51501. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

For the following, please direct status calls to Team 5 at 202–275–7289

Volume No. OP5–68

Decided: February 23, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 108119 (Sub-288), filed February 11, 1983. Applicant: E.L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 128409 (Sub-13), filed February 11, 1983. Applicant: HAROLD A. MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, Federal Square, 112 Roberts St., P.O. Box 2561, Fargo, ND 58108, (701) 235–3300. 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 Cargill, Inc., of Minneapolis, MN, and its subsidiaries and affiliates.

MC 133959 (Sub-19), filed February 11, 1983. Applicant: ALBAUGH TRUCK LINE, INC., 123 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *food and related products*, between points in Dallas, Warren and Polk Counties, IA, Lancaster County, NE, Fairfield County, OH, Tulsa, Osage and Creek Counties, OK, and Segwick and Doniphan Counties, KS, on the one hand, and, on the other, points in IL, IN, OH, NE, KS, MO, OK, and KY.

MC 146869 (Sub-8), filed January 25, 1983. Applicant: CARRIER FREIGHT LINES INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372-6730. 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 Bassett Furniture Industries of North Carolina, Inc., of Newton, NC.

MC 148119 (Sub-5), filed January 24, 1983. Applicant: T.B & P. EXPRESS, INC., P.O. Box 71, Daleville, IN 47334. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting (1) *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 Scott Paper Company, of Philadelphia, PA, and Overhead Door Corporation, of Hartford City, IN, and (2) *rubber and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Cartex Corporation, of Doylestown, PA.

MC 163248, (Sub-1), filed February 11, 1983. Applicant: COLUMBUS FOUNDRIES, INC., 1600 Northside Industrial Blvd., Columbus, GA 31904. Representative: W.H. Tomlinson, 1601 13th St., Suite B, Columbus, GA 31901, 404-322-8404. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, TN, SC, NC, GA, VA, WV, FL, MS, MO, OH, IN, TX, LA, AR, PA, NY, KY, MN, WI, MI, IA, OK, IL, MD, NJ, DE and MA.

MC 165739, filed February 16, 1983. Applicant: CROW RIVER TRANSPORT, INC., 236 Erie St. So., Hutchinson, MN 55350. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. Transporting (1) *machinery*, under continuing contract(s) with Ag Systems, Inc., of Hutchinson, MN, and (2) *such commodities* as are dealt in or used by manufacturers of packaging materials, under continuing contract(s) with Stearnswood, Inc., of Hutchinson, MN, between points in the U.S. (except AK and HI).

MC 165998, filed February 11, 1983. Applicant: FRED O'NEIL, d.b.a. FRED O'NEIL TRUCKING, P.O. Box 1305, Myrtle Creek, OR 97457. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *lumber and wood products* between points in AZ, CA, NV, OR, and WA, on the one hand, and, on the other, points in OR and WA.

MC 166129, filed February 4, 1983. Applicant: WTS, INC., P.O. Box 791, Fenton, MO 63026. Representative: Daniel C. Sullivan, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, 312-263-1600. 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 166248, filed February 11, 1983. Applicant: SHEPPARD TRUCKING COMPANY, INC., P.O. Box 5211, North Charleston, SC 29406. Representative: Keith W. Kornahrens, P.O. Box 10944, Charleston, SC 29411, 803-797-8383. Transporting *commodities in bulk*, between points in SC, on the one hand, and, on the other, points in GA, FL, NC, VA, LA, MO, and MS.

Volume No. OP5-89

Decided: February 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF-668, filed February 15, 1983. Applicant: ALPHA CARGO EXPRESS, INCORPORATED, 3337 Breton Circle N.E., Atlanta, GA 30319. Representative: Stephen McKenna (same address as applicant), 404-255-3413. As a freight forwarder in connection with the transportation of *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 28088 (Sub-63), filed February 16, 1983. Applicant: NORTH & SOUTH LINES, INCORPORATED, 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202-347-8862. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 79658 (Sub-56), filed February 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Yellow Freight System, Inc., of Overland Park, KS.

MC 79658 (Sub-57), filed February 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Howard Johnson Company, of Braintree, MA.

MC 79658 (Sub-58), filed February 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424-2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Black & Veatch, of Kansas City, MO.

MC 87928 (Sub-57), filed February 15, 1983. Applicant: WEBBER TRANSPORT CO., 885 U.S. Rt. 1, Avenel, NJ 07001. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *transportation equipment* between points in the U.S. (except AK and HI), under continuing contract(s) with American Honda Motor Co., Inc., of Gardena, CA.

MC 120799 (Sub-7), filed February 16, 1983. Applicant: COLONIAL TRUCKING, INC., 38 May Avenue, Brockton, MA 02401. Representative: John A. Buckley (same address as applicant), (617) 587-3886. 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 E & J Consolidating, Inc., of Allston, MA.

MC 134949 (Sub-2), filed February 11, 1983. Applicant: M & M DISTRIBUTING CORPORATION, 1890 South 500 West, P.O. Box 1649, Salt Lake City, UT 84110. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111, 801-328-8987. Transporting *malt beverages*, between Golden, CO, on the one hand, and, on the other, points in UT, under continuing contract(s) with Adolph Coors Company, of Golden, CO.

MC 145268 (Sub-5), filed February 15, 1983. Applicant: KENNETH B. HOLM AND GLENN STEED, d.b.a. H & S ENTERPRISES, P.O. Box 26302, Salt Lake City, UT 84126. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, 801-531-1300. 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 Gibson Products Company of Salt Lake City, UT.

MC 150139 (Sub-5), filed February 11, 1983. Applicant: HAMBEL FREIGHT LINES, INC., 4965 South Howell Avenue, Milwaukee, WI 53207. Representative: Michael J. Wyngaard, 150 East Gilman

St., Madison, WI 53703, 608–256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, MI, MN, and WI.

MC 150879 (Sub-7), filed February 16, 1983. Applicant: MARV MCINTOSH, INC., 2212 Jefferson St., Omaha, NE 68107. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–8761. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons (as defined in Section 10923 of the Motor Carrier Act of 1980) who are manufacturers, distributors, dealers or consumers of food and related products.

MC 154119 (Sub-2), filed February 16, 1983. Applicant: LINDSEY MOTOR EXPRESS, INC., 3415 Southside Ave., Cincinnati, OH 45204. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215 (614) 228–8575. Transporting (1) *food and related products*, between points in the U.S., under continuing contract(s) with G. A. Wintzer & Son Co., of Wapakoneta, OH, and (2) *chemicals and related products*, between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, under continuing contract(s) with T.L.C., Inc., of Cincinnati, OH.

MC 156859 (Sub-1), filed February 14, 1983. Applicant: RICE TRANSPORT, INC., 17 Brookwood Rd., Stanhope, NJ 07874. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160999, filed February 15, 1983. Applicant: B. PURITZ OIL COMPANY, INC., d.b.a. PURITZ TANK LINES, 182 E. 7th St., P.O. Box 935, Chico, CA 95926. Representative: George La Bissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *petroleum and petroleum products*, between points in Ca, OR, and NV.

MC 164888, filed February 11, 1983. Applicant: TAX AIRFREIGHT, INC., 4430 S. Kansas Ave., Milwaukee, WI 53207. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *such commodities* as are dealt in by manufacturers of storage batteries and related products, between points in WI, on the one hand, and, on the other, Chicago, IL.

MC 166279, filed February 15, 1983. Applicant: ROBINSON FOUNDRY, INC., Robinson Road, Alexander City, AL 35010. Representative: William F. Cuthbert, 711 E. Main Street, Bridgewater, NJ 08807, (201) 526–8700. 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 Intermodal Consolidating Service, Inc., of Bridgewater, NJ.

[FR Doc. 83–5724 Filed 3–4–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–242

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 142040 (Sub-1–1TA), filed February 24, 1983. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin Street, P.O. Box 361, Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Contract carrier:* irregular routes: *General commodities (except Class A & B explosives and used household goods)* between points in the U.S. (except AK and HI) under continuing contract(s) with New England Package Delivery, Inc., of Medford, MA. Supporting shipper: New England Package Delivery, Inc., 50 Revere Beach Parkway, Medford, MA 02155.

MC 158133 (Sub-1–2TA), filed February 25, 1983. Applicant: CONTRACT TRANSPORTATION SERVICE, INC., 1711 South 2nd Street, Piscataway, NJ 08854. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, (except Class A and B explosives, household goods, and commodities in bulk)* between New York, NY Commercial Zone, on the one hand, and, on the other points in CT, DC, DE, MD, MA, NJ, NY, OH and PA. Supporting shipper(s): There are six statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 142472 (Sub-1–3TA), filed February 22, 1983. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Paper and paper products, and plastic and plastic products; and (2) Materials, equipment, and supplies used or useful in the manufacture and sale of the commodities named in (1) above*, from points in DE, ME, MA, NH, NJ, PA, VA, IL, KY, MI, MN, OH, WI, AL, AR, CA, CO, FL, GA, KS, MS, OR, SC, TX, and WA to points in CT, MA, NY and NJ, under continuing contract(s) with James River Corporation of Virginia, Richmond, VA. Supporting shipper: James River Corporation of Virginia, P.O. Box 2218, Richmond, VA 23217.

MC 119049 (Sub-1–1TA), filed February 22, 1983. Applicant: TEK VAN LINES, INC., James P. Murphy Highway, Warwick Industrial Parkway, West Warwick, RI 02893. Representative: Robert J. Gallager, Esq., 10000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission and General commodities (except Class A & B explosives and commodities in*

bulk) for the United States Government, between points in AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY. Supporting shipper(s): Acme Moving & Storage, P.O. Box 5444, Augusta, GA 30906; Engel Moving Systems, Inc., 901 Julia Street, Elizabeth, NJ 07201; Sentry Household Shipping, Inc., 5406 Harriet Street, Jacksonville, FL 32205; Scott & Sons Moving & Storage, Inc., 2472 So. Santa Fe Avenue, Vista, CA 92083.

MC 109887 (Sub-1–1TA), filed February 25, 1983. Applicant: WEST END MOVING & STORAGE CO., INC., 241 Pine Street, P.O. Box 3374, Bridgeport, CT 06605. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Contract carrier:* irregular routes: *General commodities (except Classes A & B explosives and commodities in bulk)* between points in CT, DE, IL, IN, IA, KS, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI, under continuing contract(s) with Uniroyal, Inc., of Middlebury, CT. Supporting shipper: Uniroyal, Inc., World Headquarters, Middlebury CT 06749.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 150080 (Sub-II–12TA), filed February 17, 1983. Applicant: CONTROLLED CARRIERS, INC., P.O. Box 10, E. Earl, PA 17519. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Pretzels,* between the facilities of Anderson Bakeries Inc., at or near Lancaster, PA, on the one hand, and, on the other, points in and east of WI, IL, KY, TN and MS. An underlying ETA seeks 120 days authority. Supporting shippers: Anderson Bakeries Inc., 2060 Old Philadelphia Pike, Lancaster, PA 17602.

MC 149351 (Sub-II–4TA), filed February 16, 1983. Applicant: HEYMAN TRUCKING INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. Contract, irregular: *General commodities (except Classes A & B explosives, household goods and commodities in bulk),* between all points in the U.S. (except AK & HI) under continuing contract(s) with Gale Enterprises. An underlying ETA seeks 120 days authority. Supporting shipper(s): Gale Enterprises, P.O.B. 399, Stephens City, VA 22655.

MC 165002 (Sub-II–2TA), filed February 16, 1983. Applicant: KNIGHT LINES, INC., P.O. Box 896, Moon Township, Pittsburgh, PA 15108. Representative: Barry Weintraub, 7700 Leesburg Pike, Suite 403, Falls Church, VA 22043. Contract, irregular: *Steel products and materials, equipment and supplies used in the manufacture and distribution thereof* between Newton Falls, OH, on the one hand, and, on the other points in the U.S. (except AK & HI), under continuing contract(s) with Trumbell Metal Service, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Trumbell Metal Service, Inc., P.O.B. 8, Newtow Falls, OH 44444.

MC 28088 (Sub-II–5 TA), filed February 16, 1983. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Traffic marking material and materials, supplies and equipment used in the manufacture sale and distribution of same,* between East Point, GA, Cuba, MO, and Marble Falls, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Prismo Universal Corporation, 2675 Martin St., East Point, GA 30344.

MC 152672 (Sub-II–14TA), filed February 16, 1983. Applicant: A. ROGER LEASING, LTD., P.O. Box 836, Coraopolis, PA 15108. Representative: Barry Weintraub, 7700 Leesburg Pike, Suite 403, Falls Church, VA 22043. Contract, irregular: *insecticides, herbicides, pesticides and insecticides and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. (except AK & HI), under continuing contract(s) with Lakeshore Equipment & Supply Co., Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lakeshore Equipment & Supply Co., Inc., 300 South Abbe, Elyria, OH 44035.

The following applications were filed in Region 3. Send protests to: ICC Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 159781 (Sub-3–2TA), filed February 18, 1983. Applicant: WESTPOINT PEPPERELL TRANSPORTATION COMPANY, P.O. Box 71, West Point, GA 31833. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract* irregular: *Automotive parts and rubber and plastic products used in the manufacture of automobiles* from Cleveland, Cincinnati, Dayton, Sharonville and Kingsway, OH; Chicago, IL; Indianapolis, IN; Detroit, Flint, Grand Rapids, Jackson, Kalamazoo, Lansing, Livonia, Pontiac, Saginaw, Ypsilanti, and Willow Run, MI; Winchester, Culpeper and Strasburg, VA; Green Island and Buffalo, NY; Riverside, NJ; and Doylestown, PA; to Atlanta, Hapeville and Doraville, GA; Norfolk, VA; and Metuchen, NJ under continuing contract(s) with National Automotive & Rubber Marketing, Inc., 13303 Hart, Huntington Woods, MI 48070.

MC 166310 (Sub-3–1TA), filed February 18, 1983. Applicant: PIONEER EXPRESS, INC., 3359 Cazassa Street, Memphis, TN 38116. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Such commodities as are dealt in or used by manufacturers of plastic products,* between points in Alcorn County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Intex Plastics Corporation, Intex Plastics Sales Corporation, P.O. Box 948, Golding Drive, Corinth, MS 38834.

MC 140902 (Sub-3–21TA), filed February 18, 1983. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (Same address as Applicant). *Contract;* irregular; *chemicals, plastics, pharmaceuticals and related products* between Marshall, TX on the one hand and on the other points in the United States (except AK and HI) under continuing contract(s) with ICI America, Inc. Supporting Shipper: ICI Americas, Inc. Wilmington, DE 19897.

MC 2900 (Sub-3–38TA), filed February 18, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (Same address as above). *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Miles Laboratories, Inc. Supporting shipper: Miles Laboratories, Inc. 1127 Myrtle Ave., Elkhart, IN 46514.

MC 152950 (Sub-3–6TA), filed February 18, 1983. Applicant: CENTURY TRANSPORTATION CORPORATION, Post Office Box 207, Columbus, MS 39703–0207. Representative: Lloyd R. Pate (Same address as above). *Contract Carrier;* Irregular Route; *General Commodities (except Classes A & B Explosives; Household Goods; and Commodities in Bulk*) between TN, on

the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with: Cargill, Inc., Memphis, TN. Supporting shipper: Cargill, Inc., 2330 Buoy St., Memphis, TN 38113.

MC 166272 (Sub-3–1TA), filed February 16, 1983. Applicant: THE HAPPY GROUP, INC., 6329 Old Pineville Road, Charlotte, NC 28210. Representative: John Whisonant, 4601–C Sharon Chase Ln., Charlotte, NC 28215. *Passengers,* between Mechlenburg County, NC and York County, SC. Supporting shipper(s): Tony D. Crump, 1337 Briarcreek Rd., Charlotte, NC 28205; J. A. Kisner, 847 Vickery Dr., Charlotte, NC 28205; and James D. Rimmer, 3409 Dunaire Dr., Charlotte, NC 28205.

MC 166100 (Sub-3–1TA), filed February 7, 1983. Applicant: O. HARVEY GRIGGS, INC., Post Office Box 824, 1015 West Pine Street, Mount Airy, NC 27030. Representative: William E. West, Jr., 11 West Fourth Street, Winston-Salem, NC 27101. *Contract:* Irregular: *Fuel Oil and Gasoline* between NC, SC, and VA. Supporting shippers: Proctor Silex, Inc., Post Office Box 511, Hay Street, Mount Airy, NC 27030 and Anderson and Webb Trucking Company, 770 West Lebanon Street, Mount Airy, NC 27030.

MC 166263 (Sub-3–1TA), filed February 16, 1983. Applicant: THEODORE GRIFFIN, INC., Rt. 3 Box 309, Marshville, NC 28103. Representative: Teddy Griffin (Same address as applicant). *1-Brick and clay products and materials, supplies and equipment used in the manufacture, sale and distribution of these products,* between points in NC and SC. *2-Building blocks and materials, supplies and equipment used in the manufacture, sale and distribution of these products,* between points in NC and SC. Supporting shipper(s): Palmetto Brick Company, P.O. Box 430, Cheraw, SC 29520 and Charlotte Block Company, 5125 Rozzells Ferry Road, Charlotte, NC 28216.

MC 141652 (Sub-3–10TA), filed February 16, 1983. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: Paul M. Daniell, 235 Peachtree Street, N.E., Suite 1200, Atlanta, GA 30303. *General Commodities (except classes A and B explosives, household goods and commodities in bulk)* (a) from points in GA, NC, OH, SC, TN and WV to points in AZ, CA, CO, ID, NV, OR, UT and WA; (b) from points in GA on and north of US Hwy 78 to points in CN, DE, MA, MD, ME, NH, NJ, NY, PA and RI; (c) between Atlanta, GA; Dallas TX; Santa Clara, CA; Itasco, IL; Buffalo, NY; and, Vincentown, NJ under continuing contract(s) with Highway Marketing & Sales, Inc. of Ellenwood, GA. Supporting shipper: Highway Marketing & Sales, Inc. 4868 Highway 42, Suite E, Ellenwood, GA 30049.

MC 148348 (Sub-3–2TA), filed February 15, 1983. Applicant: FONT CORPORATION, Highway 52, East (Route 2), Hartford, Alabama 36344. Representative: Gilbert L. Font (Same address as applicant). *Building materials, lumber and wood products,* between points in the US except AK and HI. Supporting shipper: Santiam Midwest Lbr. Co., 1107 5th Ave., Decatur, AL 35602.

MC 163972 (Sub-3–1TA), filed February 15, 1983. Applicant: IMPERIAL TRANSPORTATION, INC., 5512 Craig Drive, Lakeland, FL 33805. Representative: William J. Augello, 120 Main Street, Huntington, NY 11743. *General Commodities, the transportation of which requires special equipment because of size or weight,* between points in the US, except AK and HI. Supporting shipper(s): There are 22 statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 2934 (Sub-3–62TA), filed February 14, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above.) *Contract:* Irregular; *Medical laboratory equipment and reagents relating thereto,* between Houston, TX, Indianapolis, IN and points within the U.S. (excluding AK and HI), under continuing contracts with Boehringer Mannheim Corporation, 9115 Hague Road, Indianapolis, IN 46250. Supporting shipper: Boehringer Mannheim Corporation, 9115 Hague Road, Indianapolis, IN 46250.

MC 140902 (Sub-3–20TA), filed February 14, 1983. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular; *such merchandise as is dealt in by the wholesale retail chain grocery business and materials equipment and supplies used in the conduct of that business* between Simpsonville, SC on the one hand and on the other points in GA, AL, TN, KY, VA, & NC under continuing contract(s) with The Kroger Co. Supporting Shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201.

MC 166363 (Sub-3–1TA), filed February 23, 1983. Applicant: D & E TRUCKING INC., Route 1, Box 192, Columbia, Mississippi 39429. Representative: Norman Dyess, President (same address as above). *Contract,* irregular routes, (1) *New furniture* from Columbia, MS, and Guthrie, OK to points in the United States (except AK and HI); (2) *Furniture dimension stock and furniture parts from* Tylertown, MS to points in the United States (except AK and HI); and (3) *Materials and supplies used in the manufacture and distribution of new furniture* from points in the United States to Guthrie, OK, Tylertown and Columbia, MS, under a continuing contract or contracts with New Orleans Furniture Manufacturing Co. Supporting Shipper: New Orleans Furniture Manufacturing Co., P.O. Box 151, Columbia, MS 39429.

MC 159333 (Sub-3–4TA), filed February 22, 1983. Applicant: McINVALE FREIGHT LINES, INC., 5965 Highway 18 S, Jackson, MS 39209. Representative: W. M. McInvale (same as applicant). *Shampoo, and related articles thereto,* between the facilities of St. Ives Laboratories, Inc., Chatsworth, CA and Chicago, IL, on the one hand, and, on the other, all points in the US (except Alaska and Hawaii). Supporting Shipper: St. Ives Laboratories, Inc., 2025 Nordoff, Chatsworth, CA 91311.

MC 159333 (Sub-3–5TA), filed February 23, 1983. Applicant: McINVALE FREIGHT LINES, INC., 5965 Highway 18 S, Jackson, MS 39209. Representative: W. M. McInvale (same as applicant). *Control products, and articles relating thereto, viz: glass spears, highway marking strips and glass beads used for blast cleaning, ceramic road markers and fire clay,* BETWEEN THE FACILITIES OF CATAPHOTE (Division of Ferro Corp.), Jackson, MS, on the one hand, and, on the other, all points in the US (except Alaska and Hawaii). Supporting Shipper: CATAPHOTE (Division of Ferro Corp.), Box 2309, Jackson, MS 39208.

MC 161231, (Sub-3–3TA), filed February 23, 1983. Applicant: PLATEAU EXPRESS, INC., Route 11, Box 226, McMinnville, TN 37110. Representative: Roland M. Lowell, Fifth Floor, 501 Union St., Nashville, Tennessee 37219. *Such commodities as are dealt in or used by manufacturers of ladle gate valves, firebrick shapes and refractory products,* (1) between the facilities utilized by Flo-Con Systems, Inc., at or near Champaign and Fisher, IL, Forest, MS and Grove City, PA, (and the commercial zones of each) (2) between points named in (1) on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper:

Flo-Con Systems, Inc., 1404 Newton Drive, Champaign, IL.

The following applications were filed in region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub.4–59TA), filed February 12, 1983. Applicant: ALLIED VAN LINES, INC. P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill, 2120 S. 25th Avenue, Broadview, IL 60153. *Contract* irregular: *Household goods* between points in the U.S. (excluding AK and HI) under a continuing contract with State Farm Mutual Automobile Insurance Company of Bloomington, IL.

MC 113855 (Sub-4–9TA), filed February 18, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: MICHAEL E. MILLER, 15 Broadway, Suite 502, Fargo, ND 58102. *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 a continuing contract(s) with Mazak Corporation of Florence, KY. Supporting shipper: Mazak Corporation, 8025 Production Drive, Florence, KY 41042.

MC 144456 (Sub-4–1TA) filed February 22, 1983. Applicant: JOHN VAN ZYLL, d.b.a. JOHN VAN ZYLL TRUCKING, 2303 Edson Drive, Hudsonville, MI 49426. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Food and related products*, materials, supplies and equipment used in the manufacture and distribution thereof between points in MI on the one hand and on the other points in the United States (except Alaska and Hawaii). Supporting Shippers: Mid America Potato Company, P.O. Box 2764, Grand Rapids, MI 49501 and Sawyer Fruit Company, P.O. Box 268, Bear Lake, MI 49614

MC 146121 (Sub-4–5TA), filed February 22, 1983. Applicant: BAY CARTAGE COMPANY, 1122 E. Barney Ave., Muskegon, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *General commodities (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between all points in the United States (except AK and HI), under contract with Meijer, Inc. Supporting shipper: Meijer, Inc., 2727 Walker NW, Grand Rapids, MI 49504.

MC 150716 (Sub-4–4TA), filed February 22, 1983. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Avenue, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract; irregular; Pulp, paper and related products*, from points in AL, FL, GA, LA, TN and TX to the facilities of Longview Fibre Company at Rockford, IL, Cedar Rapids, IA, Minneapolis, MN and Milwaukee WI and the facilities of Pride Container Corp., at Chicago, IL, under continuing contract(s) with Longview Fibre Company, of Longview, WA. Supporting shipper: Longview Fibre Company, P.O. Box 639, Longview, WA 98632; Pride Container Corp., 4545 West Palmer Street, Chicago, IL 60639.

MC 160951 (Sub-4–3TA), filed February 22, 1983. Applicant: A. M. EXPRESS, INC., 18603 Harrison St., Lowell, IN 46356. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 635–2339. *Fertilizer*, from points in IL and OH to points in IN. Supporting shippers: Great Lakes Fertilizer Dealers, P.O. Box 97459, Chicago, IL 60690; Parr Elevator, Inc., Route 2, Box 25A, Rensselaer, IN; Crop Fertility Specialists, Inc., 605 E. 13th St., Winamac, IN.

MC 163443 (Sub-4–2TA), filed February 18, 1983. Applicant: G. L. TRUCKING, Rural Route 1, Box 97H, Williston, ND 58801. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. *Mercer Commodities* (except commodities in bulk) between points in MN, on the one hand, and, on the other, points in ND, SD, MT, WY and CO. Supporting shipper: H & L Rental, Williston, ND *ETA seeks 120-day authority.*

MC 163548 (Sub-4–1TA), filed February 18, 1983. Applicant: PHILLIP T. HART, d.b.a. HART TRANSPORTATION, R.R. 1, Box 300, Villa Grove, IL 61956. Representative: Martin J. Kennedy, 120 West Madison Street, Suite 1306, Chicago, IL 60602. *Contract* irregular: *Foodstuffs* 1) from Cincinnati, OH to Kansas city, KS, Los Angeles, CA and Portland, OR and 2) from Los Angeles, CA to Salt Lake City, UT, under contract with Royal American Food Company, PO Box 1000, Blue Springs, MO 64015.

MC 166339 (Sub-4–1TA), filed February 22, 1983. Applicant: WINN BARTZ TRUCKING, INC., 225 Railroad Street, Reedsburg, WI 53959. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract*; irregular; *coal and related products* between points in and east of ND, SD, KS, OK and TX. Restriction: restricted to transportation performed under continuing contract(s) with Alabama By Products Corporation. Supporting shipper: Alabama By Products Corporation, Box 10246, First National South Building, Birmingham, AL 35202.

MC 166340 (Sub-4–1TA), filed February 22, 1983. Applicant: KENNETH L. SWAFFORD, P.O. Box 205, Marshall, MI 49068. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Contract* irregular: *heating and cooling systems, air registers and vent pipe, materials, supplies and equipment used in the manufacture and distribution thereof* between the facilities of Hart & Cooley, a division of Interpace Corporation in Holland, MI on the one hand and on the other points in the United States (except Alaska and Hawaii). Restricted to traffic moving under continuing contract with Hart & Cooley, a division of Interpace Corporation. Supporting shipper: Hart & Cooley, a division of Interpace Corporation, 500 E. 8th Street, Holland, MI 49423.

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 166370 (Sub-6–1TA), filed February 23, 1983. Applicant: B & R TRUCKING, P.O. Box 1073, Red Bluff, CA 96080. Representative: John Patrick Kelly, 3659 Adams Ave., San Diego, CA 92116. *Building materials* including but not limited to *lumber, roofing materials, wooden shakes, wooden shingles* and associated products from points in WA and OR to points in CA and AZ for 270 days. Supporting shippers: Wesco Cedar, Inc., P.O. Box 2566, Eugene, OR 97402.

MC 152681 (Sub-6–2TA), filed February 23, 1983. Applicant: FRANK BATY, 2045 Tulare Wy., Upland, CA 91786. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702. *Beer*, between points in MI and NY on the one hand, and, on the other points in MT, WY, ID, UT, AZ, NM and TX, for 270 days. Supporting shipper: Martlet Importing Company, Incorporated, 5505 E. Carson Ave., Lakewood, CA 90713.

MC 166369 (Sub-6–1TA), filed February 22, 1983. Applicant: ROBERT L. PRESS d.b.a. CALICO TRUCKING, Rt. 9, Bx. 152C, Bakersfield, CA 93309. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Asphalt in bulk in tank vehicles*, from Signal Hill, CA, on the one hand, to points in Maricopa and Mohave Counties, AZ; and Esmeralda, Lyon, and Lincoln Counties, NV, on the other hand, for 270 days. Supporting shipper: BF Energy Co., Inc., 19600 Fairchild, Su. 150, Irvine, CA 92715.

MC 158389 (Sub-6–1TA), filed February 16, 1983. Applicant: JAMES C. CHILSON d.b.a. INLAND DISTRIBUTORS, N. 4215 Willow Rd., Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Machinery and related parts* from Danville, (Vermillon County) IL and Cincinnati, OH to points in WA, OR, ID and MT for 270 days. Supporting shipper: Hyster Company, 9892 40th Ave. S., Seattle, WA 98118.

MC 166329 (Sub-6–1TA), filed February 18, 1983. Applicant: PACE MAKER FREIGHT, INC., 155 176th St. #2, Surrey, B.C. CAN V3S 4N8. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. *Lumber or Wood Products—Stone/Rock and Building Materials,* between ports of entry on the International Boundary Line between the U.S. and Canada in WA and points in WA, OR and CA for 270 days. Supporting shippers: Fraser Box & Trading Co. Ltd., 9871 River Drive, Richmond, B.C. CAN V6X 1Z1; Loc-Wood Cabinets, Inc., 20330 Logan Avenue, Langley, B.C. CAN V3A 4L7; Weldwood of Canada Ltd., 900 E. Kent Avenue, Vancouver, B.C. CAN V5X 2X9; M. D. Tuck Lumber Co., Ltd., 8455 162nd Street, Surrey, B.C. CAN V3S 3V3.

MC 117589 (Sub-6–6TA), filed February 23, 1983. Applicant: PROVISIONERS BROKERAGE, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Commodities as dealt in or used by grocery stores, drug stores, hardware stores and food business houses,* between points in MI, OH and IL on the one hand, and, on the other, points in WA, OR and MT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Acme Food Sales, Inc., 6276 Ellis Ave. S., Seattle, WA 98108.

MC 166144 (Sub-6–1TA), filed February 22, 1983. Applicant: SILVER CITY BUS LINES, 404 N. Bullard, Silver City, NM 88061. Representative: Ralph E. Malone, P.O.B. 526, Deming, NM 88031. *Shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds* between Luna and Grant Counties, NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 12 shippers. Their statements may be examined in the office listed.

MC 160051 (Sub-6–3TA), filed February 16, 1983. Applicant: TALENT TRUCKING CO., P.O.B. 320, Talent, OR 97540. Representative: John A. Anderson Ste. 801, The 1515 Bldg., 1515 SW 5th Ave., Portland, OR 97201. *General commodities (except household goods, classes A and B explosives and commodities in bulk),* between points in Lake County, MT, Stutsman County, ND, Columbia County, WI, Cook County, IL, Polk County, IA, Hennepin and Ramsey Counties, MN, Tulsa County, OK, Pulaski County, AR, Mobile and Lauderdale Counties, Al, Caddo County, LA, Sedgwick, Wyandotte and Johnson Counties, KS and St. Louis County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shippers: GRI Corporation, 65 East South Water St., Chicago, IL 60601; Dakota Bake-N-Serv, Inc., P.O.B. 688, Jamestown, ND 58401; Western Bee Supplies, Inc., P.O.B. 171, Polson, MT 59860; and Continental Fiberglass Corporation, 339 SW 6th St., Des Moines, IA 50309.

MC 148791 (Sub-6–21TA), filed February 18, 1983. Applicant: TRANSPORT–WEST, INC., 1850 S. 1100 W, Woods Cross, UT 84087. Representative: Rick J. Hall, P.O.B. 2465, Salt Lake City, UT 84116. *Contract Carrier,* Irregular routes: *Manufactured rubber products,* from Denver, CO. to points in AR, MO, TX, and KS, for the account of Gates Rubber Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gates Rubber Co., P.O.B. 5887, Denver, CO. 80217.

MC 166071 (Sub-6–1TA), filed February 18, 1983. Applicant: MARLIN L. DERR, ANNA J. DERR, AND DANIEL M. MCCAIN d.b.a. UNIQUE COACHES, ASSOCIATION OF, 252 G East Ave., Chico, CA 95926. Representative: Daniel M. McCain (same as applicant). *Passengers* in charter operations between Yuba, Butte, Lassen, Plumas and Teham Counties, CA and points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 10 shippers. Their statements may be examined in the office listed above.

MC 166124 (Sub-6–1TA), filed February 18, 1983. Applicant: ZENITH TRANSPORTATION, INC., 1774 W. Winton Ave., Hayward, CA 94540. Representative: Loretta A. Ellsworth, 35669 Scarborough Dr., Newark, CA 94560. *Footstuffs,* from Alameda County, CA to Washoe County, NV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Granny Goose Foods, Inc., 930 98th Ave., Oakland, CA 94603.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-5725 Filed 3-4-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (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 jusidictional 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 manor 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 applicant later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

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 in for a named shipper "under contract."

Please direct status inquiries to Team Five at 202-275-7289.

Volume No. OP5-87

Decided: February 23, 1983.

MC 165999, filed January 31, 1983. Applicant: WILSON TRUCKING AND LEASING, 50 State St., N. Babylon, NY 11703. Representative: Robert Wilson (Same address as applicant) (516) 643-5866. Transpsorting *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 166178, filed February 8, 1983. Applicant: PERFECT COURIER, LTD., 1810 Callowhill Street, Philadelphia, PA 19130. Representative: Robert B. Einhorn, 3220 P. S. F. S. Building, 12 South 12th Street, Philadelphia, PA 19107 (215) 922-1400. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 166239, filed February 14, 1983. Applicant: DONALD M. GANNER d.b.a. GANNER COACH LINES, P.O. Box 614, Palmerston Ontario, Canada. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, N.W. Washington, D.C. 20005 (202) 783-3525. In foreign commerce only, transporting *passengers*, in charter and special operations, beginning and ending at ports of entry on the international boundary line, between the United States and Canada, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166258, filed February 15, 1983. Applicant: DAVID SHERMAN d.b.a. M L X COMPANY, 1100 N. Tustin Ave., Suite 204, Anaheim, CA 92807. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609 (213) 945-2745. (1) To operate as a *broker* of *general commodities* (except household goods), between points in the U.S., and (2) transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for or on behalf of the United States Government, between points in the U.S. (except AK and HI).

Volume No. OP5-90

Decided: February 24, 1983.

MC 143528 (Sub-1), filed February 16, 1983. Applicant: BECK BUS TRANSPORTATION CORP., P.O. Box 768, Mt. Vernon, IL 62864. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd., N.E., Atlanta, GA 30326, 404-262-7855. 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 161418, filed February 11, 1983. Applicant: CINEVISION CORPORATION d.b.a. "THE MOVIE BUS COMPANY", 1771 Tullie Circle, N.E., Atlanta, GA 30329. Representative: Stephen A. Newton (Same address as applicant) 404-321-6333. Transporting *passengers*, in charter and special operations, beginning and ending at points in GA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165949, filed January 27, 1983. Applicant: FRED J. ELMS, d.b.a., ROCKY MOUNTAIN SHIPPING BROKERS, 8895 W. 73rd Pl., Arvada, CO 80005. Representative: Fred J. Elms (Same address as applicant) 303-422-6725. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 166118, filed February 4, 1983. Applicant: JOHN CARROLL, Fullmar Lane, Norwalk, CT 06850. Representative: Colin Barrett, 11764 Indian Ridge Rd., Reston, VA 22091 (703) 860-8521. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 166238, filed February 14, 1983. Applicant: MILFORD BUS CORPORATION, 3525 Greenpoint Avenue, Long Island City, NY 11101. Representative: Arthur Wagner, 342 Madison Avenue, New York, NY 10173, 212-755-9500. Transporting *passenges*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166259, filed February 15, 1983. Applicant: TRAVELINES TOURS, INCORPORATED, 744 Sanwix Square, Norfolk, VA 23502. Representative: Helma E. German (Same address as applicant) 804-461-8223. 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.

[FR Doc. 83-5723 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR 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.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team 5, at (202) 275-7289.

Volume No. OP5-83

Decided: February 25, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 92168 (Sub-3X), filed February 7, 1983. Applicant: THEATRICAL FILM SERVICE, INC., 105 Chapman Rd., Stoughton, MA 02072. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742-3530. Lead: (1) Remove the seasonal operations restriction; (2) broaden (a) motion picture films and apparatus to "instruments, photographic goods or optical goods, watches or clocks;" and (b) motion picture films and theater supplies to "instruments, photographic goods or optical goods, watches or clocks, and theater supplies;" and (3) expand (a) to authorize service at all intermediate points; (b) the off-route point of Hampton Beach, NH, to points in Rockingham County, NH, as off-route points; (c) the off-route points of Somerville and Cambridge, MA, to points in Middlesex, Essex, Suffolk, and Norfolk Counties, MA, as off-route points; and (d) the off-route points of Newmarket, Durham, and Somersworth, NH, to points in Rockingham and Strafford Counties, NH, as off-route points.

Volume No. OP5-92

Decided: February 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 144008 (Sub-7X), filed February 11, 1983. Applicant: STORE TRANSFER & DELIVERY SERVICE, INC. 12 Ferris Lane, Poughkeepsie, NY 12603. Representative: Ronald Shapss, 450 Seventh Ave., New York, NY 10123. Lead and Subs 1F and 3F permits: broaden the territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with named shippers.

MC 145268 (Sub-6X), filed February 15, 1983. Applicant: KENNETH B. HOLM AND GLENN STEED, d.b.a. H & S ENTERPRISES, P.O. Box 26302, Salt Lake City, UT 84126. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Broaden the commodity description (1) in Sub 2F, to "metal products" from steel and steel pipe, and (2) in Sub 4F, to "clay, concrete, glass or stone products, and chemicals and related products," from floor tile and adhesives; and broaden the territorial scope in Subs 2F and 4F to "between points in the U.S.," under continuing contract(s) with named shippers.

[FR Doc. 83-5721 Filed 3-4-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1-74]

Motor Carriers; Permanent Authority; Republication of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petitions for intervention must be filed with the Commission within 30 days after the date of this **Federal Register** Notice. Applicant may file a verified statement in rebuttal within 50 days. Such pleadings shall comply with 49 CFR 1160.1-1160.49 addressing specifically the issue(s) indicated as the purpose for this republication.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team 1, (202) 275-7992.

MC 153951, (republication), filed January 22, 1982, published in the **Federal Register** February 9, 1982, and republished this issue. Applicant: NESEL FAST FREIGHT INC., 2480 Lawrence Avenue East, Unit 7, Scarborough, Ontario, Canada M1P 2R7. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202. A decision by the Commission, Review Board Number 1, decided February 14, 1983, served February 18, 1983, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furniture and fixtures*, between ports of entry on the international boundary line between the U.S. and Canada in Maine, Michigan, New Hampshire, New York, and Vermont, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Mississippi, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Caroina, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to include the District of Columbia in the territorial description.

MC 164341, (republication), filed October 21, 1982, published in the **Federal Register** November 8, 1982, and republished this issue. Applicant: ALVIN M. STRICKLAND, d.b.a. STRICKLAND TRUCKING, 4519 W. Knox St., Tampa, FL 33614. Representative: Alvin M. Strickland (same address as applicant). A decision by the Commission, Review Board Number 1, decided February 2, 1983, served February 14, 1983, finds that applicant is authorized to operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, 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 Florida Steel Corporation, of Tampa, FL. The purpose of this republication is to include authority to transport commodities in bulk.

[FR Doc. 83-5722 Filed 3-4-83; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-F-15135; OP4F-109]

Motor Carriers; Anderson Trucking Service, Inc.; Purchase Exemption; Haupt Contract Carriers, 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*, 367 I.C.C. 113 (1982), Anderson Trucking Service, Inc. (Anderson) (MC-95876) and Haupt Contract Carriers, Inc. (Haupt) MC-

126346 and 149497) seek an exemption from the requirement of prior regulatory approval for the purchase by Anderson of all of Haupt's operating rights. These include over fifty permits, and about nine certificates authorizing the transportation of specified commodities mostly to and from points in the Midwest. In addition, temporary authority is sought for Anderson to lease Haupt's operating rights pending disposition of the petition for exemption.

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: Robert D. Gisvold, 1600 TCF Tower, 121 S. Eighth St., Minneapolis, MN 55402.

Comments should refer to No. MC–F–15135.

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: February 16, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5726 Filed 3–4–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15124; OP2–086]

Motor Carriers; Coats Freight Ways, Inc.; Purchase Exemption; Grand Island 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—Handling Exemptions Filed by Motor Carriers,* 367 I.C.C. 113 (1982), Coats Freight Ways, Inc. (Coats) (MC–133229) and Grand Island Express, Inc. (GI) (MC–135283) seek an exemption from the requirement of prior regulatory approval for the purchase by Coats of GI's Sub-No. 75 certificate, authorizing the transportation of general commodities (except classes A & B explosives, household goods, and commodities in bulk), between Irvington, NE, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

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: Jack L. Shultz, Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501–2028.

Comments should refer to No. MC–F–15124

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: March 1, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5727 Filed 3–4–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15056]

Motor Carriers; V & W, Inc.; Common Control Exemption; Vant Transfer, 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,* 367 I.C.C. 113 (1982), Vant Transfer, Inc. (No. MC–133189), all issued and outstanding stock owned by Leonard Vant and James Vant, and V & W, Inc., all issued and outstanding stock owned by Leonard Vant, James Vant, and Steven Warian, seek an exemption from the requirement under section 11343 of prior regulatory approval (1) for the purchase of Vant's common carrier operating authority by V & W and (2) for the resulting common ownership and control relationship between Vant (which will retain contract carrier authority) and V & W, arising from the interests of Leonard Vant and James Vant in both entities.

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) Petitioners' representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101.

Comments should refer to No. MC–F–15056.

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 petitioners' representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 28, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5728 Filed 3–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83–164 beginning on page 550 in the issue of Wednesday, January 5, 1983, make the following correction:

On page 555, third column, in MC 150498 (Sub-4), Pacific Inland Transport, Inc., eighth and ninth lines, "explosives and commodities" should have read "explosives, household goods, and commodities".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83–2214 beginning on page 3885 in the issue of Thursday, January 27, 1983, make the following correction:

On page 3886, third column, under MC 165621, Transport Normand Larocque, Inc., 13th line, "NY, NY" should have read "NH, NY".

BILLING CODE 1505–01–M

[No. AB-2 (Sub-42)]

Rails; Louisville and Nashville Railroad Company; Abandonment and Discontinuance of Operations Over Southern Railway in Putnam and Cumberland Counties, TN; Findings

The Commission has issued a certificate authorizing the Louisville and Nashville Railroad Company (now the Seaboard System Railroad, Inc.), to abandon its 18.50-mile rail line from milepost NT 110.5 near Monterey, TN (Putnam County) to milepost NT 129.0 near Crossville, TN (Cumberland County), and to discontinue service beyond milepost NT 129 over an 8,034-foot segment of Southern Railway track over which applicant has trackage rights. The 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 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5713 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-65)]

Rails; Seaboard Coast Line Railroad Company; Abandonment; Between Forest City and Rutherfordton, NC; Findings

The Commission has found that the public convenience and necessity permit the Seaboard System Railroad, Inc. [formerly Seaboard Coast Line Railroad Company] to abandon its 3.62-mile rail line between Forest City, milepost SF 407.40 and Rutherfordton, milepost for 411 02, in Rutherford County, NC. A certificate will be issued authorizing this abandoment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered 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 Gitomer, Room 5417, Interestate 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 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5714 Filed 3-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Consent Decree Amendments Pursuant to Clean Air Act; Sharon Steel Corp.

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on February 15, 1983 a proposed Modification to Consent Decree and Amendment to Modification to Consent Decree in *United States* v. *Sharon Steel Corporation*, Civil Action Nos. 79-1201-J and 80-809-J were lodged with the United States District Court for the Western District of Pennsylvania. The proposed Modification and Amendment provide for the extension of certain final compliance dates pursuant to the Steel Industry Compliance Extension Act of 1981 (42 U.S.C. 113(3)).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed modification and amendments to consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Sharon Steel Corporation*, D.J. Ref. 90-5-1-1-1126.

The proposed modification and amendment may be examined at the office of the United States Attorney, Western District of Pennsylvania, 633 United States Post Office & Courthouse, Pittsburgh, Pennsylvania, at the Region 3 Office of the Environmental Protection Agency, Philadelphia, Pennsylvania, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed modification and amendment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $5.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-5604 Filed 3-4-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the national Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences Anthropology (Support for Systematic Collections).

Date and time: March 25, 1983—8:30-5:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Room 338, Washington, D.C. 20550.

Type meeting: Closed.

Contact person: Ms. Mary Greene, Associate Program Director for Anthropology, NSF, Room 320, Washington, D.C. 20550.

Summary of minutes: Available from Contact Person, at above address.

Purpose of panel: To provide advice and recommendations concerning NSF support for research in anthropology.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial (salary) data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the

authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-5737 Filed 3-4-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Earth Sciences Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Stratigraphy and Paleontology, Environmental Geosciences, Crustal Structure and Tectonics, Seismology and Deep Earth Structure, Experimental and Theoretical Geophysics, Petrogenesis and Mineral Resources, Mantle Geochemistry and Experimental and Theoretical Geochemistry Subcommittees).

Date and Time: March 23, 24 and 25, 1983; 8:30 to 5:00 p.m. each day.

Place: The National Science Foundation, Room 643, 1800 G Street, N.W., Washington, D.C 20550

Type of Meeting: Closed.

Contact person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357-7958.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidental nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-5736 Filed 3-4-83; 8:45 am]

BILLING CODE 7555-01-M

Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.

Date and time: March 25, 1983, 9:00 a.m.—4:30 p.m.; March 26, 1983, 9:00 a.m.—2:00 p.m.

Place: Houston Independent School District, 3830 Richmond Avenue, Houston, Texas 27027.

Type of meeting: Open.

Contact person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, DC 20550.

Summary minutes: Contact Dr. Richard S. Nicholson at the above address.

Purpose of Commission meeting and agenda:

March 25: The Commission will conduct both plenary sessions and Task Group meetings to continue formulation of recommendations to be presented at a Public Forum.

March 26: A Public Forum will be held to begin the process of repeated interactions with the public directed toward the development of final recommendations.

Audience participation: The Commission is actively seeking reactions and suggestions regarding its initial recommendations for the improvement of precollege mathematics, science and technology education. Interested persons are encouraged to participate in this Public Forum

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-5741 Filed 3-4-83; 8:45 am]

BILLING CODE 7555-01-M

Environmental Biology Advisory Panel; Subpanel on Ecosystem studies; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecosystem Studies of the Advisory Panel for Environmental Biology.

Date and time: March 24 & 25, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert G. Woodmansee, Program Director, Ecosystem Studies (202) 357-9596, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-5739 Filed 3-4-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for Geography and Regional Science of the Advisory Panel for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel for Geography & Regional Science of the Advisory Panel for Social and Economic Science.

Date/time: March 24, 1983; 8:30 a.m. to 5:00 p.m.

Place: Room 1240, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. James H. Blackman, Acting Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357-7326.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Geography and Regional Science.

Agenda: Closed portion: To review and evaluate research proposals and

projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-5740 Filed 3-4-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Availability of NUREG–0845; Agency Procedures for the NRC Incident Response Plan

The NRC Incident Response Plan, NUREG–0728/MC 0502 describes the functions of the NRC during an incident and the kinds of actions that comprise an NRC response. The NRC response plan will be activated in accordance with threshold criteria described in the plan for incidents occurring at nuclear reactors and fuel facilities involving materials, licensees; during transportation of licensed material, and for threats against facilities or licensed material. In contrast to the general overview provided by the Plan, the purpose of these agency procedures, NUREG–0845, is to delineate:

1. The manner in which each planned response function is performed;
2. The criteria for making those response decisions which can be preplanned;
3. The information and other resources needed during a response.

An inexperienced but qualified person should be able to perform functions assigned by the Plan and make necessary decisions, given the specified information, by becoming familiar with these procedures. This rule of thumb has been used to determine the amount of detail in which the agency procedures are described. These procedures form a foundation for the training of response personnel both in their normal working environment and during planned emergency exercises. These procedures also form a ready reference or reminder checklist for technical team members and managers during a response.

This document is available through the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Signed in Bethesda, Maryland on Feb. 28, 1983.

Kenneth E. Perkins,

Chief, Incident Response Branch, Division of Emergency Preparedness and Engineering Response, Office of Inspection and Enforcement.

[FR Doc. 83-5779 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plan, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to provide 72 hours to make operable the essential features of the AFW pumps and to clarify that the conditions under which at least one pressurizer safety relief valve must be operable.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for amendment dated October 22, 1982 and January 20, 1983, (2) Amendment No. 75 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of February, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-5772 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 81 to Facility Operating License No. DPR–39, and Amendment No. 71 to Facility Operating License No. DPR–48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by: (1) A change in designation numbers for reactor coolant pump undervoltage devices; and (2) a reduction in the frequency of channel functional testing of the reactor protection system and engineered safeguards system from monthly to quarterly.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact

appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 5, 1982, (2) Amendment Nos. 81 and 71 to License Nos. DPR-39 and DPR-48, and (3) the Commission's Related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of February, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-5773 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-6, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which revise the frequency of audits of the emergency preparedness and security plans by the Safety and Audit Review Board.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 12, 1982, (2) Amendment No. 58 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of February 1983.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-5774 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-70]

General Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. TR-1, issued to General Electric Company (the licensee), which revised Technical Specifications for operation of the General Electric Test Reactor (the facility) located in Pleasanton, California. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to delete the requirements for maintaining the containment vessel integrity and for conducting containment calibration testing while the reactor is secured. It also changes the numbering of the last two paragraphs in the license to make them run consecutively.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 12, 1982, (2) Amendment No. 11 to License No. TR-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23d day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-5775 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-42, and Amendment No. 56 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the common Technical Specifications (TS) for the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2 as a result of our review of the TS for compliance with the requirements of Appendix J to 10 CFR Part 50. Other changes include provisions for reducing the 24 hour containment leak rate test period, deletions of obsolete leak testing requirements of the shield and auxiliary buildings (TS 4.4.A.3) and increasing the allowable leakage rate for the overall airlock door tests (TS 4.4.A.5.c).

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 7, 1975 as revised by letters dated December 3 and December 22, 1982, (2) Amendment Nos. 62 and 56 to License Nos. DPR–42 and DPR–60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23d day of February, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-5776 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. DPR–40 issued to Omaha Public Power District (the Licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment revises the limits for reactor coolant radioactivity and steam generator coolant radioactivity.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 17, 1980, as supplemented by letters dated June 26, 1981, May 14, 1982, and February 3, 1983, (2) Amendment No. 67 to License No. DPR–40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23d day of February, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-5777 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. DPR–40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment adds limiting conditions for operation and surveillance requirements for containment purge isolation valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 3, 1981, as supplemented by letter dated April 29, 1982, (2) Amendment No. 68 to License No. DPR–40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of February, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-5778 Filed 3-4-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is

on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 23rd day of February, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT AND IMPORT)

Name of applicant, date of application, date received, applicant No.	Material type	Material in Kilograms		End-use	Country of destination
		Total element	Total isotope		
New York Nuclear Corp., Feb. 4, 1983, Feb. 8, 1983, ISNM83009.	5 pct Enriched uranium	5,000,000	250,000	To be used as fuel in various U.S. nuclear power reactors.	From Various Countries.
Transnuclear, Inc., Feb. 22, 1983, Feb. 22, 1983, ISNM83005.	5 pct Enriched Uranium	500,000	25,000	For ultimate use as fuel in U.S. or foreign power reactors and research reactors.	From Various Countries.
Transnuclear, Inc., Feb. 10, 1983, Feb. 14, 1983, XSNM01918(01).	3.30 pct Enriched Uranium	[1]25,133	[1]823	Additional fuel for Fessenheim	France.
Transnuclear, Inc., Feb. 10, 1983, Feb. 14, 1983, XSNM01920(01).	3.30 pct Enriched uranium	[1]1,540,000	[1]50.820	Additional fuel for Bugey 3	France.
Transnuclear, Inc., Feb. 14, 1983, Feb. 14, 1983, XSNM01913(01).	3.00 pct Enriched uranium	[1]26,012,000	[1]705.209	Additional reload of fuel for Philippsburg 1	W. Germany.
Pechiney Ugine Kuhlmann Development, Inc., Feb. 17, 1983, Feb. 17, 1983, XSNM01948(01).	93.3 pct Enriched uranium	4.911	4.582	Fuel for McMaster University Nuclear Reactor—Change licensee from Transnuclear to Pechiney Ugine Kuhlmann Development, Inc. and add Edlow Int'l as shipper.	Canada.
Transnuclear, Inc., Feb. 22, 1983, Feb. 22, 1983, XSNM02020.	93.3 pct Enriched urnalum	35.088	32.737	IEU for use as fuel in R-2 Res. Reactor	Sweden.

[1]Additional.

[FR Doc. 83-5601 Filed 3-4-83; 8:45 am]

BILLING CODE 759-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on March 17 and 18, 1983, in Room 5026, New Executive Office Building, Washington, DC. The meeting will begin at 7:00 p.m. on March 17, recess and reconvene at 8:00 a.m. on March 18. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The March 17 session and a portion of the March 18 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Jerry Jennings, Executive Director of the Office of Science and Technology Policy at (202) 456-7740, prior to 3:00 p.m. on March 17. Mr. Jennings is also available to provide further information regarding this meeting.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

February 24, 1983.

[FR Doc. 83-5730 Filed 3-4-83; 8:45 am]

BILLING CODE 3170-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2078; Amdt. No. 1]

California; Declaration of Disaster Loan Area

Declaration #2078 (See 48 FR 8167) is amended in accordance with FEMA's declaration of February 9, 1983, to include Monterey County in the State of California. The termination date for filing applications for physical damage is close of business on April 11, 1983, and for economic injury until the close of business on November 9, 1983, for eligible victims in the declared counties.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: February 18, 1983.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 83-5709 Filed 3-4-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Request for Early Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program (AAIA) for Fiscal Year 1983

The FAA notice that appeared in the Federal Register, Vol. 48, No. 9, Page 1583, January 13, 1983, pursuant to section 509(e) of the Airport and Airway Improvement Act of 1982 (AAIA), advised sponsors of airports to which entitlement funds are apportioned that, for FY 1983, approval of preapplications received by FAA after June 1, 1983, for entitlement funds may be deferred until the following fiscal year. Additionally, to assure effective administration of the grant program and to provide information needed by the FAA to carry out its responsibilities under section 508(d)(5), the notice also requested other sponsors to notify FAA of their intent to apply for FY 1983 funds by submitting preapplications no later than the same date.

To help meet the Administration's commitment to increase job opportunities the FAA is working to accelerate the awarding of construction grants so that these grant funds would be available to provide job opportunities in the 1983 construction season.

We are now asking all sponsors, therefore, to make every effort to submit preapplications for construction grants by April 15, 1983, and to accelerate their construction programs to the extent feasible. FAA field personnel will assist sponsors where necessary to help meet shorter grant preparation and procurement schedules. Failure to submit by April 15, 1983, however, will not result in the deferral of preapplications for entitlement funds, provided the preapplications are received by June 1, 1983. For other sponsors unable to submit earlier preapplications, FAA will still consider those submitted by June 1, 1983.

For additional information, contact Mr. John Sekman, APP–520, on 202 (426–8590).

Issued in Washington, D.C., March 2, 1983.

Lowell H. Johnson,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 83–5869 Filed 3–4–83; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commmission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on March 25, 1983, in RTCA Conference Room, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on January 21, 1983; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for January and February, 1983; (4) Consideration of Establishing New Special Committees; (5) Approval of Subsection 2.5 Supplement and Changes to Special Committee 142 Report "Minimum Operational Performance Standards for Air Traffic Control Radar Beacon/Mode S (ATCRDS/Mode S) Airborne Equipment"; (6) Status of Future Planning Group Activities; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 28, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83–5862 Filed 3–4–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83–51]

Reimbursable Services; Excess Cost of Preclearance Operations

March 1, 1983.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 6, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$16,610
Toronto, Canada	31,765
Kindley Field, Bermuda	8,699
Nassau, Bahama Islands	16,336
Vancouver, Canada	10,759
Winnipeg, Canada	2,689
Freeport, Bahama Islands	9,777
Calgary, Canada	7,495
Edmonton, Canada	5,066

William H. Russell,

Comptroller.

[FR Doc. 83–5769 Filed 3–4–83; 8:45 am]

BILLING CODE 4820–02–M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on Wednesday, March 16, 1983, at 10 AM in Room 600, 400 C Street, S.W. The Commission will discuss the activities and programming of USIA's Bureau of Educational and Cultural Affairs.

Since space is limited, please call Elizabeth Fahl, (202) 485–2468, if you are interested in attending the meeting.

Mary Jane Winnett,

Management Analyst, Management Plans, Analysis, Directives Staff, Bureau of Management, United States Information Agency.

[FR Doc. 83–5757 Filed 3–4–83; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 45
Monday, March 7, 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

1

CIVIL AERONAUTICS BOARD

[M-375]

March 2, 1983.

TIME AND DATE: 9:30 a.m. (open), 2 p.m. (closed), March 9, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Federal Aviation Administration's Request for Access to Air Carriers' Restricted Monthly Financial Data. (Memo 1721, OC, OEA, OGC)
3. Docket EAS-794 Essential air service eligibility of Aberdeen/Hoquiam under section 419(b) of the Act. (Memo 743-B, BDA, OGC, OCCCA)
4. Docket 41259, Application of Jet Fleet Corp. for an emergency exemption from section 204.8 to enable it to begin large aircraft operations by April 15, 1983. (Memo 1728, BDA)
5. Docket 41029, Petition of Wien Air Alaska for reconsideration of Order 82-12-70. (Memo 1582-C, BDA, OGC)
6. Docket 41045, Proposed show-cause order tentatively finding Alaska Aeronautical Industries fit to conduct scheduled certificated operations within Alaska. (Memo 1705-A, BDA)
7. Commuter carrier fitness determination of Northern Airways, Inc. (Memo 1720, BDA)
8. Commuter carrier fitness determination of Flamenco Airways, Inc. (Memo 1718, BDA)
9. Commuter carrier fitness determination of Montair Flight Service, Inc. (Memo 1717, BDA)
10. Commuter carrier fitness determination of Visa Airlines, Inc. (Memo 1722, BDA)
11. Docket 41149, Establishment of Special Subsidy Program for Fiscal Year 1983. (Memo 1726, BDA, OCCCA, OGC)
12. Delegation to Director, BIA, to grant or deny applications by foreign air carriers for waiver of the Board's filing fee requirements. (OGC, OMD, BIA)
13. Docket 29044, Reexamination of the Board's smoking rule in light of the Court of Appeals decision in *ASH v. CAB.* (OGC, OCCCA)
14. Docket 40432, *Bergt-AIA-Western-Wien Acquisition and Control Case.* Air Line Pilots Association's petition that the Board issue an order making clear that any Board approval of continued common control of Western and AIA is subject to the stipulated LPP's. (OGC)
15. Docket 21670, *Frontier Airlines, Inc. Subsidy Mail Rates.* (Memo 1036-C, OGC)
16. Docket 40865, Application of Airpac, Inc. for a change of name. (Memo 1690-B, OGC)
17. Docket 40828, *Central Zone-Caracas/Maracaibo, Venezuela Service Case.* (OGC)
18. Docket 38623, Agreement C.A.B. 28940, IATA agreement proposing a new passenger fare structure within the South West Pacific. (Memo 1724, BIA)
19. Docket 41206, Application of Arrow Airways, Inc. for an exemption (Guam-Manila). (Memo 1727, BIA, OGC, BDA)
20. Docket 39926, Application of Transportes Aereos Kantuta, LTDA., Trak Airlines for an initial foreign air carrier permit. (BIA, OGC)
21. Report on the Canadian Negotiations. (BIA)
22. Negotiations with Brazil. (BIA)
23. Report on the United Kingdom User Charge Issue. (BIA)

STATUS: 1-20 open, 21-23 closed.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-315-83 Filed 3-3-83; 3:30 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, March 9, 1983.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Aluminum Wire Petition AP 80-2*
   The Commission will consider Petition AP 80-2 which requests a rule under Section 27 (e), CPSA requiring manufacturers of electrical wiring devices to furnish consumers with information about potential overheating hazards when incompatible receptacles and switches are used with aluminum wiring.
2. *Physicians' Samples*
   The staff will brief the Commission on issues related to whether the Commission should issue a previously proposed rule that would require all oral prescription drugs in consumer packages that are distributed by manufacturers to physicians to be in child-resistant packaging.
3. *Smoke Detector Project: Status*
   The staff will brief the Commission on the status of the smoke detector project.

(For a recorded message on the latest agenda information, call 301-492-5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[S-316-83 Filed 3-3-83; 3:48 pm]

BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:25 p.m. on Wednesday March 2, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendations with respect to the initiation, termination, or conduct of cease-and-desist proceedings against certain insured banks: 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)).

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. 45,597-NR—Penn Square Bank, National Association, Oklahoma City, Oklahoma

Case No. 45,622-L—Metropolitan Bank and Trust Company, Tampa, Florida

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no

earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: March 3, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-317-83 Filed 3-3-83; 4:00 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

Federal Register No. 302.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 10, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been removed from the Agenda for the open meeting scheduled for this date:

Proposed notice of rulemaking for general election regulations

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone 202–523–4065.

Majorie W. Emmons,

Secretary of the Commission.

[S-314-83 Filed 3-3-83; 12:42 pm]

BILLING CODE 6715-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No.—None at this time. Date Published—No date at this time.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood, (202) 377–66790).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, March 3, 1983 at 10 a.m.:

The Boston Five Cents Savings Bank, Boston, Massachusetts

[No. 22, March 3, 1983]

[S-312-83 Filed 3-3-83; 10:30 am]

BILLING CODE 6720-01-M

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, March 3, 1983.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of **Federal Register** notice.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S-313-83 Filed 3-3-83; 11:03 am]

BILLING CODE 6750-01-M

federal register

Monday
March 7, 1983

Part II

Department of Health and Human Services

Office of the Secretary

Nondiscrimination on the Basis of Handicap

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 84

Nondiscrimination on the Basis of Handicap

AGENCY: Office of the Secretary, HHS.

ACTION: Interim final rule.

SUMMARY: The interim final rule modifies existing regulations to meet the exigent needs that can arise when a handicapped infant is discriminatorily denied food or other medical care. Three current regulatory provisions are modified to allow timely reporting of violations, expeditious investigation, and immediate enforcement action when necessary to protect a handicapped infant whose life is endangered by discrimination in a program or activity receiving federal financial assistance.

Recipients that provide health care to infants will be required to post a conspicuous notice in locations that provide such care. The notice will describe the protections under federal law against discrimination toward the handicapped, and will provide a contact point in the Department of HHS for reporting violations immediately by telephone.

Notice and complaint procedures have been effective instruments for deterrence and enforcement in a variety of civil rights contexts. The Secretary believes that the interim final rule provides the best means to ensure that violations can be reported in time to save the lives of handicapped children who are denied food or are otherwise imperiled by discrimination in the provision of health care by federally assisted programs or activities.

The procedures to be followed for investigation of complaints are outlined in the supplementary information below. The Secretary intends to rely heavily on the voluntary cooperation of State and local agencies, which are closest to the scene of violations, and which have traditionally played the key role in the investigation of complaints of child abuse and neglect. This will not exclude, of course, a vigorous federal role in enforcing the federal civil rights that are at issue.

The Secretary invites comments on all aspects of the interim final rule. Aspects on which comment is particularly invited are set forth in the supplementary information.

DATES: The interim final rule becomes effective March 22, 1983.

Comments should be submitted by May 6, 1983.

ADDRESSES: Comments should be submitted in writing to the Director, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue, S.W., Room 5400, Washington, D.C. 20201, or delivered to the above address between 9:00 a.m. and 5:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Susan Shalhoub at (202) 245–6585, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue, S.W., Room 5514, Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: The President's directive of April 30, 1982, and the HHS Office for Civil Rights "Notice to Health Care Providers" of May 18, 1982, reminded recipients of federal financial assistance of the applicability of Section 504 of the Rehabilitation Act of 1973. Section 504 provides: "No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from participation in, be denied the benfits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

The Notice to Health Care Providers explained what is already clear from the language of Section 504 and the implementing regulations (45 CFR Part 84): The discriminatory failure of a federally assisted health care provider to feed a handicapped infant, or to provide medical treatment essential to correct a life-threatening condition, can constitute a violation of Section 504.

This interim final rule does not in any way change the substantive obligations of health care providers previously set forth in the statutory language of Section 504, in the implementing regulations, and in the Notice to Health Care Providers. The interim final rule sets forth procedural specifications designed: (1) To specify a notice and complaint procedure, within the context of the existing regulations, and (2) to modify existing regulations to recognize the exigent circumstances that may exist when a handicapped infant is denied food or other necessary medical care.

The interim final rule affects the following portions of existing regulations:

1. *45 CFR 80.6(d),* as referenced by 45 CFR 84.61, which requires recipients to make available such information, in such a manner, as the Department finds necessary to apprise appropriate persons of the protections afforded under Section 504. The interim final rule specifies the type of information and manner of posting that is necessary to bring the protections of Section 504 for handicapped infants to the attention of those persons within the recipient program or activity who are most likely to have knowledge of possible violations as they occur.

2. *45 CFR 80.8,* as referenced by 45 CFR 84.61, which sets forth procedures for the Secretary to effect compliance with Section 504, including referrals to the Department of Justice for the initiation of appropriate legal proceedings. The existing regulations require a 10-day waiting period from the time the Secretary notifies a recipient of its failure to comply to the time the Secretary makes a referral to the Department of Justice or takes other legal actions to effect compliance. When a handicapped infant is being denied food or other necessary medical care, however, more expeditious action may be required. New § 84.61(c) creates a narrow exception to the 10-day waiting period when, in the judgment of the responsible Department official, immediate remedial action is necessary to protect the life or health of a handicapped individual.

3. *45 CFR 80.6(c),* as referenced by 45 CFR 84.61, which requires each recipient to permit access by Department officials to facilities and information pertinent to ascertaining compliance with Section 504, during normal business hours. Allegations of denial of food or other necessary medical care to handicapped infants may require an immediate effort to ascertain compliance. The interim final rule provides that access to records and facilities of recipients shall not be limited to normal business hours when, in the judgment of the responsible Department official, immediate access is necessary to protect the life or health of a handicapped individual.

The purpose of the interim final rule is to acquire timely information concerning violations of Section 504 that are directed against handicapped infants, and to *save the life of the infant.* The Secretary believes that those having knowledge of violations of Section 504 against handicapped infants do not now have adequate opportunity to give immediate notice to federal authorities. A telephone complaint procedure can provide information to federal authorities in time to save the life of a handicapped infant who is being discriminatorily denied nutrition in a federally assisted program or activity.

Events of the past several years suggest that handicapped infants have died from denial of food in federally assisted programs. The full extent of discriminatory and life-threatening practices toward handicapped infants is not yet known, but the Secretary believes that for even a single infant to die due to lack of an adequate notice and complaint procedure is unacceptable.

For quick and effective response to complaints, the Secretary counts not only the enforcement resources of the federal government, but also on the assistance of state child protective agencies, which can respond quickly and effectively to referrals from the Federal government, and which are often closest to the scene for speedy investigation of life-threatening child abuse and neglect. The Secretary intends to contact state child protective agencies whenever a complaint is received that falls within the definition of child abuse or neglect, in order to give States an opportunity to make their own investigation and to take appropriate action.

The Secretary expects that States will follow their customary procedures for investigating allegations of child abuse and neglect that involve an imminent danger to life. State agencies that receive federal financial assistance are under the same obligation as other recipients not to provide a qualified handicapped person with benefits or services that are less effective than those provided to others.

For those complaints that are expeditiously and effectively investigated and pursued by State agencies, the Secretary anticipates that additional federal efforts will often be unnecessary. The Secretary will closely monitor all investigation and enforcement activity taken pursuant to complaints. The Secretary will make available to State agencies any information and assistance that is helpful and appropriate. For those cases where direct federal action appears helpful, the Secretary will have at his disposal the usual means of federal civil rights enforcement. The interim final rule makes it possible for the Secretary to conduct immediate investigations and to make immediate referrals to the Department of Justice for such legal action as may be necessary to save the life of a handicapped child who is subjected to discrimination by a recipient.

Federal enforcement action can also be taken against any recipient that intimidates or retaliates against any person who provides information concerning possible violations of Section 504. 45 CFR 80.7(e), as referenced by 45 CFR 84.61, prohibites intimidatory or retaliatory acts by recipients against individuals who make complaints or assist in investigations concerning possible violations of Section 504. This provision fully protects individuals who make complaints or assist in investigations concerning possible withholding of food or other necessary medical care from handicapped infants.

Comments solicited. The Secretary seeks public comment on all aspects of the interim final rule. Comments will be considered and modifications made to the rule, as appropriate, following the comment period.

The Secretary also solicits comments on the advisability of requiring (1) that recipients providing health care services to infants perform a self-evaluation, pursuant to 45 CFR 84.6(c)(1), with respect to their policies and practices concerning services to handicapped infants; and (2) that such recipients identify for parents of handicapped children those public and private agencies in the geographical vicinity that provide services to handicapped infants.

Regulatory impact analysis. This rule has been reviewed under Executive Order 12291. It is not a major rule and thus does not require a regulatory impact analysis.

Regulatory flexibility analysis. The Regulatory Flexibility Act (Pub. L. 96–354) requires the federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. This rule has no significant effect on small entities. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act. This rule contains no information collection requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Public participation in rulemaking. With reference to the Secretary's Statement of Policy, dated January 28, 1971, concerning public participation in rulemaking (printed at 36 FR 2532; Feb. 5, 1971), the Secretary finds that this interim final rule is exempt from the requirements of 5 U.S.C. 553. Under 45 CFR 80.6(d) and 84.61, the Secretary is already authorized to specify the manner in which recipients make available information concerning federal legal protections against discrimination toward the handicapped. The exception to the 10-day waiting period of 45 CFR 80.8(d)(3) and the exception to 45 CFR 80.6(c) to allow access outside normal business hours are minor technical changes and are necessary to meet emergency situations. All modifications made by the interim final rule are necessary to protect life from imminent harm. Any delay would leave lives at risk. Immediate publication and implementation of this rule will not cause undue burden to any party. The Secretary therefore finds it necessary to publish this rule as an interim final rule taking effect less than 30 days following publication. The Secretary deems 15 days to be the minimum in which the necessary apparatus can be in place to receive and respond to telephone complaints. The interim final rule is therefore made effective March 22, 1983.

List of Subjects in 45 CFR Part 84

Civil rights, Education of handicapped, Handicapped.

Approved: March 2, 1983.

Thomas R. Donnelly, Jr.,

Acting Secretary.

PART 84—[AMENDED]

Interim Final Rule

45 CFR 84.61 is amended by designating the existing provision as paragraph (a) and by adding paragraphs (b), (c), and (d) to read as follows:

§ 84.61 [Amended]

* * * * *

(b) Pursuant to 45 CFR 80.6(d), each recipient that provides covered health care services to infants shall post and keep posted in a conspicuous place in each delivery ward, each maternity ward, each pediatric ward, and each nursery, including each intensive care nursery, the following notice:

DISCRIMINATORY FAILURE TO FEED AND CARE FOR HANDICAPPED INFANTS IN THIS FACILITY IS PROHIBITED BY FEDERAL LAW

Section 504 of the Rehabilitation Act of 1973 states that no otherwise qualified handicapped individual shall, solely by reason of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Any person having knowledge that a handicapped infant is being discriminatorily denied food or customary medical care should immediately contact:

Handicapped Infant Hotline
U.S. Department of Health and Human Services
Washington, D.C. 20201
Phone 800–————— (Available 24 hours a day)

or

Your State Child Protective Agency

Federal law prohibits retaliation or intimidation against any person who provides information about possible violations of the Rehabilitation Act of 1973.

Identity of callers will be held confidential.

Failure to feed and care for infants may also violate the criminal and civil laws of your State.

(1) Recipients may add to the notice, in type face or handwriting, under the words "Your State Child Protective Agency," the identification of an appropriate State agency, with address and telephone number. No other alterations shall be made to such notice.

(2) Copies of such notice may be obtained on request from the Department of Health and Human Services.

(3) The required notice shall be posted within five days after the recipient is informed by the Department of the applicable toll-free national telephone number.

(c) Notwithstanding the provisions of paragraph (a), the requirement of 45 CFR 80.6(d)(3) shall not apply when, in the judgment of the responsible Department official, immediate remedial action is necessary to protect the life or health of a handicapped individual.

(d) Notwithstanding the provisions of paragraph (a), access to pertinent records and facilities of a recipient pursuant to 45 CFR 80.6(c) shall not be limited to normal business hours when, in the judgment of the responsible Department official, immediate access is necessary to protect the life or health of a handicapped individual.

[FR Doc. 83-5781 Filed 3-3-83; 9:42 am]
BILLING CODE 4150-04-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.

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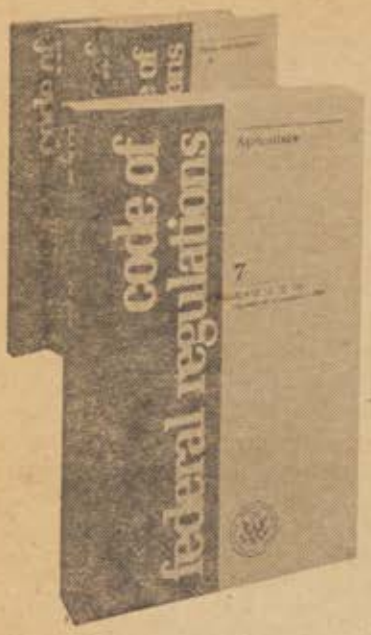
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing February 22, 1983



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